

**SECURITIES INDUSTRY (FIDELITY FUNDS)  
AMENDMENT BILL, 1979**

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**EXPLANATORY NOTE**

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

The object of this Bill is to amend the Securities Industry Act, 1975 ("the Act")—

- (a) to clarify the power of the Corporate Affairs Commission to delegate any of its powers, authorities, duties or functions to a Commissioner or any other person (Schedule 1 (1));
  - (b) to clarify the circumstances in which a person may claim compensation in respect of a pecuniary loss suffered by him by reason of a defalcation or fraudulent misuse of securities or documents of title to securities or of other property by a member of a stock exchange or by a partner in a member firm recognised by a stock exchange (Schedule 1 (3));
  - (c) to enable the seal of the Commission to be affixed to an instrument or a writing by an officer or employee of the Commission authorised to do so (proposed section 138 (2), (3) of the Act—Schedule 1 (6));
  - (d) to deem certain documents purporting to be executed on behalf of a Commission to have been duly executed by the Commission and to make them admissible in evidence (proposed section 138 (4), (5) of the Act—Schedule 1 (6));
  - (e) to provide that claims against the fidelity fund of a stock exchange which but for the repeal of the Securities Industry Act, 1970, could have been pursued against the fidelity fund of a stock exchange established under that Act may be pursued in accordance with the Act and may be paid out of the fidelity fund of that stock exchange established under the Act (Section 5); and
  - (f) to make other provisions of a minor or ancillary nature.
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SECURITIES INDUSTRY (FIDELITY FUNDS)  
AMENDMENT BILL, 1975

EXPLANATORY NOTE

(This Explanatory Note relates to the Bill as introduced into Parliament.)

The object of the Bill is to amend the Securities Industry Act 1975 (the "Act")—

(a) to clarify the power of the Corporate Affairs Commission in relation to delegating any of its powers and duties to officers or functions to a Commissioner or any other person (Schedule 1 (1));

(b) to clarify the circumstances in which a person may claim to have acted in reliance on a statement or information given by him or her, or to have acted in reliance on or in accordance with a statement or information given by him or her, or to have acted in reliance on a statement or information given by a person in a particular capacity (Schedule 1 (3));

(c) to amend the definition of "a person" in section 1(1) of the Act so as to include a person who is a member of the Commission or a member of the staff of the Commission (Schedule 1 (2) of the Act (Section 1 (2)));

(d) to amend the definition of "a person" in section 1(1) of the Act so as to include a person who is a member of the Commission or a member of the staff of the Commission (Schedule 1 (2) of the Act (Section 1 (2)));

(e) to amend the definition of "a person" in section 1(1) of the Act so as to include a person who is a member of the Commission or a member of the staff of the Commission (Schedule 1 (2) of the Act (Section 1 (2)));

**SECURITIES INDUSTRY (FIDELITY FUNDS)  
AMENDMENT BILL, 1979**

No. , 1979.

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**A BILL FOR**

An Act to amend the Securities Industry Act, 1975, with respect  
to fidelity funds of stock exchanges and for other purposes.

[MR F. J. WALKER—27 November, 1979.]

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*Securities Industry (Fidelity Funds) Amendment.*

**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

- 5   **1.** This Act may be cited as the “Securities Industry (Fidelity Funds) Amendment Act, 1979”. Short title.
- 2.** (1) Except as provided in subsections (2), (3) and (4), this Act shall commence on the date of assent to this Act. Commence-  
ment.
- (2) Section 3 shall in its application to a provision of  
10 Schedule 1 commence or be deemed to have commenced on the day on which the provision commences or is deemed to have commenced, as the case may require.
- (3) Section 4 and Schedule 1 (1) and (6) shall be deemed to have commenced on 26th September, 1979.
- 15       (4) Schedule 1 (3) shall be deemed to have commenced on 1st March, 1976.
- 3.** The Securities Industry Act, 1975, is amended in the  
manner set forth in Schedule 1. Amendment  
of Act No.  
3, 1976.
- 20       **4.** The Companies Act, 1961, is amended by omitting from section 7 (9) the words “or a person” and by inserting instead the words “by a person”. Amendment  
of Act No.  
71, 1961.  
Sec. 7.  
(Admini-  
stration  
of Act.)

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*Securities Industry (Fidelity Funds) Amendment.*


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## 5. (1) In this section—

Saving.

“the later Act” means the Securities Industry Act, 1975, as deemed to be amended by subsection (2), but without any other amendments;

5 “the repealed Act” means the Securities Industry Act, 1970, with or without amendments;

“the 1978 Act” means the Securities Industry (Amendment) Act, 1978.

(2) For the purposes only of the definition of “the later 10 Act” in subsection (1), the Securities Industry Act, 1975, shall be deemed to have been amended, on and from 1st March, 1976—

(a) by omitting from section 97 (1) (a) the words “who is 15 liable, or would, but for section 93, be liable, to contribute to the fund” and by inserting instead the words “, being a member of the stock exchange when the loss is suffered,”;

(b) by omitting from section 97 (1) (b) the words “a 20 partner in a member firm recognised by the stock exchange any of the partners in which are liable, or would, but for section 93, be liable, to contribute to the fund” and by inserting instead the words “a person who, when the loss is suffered, is a partner in a member firm”;

(c) by omitting section 97 (8) and by inserting instead the 25 following subsection :—

(8) Where—

(a) any money, securities, documents of title to securities or other property has or have been 30 entrusted or received to or by a person who has at any time been, but has ceased to be, a member of a stock exchange or to or by an employee or servant of such a person;

(b) by reason of a defalcation, or the fraudulent 35 misuse of the securities, documents of title or other property by the person referred to

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*Securities Industry (Fidelity Funds) Amendment.*

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in paragraph (a), the person by or from whom the money, securities, documents of title or other property was or were so entrusted or received suffered pecuniary loss; and

- (c) the person suffering the pecuniary loss had, at the time the money, securities, documents of title or other property was or were so entrusted or received, reasonable grounds for believing and believed that the person referred to in paragraph (a) was a member of the stock exchange concerned,

the reference in this section to a member of a stock exchange includes a reference to the person referred to in paragraph (a).

(3) Notwithstanding the repeal of the repealed Act by the later Act—

- (a) where pecuniary loss has been suffered by any person, as provided by section 58 (1) of the repealed Act or as provided by section 97 (1) of the later Act, through a defalcation or fraudulent misuse of securities or documents of title or of other property that occurred before the day appointed and notified under section 1 (3) of the later Act, compensation therefor shall be deemed, on and from 1st March, 1976, to have been, and, to the extent that it has not been paid before the day appointed and notified under section 2 (2) of this Act, to be, payable out of the fidelity fund of the stock exchange concerned, referred to in section 97 (1) of the later Act, as amended by the 1978 Act, as if Part IX of the later Act applied to and in respect of the claim; and

- (b) where there has been a deficiency arising by reason of the available assets of a bankrupt being insufficient to satisfy debts arising from dealings in securities, as referred to in section 58 (2) of the repealed Act or section 97 (2) of the later Act, that occurred after the commencement of Part VII of the repealed Act and

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*Securities Industry (Fidelity Funds) Amendment.*

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5 before the day appointed and notified under section 1  
(3) of the later Act, the amount of that deficiency shall  
and, to the extent that it has not been paid before the  
day appointed and notified under section 2 (2) of this  
Act, to be, payable out of the fidelity fund of the stock  
exchange concerned, referred to in section 97 (1) of  
the later Act as amended by the 1978 Act, as if Part  
IX of the later Act applied to and in respect of the  
10 payment.

(4) Where compensation is not payable under subsection  
(3) (a) or the amount of a deficiency is not able to be paid  
under subsection (3) (b) but, if the references in subsection (3)  
to Part IX of the later Act were references to Part VII of the  
15 repealed Act and Part VII of the repealed Act were amended as  
referred to in subsection (5), compensation would be payable  
under subsection (3) (a) or the amount of a deficiency would  
be able to be paid under subsection (3) (b), that compensation  
or amount shall be paid or payable out of the fidelity fund of the  
20 stock exchange concerned, referred to in section 97 (1) of the  
later Act, as amended by the 1978 Act.

(5) For the purposes of only subsection (4), Part VII of  
the repealed Act shall be deemed to be amended by omitting  
from section 58 (3) the words "two hundred and fifty thousand  
25 dollars" and by inserting instead the words "five hundred thousand  
dollars".

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**SCHEDULE 1.**

Sec. 3.

**AMENDMENTS TO THE SECURITIES INDUSTRY ACT, 1975.**

- (1) Section 7 (1)—
- 30 Omit "or that other Act", insert instead " , any other Act  
or otherwise".

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*Securities Industry (Fidelity Funds) Amendment.*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE SECURITIES INDUSTRY ACT,  
1975—*continued.*

(2) Section 50 (1)—

5 Omit “the Commissioner”, insert instead “a Commissioner”.

(3) (a) Section 97 (1) (a)—

10 Omit “who is a sole trader and who is liable, or would, but for section 93, be liable, to contribute to the fund”, insert instead “who, when the loss is suffered, is a sole trader”.

(b) Section 97 (1) (b)—

15 Omit “a partner in a member firm recognised by the stock exchange any of the partners in which are liable, or would, but for section 93, be liable, to contribute to the fund”, insert instead “a person who, when the loss is suffered, is a partner in a member firm”.

(c) Section 97 (8)—

Omit the subsection, insert instead :—

(8) Where—

- 20 (a) any money, securities, documents of title to securities or other property has or have been entrusted or received to or by a person who has at any time been, but has ceased to be, a member of a stock exchange or to or by
- 25 an employee or servant of such a person;
- (b) by reason of a defalcation, or the fraudulent misuse of the securities, documents of title or other property by the person referred to



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*Securities Industry (Fidelity Funds) Amendment.*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE SECURITIES INDUSTRY ACT,  
1975—*continued.*

- 5 in paragraph (a) or by an employee or  
servant of the person so referred to, the  
person by or from whom the money,  
securities, documents of title or other  
property was or were so entrusted or  
received suffered pecuniary loss; and
- 10 (c) the person suffering the pecuniary loss had,  
at the time the money, securities, documents  
of title or other property was or were so  
entrusted or received, reasonable grounds  
for believing and believed that the person  
15 referred to in paragraph (a) was a member  
of the stock exchange concerned,

the reference in this section to a member of a stock  
exchange includes a reference to the person referred to  
in paragraph (a).

20 (4) (a) Section 124 (a)—

Omit “the Commissioner or the Commission”, insert  
instead “the Commission, a Commissioner, a person  
authorised as referred to in section 8 (1) or (4) or  
30 (3) or (4) or a person nominated as referred to in  
25 section 10 (1) (a) or (b)”.

(b) Section 124 (a)—

Omit “his or its”, insert instead “its or his”.

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*Securities Industry (Fidelity Funds) Amendment.*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE SECURITIES INDUSTRY ACT,  
1975—*continued.*

(c) Section 124 (b)—

5 Omit “the Commissioner or the Commission” where  
firstly occurring, insert instead “the Commission, a  
Commissioner, a person authorised as referred to in  
section 8 (1) or (4) or 30 (3) or (4) or a person  
10 nominated as referred to in section 10 (1) (a) or  
(b)”.

(d) Section 124 (b)—

Omit “the Commissioner” where secondly occurring,  
insert instead “he”;

(e) Section 124 (b)—

15 Omit “the Commissioner or the Commission”, insert  
instead “him”.

(5) (a) Section 132 (1) (f)—

Omit “Commissioner”, insert instead “Commission”.

(b) Section 132 (1) (f)—

20 Omit “him”, insert instead “it”.

(6) Section 138 (2)–(6)—

Omit section 138 (2), insert instead :—

25 (2) The common seal of the Commission may be  
affixed to an instrument or writing by a Commissioner or  
by an officer or employee of the Commission authorised  
so to do either generally or in a particular case or class of

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*Securities Industry (Fidelity Funds) Amendment.*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE SECURITIES INDUSTRY ACT,  
1975—*continued.*

5 cases and the Commissioner or other person so authorised shall attest by his signature the fact and date of the seal being so affixed.

(3) Section 38 (II) of the Interpretation Act, 1897, does not apply to or in respect of the Commission.

10 (4) A Commissioner authorised to do so by the Commission may execute any document on behalf of the Commission.

15 (5) Where a Commissioner has been authorised, as referred to in subsection (4), to execute any document on behalf of the Commission, that document may be executed in the name and on behalf of that Commissioner by any person authorised in writing by that Commissioner to do so.

20 (6) A document purporting to be executed as referred to in subsection (4) or (5) shall be deemed to have been duly executed by the Commission unless it is proved that the person who executed it was not duly authorised as referred to in subsection (4) or (5), as the case may be, and shall be admissible in evidence in any proceedings in the same way as it would be if it had been executed by the Commission.

25 (7) Section 140 (2)—

Omit “the Commissioner”, insert instead “a Commissioner”.

Seamless Industry (Federal) Amendment

SCHEDULE 1 - continued

Amendments to the Seamless Industry Act

1973 - continued

3  
being so affixed.

10  
does not apply to or in respect of the Commission.

10  
Commission

13  
provision

20  
Commission

23 (2) Schedule 1 (2)

Chair, the Commission, shall forward a Commission

BY ANY AND

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the Commission at Ottawa, Ontario, this 1st day of August 1973.

## **SECURITIES INDUSTRY (FIDELITY FUNDS) AMENDMENT BILL, 1979**

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### **EXPLANATORY NOTE**

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

The object of this Bill is to amend the Securities Industry Act, 1975 ("the Act")—

- (a) to clarify the power of the Corporate Affairs Commission to delegate any of its powers, authorities, duties or functions to a Commissioner or any other person (Schedule 1 (1));
  - (b) to clarify the circumstances in which a person may claim compensation in respect of a pecuniary loss suffered by him by reason of a defalcation or fraudulent misuse of securities or documents of title to securities or of other property by a member of a stock exchange or by a partner in a member firm recognised by a stock exchange (Schedule 1 (3));
  - (c) to enable the seal of the Commission to be affixed to an instrument or a writing by an officer or employee of the Commission authorised to do so (proposed section 138 (2), (3) of the Act—Schedule 1 (6));
  - (d) to deem certain documents purporting to be executed on behalf of a Commission to have been duly executed by the Commission and to make them admissible in evidence (proposed section 138 (4), (5) of the Act—Schedule 1 (6));
  - (e) to provide that claims against the fidelity fund of a stock exchange which but for the repeal of the Securities Industry Act, 1970, could have been pursued against the fidelity fund of a stock exchange established under that Act may be pursued in accordance with the Act and may be paid out of the fidelity fund of that stock exchange established under the Act (Section 5); and
  - (f) to make other provisions of a minor or ancillary nature.
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EXPERIMENTAL PROCEDURE

EXPERIMENTAL NOTE

The following procedure is for the synthesis of compound (1).

1. Weigh 10.0 g (0.1 mol) of compound (2) into a 250 mL round-bottomed flask equipped with a magnetic stirrer. Add 50 mL of dry THF. Cool the solution to 0°C in an ice-water bath. Add 10.0 g (0.1 mol) of compound (3) in small portions over a 10-minute period. The mixture becomes viscous. Stir for 15 minutes at 0°C, then allow to warm to room temperature and stir for 2 hours. Pour the reaction mixture into 200 mL of water. Extract with 3 x 20 mL of diethyl ether. Combine the ether extracts and wash with 20 mL of water. Dry the ether solution over anhydrous  $MgSO_4$  for 15 minutes. Filter and concentrate the ether solution on a rotary evaporator. The residue is dried in a vacuum oven at 40°C for 24 hours to give 15.0 g (85% yield) of compound (1).

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to fidelity funds of stock exchanges and for other purposes.

[Mr F. J. WALKER—27 November, 1979.]

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*Securities Industry (Fidelity Funds) Amendment.*

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**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

5    **1.** This Act may be cited as the “Securities Industry (Fidelity Funds) Amendment Act, 1979”.

**2.** (1) Except as provided in subsections (2), (3) and (4), this Act shall commence on the date of assent to this Act. Commencement.

          (2) Section 3 shall in its application to a provision of  
10 Schedule 1 commence or be deemed to have commenced on the day on which the provision commences or is deemed to have commenced, as the case may require.

          (3) Section 4 and Schedule 1 (1) and (6) shall be deemed to have commenced on 26th September, 1979.

15       (4) Schedule 1 (3) shall be deemed to have commenced on 1st March, 1976.

**3.** The Securities Industry Act, 1975, is amended in the manner set forth in Schedule 1. Amendment  
of Act No.  
3, 1976.

**4.** The Companies Act, 1961, is amended by omitting from  
20 section 7 (9) the words “or a person” and by inserting instead the words “by a person”. Amendment  
of Act No.  
71, 1961.  
Sec. 7.  
(Admini-  
stration  
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*Securities Industry (Fidelity Funds) Amendment.*


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## 5. (1) In this section—

Saving.

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5 “the repealed Act” means the Securities Industry Act, 1970, with or without amendments;

“the 1978 Act” means the Securities Industry (Amendment) Act, 1978.

(2) For the purposes only of the definition of “the later  
10 Act” in subsection (1), the Securities Industry Act, 1975, shall be deemed to have been amended, on and from 1st March, 1976—

(a) by omitting from section 97 (1) (a) the words “who is liable, or would, but for section 93, be liable, to contribute to the fund” and by inserting instead the words  
15 “, being a member of the stock exchange when the loss is suffered,”;

(b) by omitting from section 97 (1) (b) the words “a partner in a member firm recognised by the stock exchange any of the partners in which are liable, or would, but for section 93, be liable, to contribute to the fund” and by inserting instead the words “a person  
20 who, when the loss is suffered, is a partner in a member firm”;

(c) by omitting section 97 (8) and by inserting instead the following subsection :—  
25

(8) Where—

(a) any money, securities, documents of title to securities or other property has or have been entrusted or received to or by a person who  
30 has at any time been, but has ceased to be, a member of a stock exchange or to or by an employee or servant of such a person;

(b) by reason of a defalcation, or the fraudulent misuse of the securities, documents of title  
35 or other property by the person referred to

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*Securities Industry (Fidelity Funds) Amendment.*

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in paragraph (a), the person by or from whom the money, securities, documents of title or other property was or were so entrusted or received suffered pecuniary loss; and

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(c) the person suffering the pecuniary loss had, at the time the money, securities, documents of title or other property was or were so entrusted or received, reasonable grounds for believing and believed that the person referred to in paragraph (a) was a member of the stock exchange concerned,

10

the reference in this section to a member of a stock exchange includes a reference to the person referred to in paragraph (a).

15

(3) Notwithstanding the repeal of the repealed Act by the later Act—

(a) where pecuniary loss has been suffered by any person, as provided by section 58 (1) of the repealed Act or as provided by section 97 (1) of the later Act, through a defalcation or fraudulent misuse of securities or documents of title or of other property that occurred before the day appointed and notified under section 1 (3) of the later Act, compensation therefor shall be deemed, on and from 1st March, 1976, to have been, and, to the extent that it has not been paid before the day appointed and notified under section 2 (2) of this Act, to be, payable out of the fidelity fund of the stock exchange concerned, referred to in section 97 (1) of the later Act, as amended by the 1978 Act, as if Part IX of the later Act applied to and in respect of the claim; and

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(b) where there has been a deficiency arising by reason of the available assets of a bankrupt being insufficient to satisfy debts arising from dealings in securities, as referred to in section 58 (2) of the repealed Act or section 97 (2) of the later Act, that occurred after the commencement of Part VII of the repealed Act and

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*Securities Industry (Fidelity Funds) Amendment.*

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5 before the day appointed and notified under section 1  
(3) of the later Act, the amount of that deficiency shall  
be deemed, on and from 1st March, 1976, to have been,  
and, to the extent that it has not been paid before the  
day appointed and notified under section 2 (2) of this  
Act, to be, payable out of the fidelity fund of the stock  
exchange concerned, referred to in section 97 (1) of  
the later Act as amended by the 1978 Act, as if Part  
IX of the later Act applied to and in respect of the  
10 payment.

(4) Where compensation is not payable under subsection  
under subsection (3) (a) or the amount of a deficiency is not able to be paid  
under subsection (3) (b) but, if the references in subsection (3)  
to Part IX of the later Act were references to Part VII of the  
15 repealed Act and Part VII of the repealed Act were amended as  
referred to in subsection (5), compensation would be payable  
under subsection (3) (a) or the amount of a deficiency would  
be able to be paid under subsection (3) (b), that compensation  
or amount shall be paid or payable out of the fidelity fund of the  
20 stock exchange concerned, referred to in section 97 (1) of the  
later Act, as amended by the 1978 Act.

(5) For the purposes of only subsection (4), Part VII of  
the repealed Act shall be deemed to be amended by omitting  
from section 58 (3) the words "two hundred and fifty thousand  
25 dollars" and by inserting instead the words "five hundred thousand  
dollars".

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**SCHEDULE 1.****Sec. 3.****AMENDMENTS TO THE SECURITIES INDUSTRY ACT, 1975.**

(1) Section 7 (1)—  
30 Omit "or that other Act", insert instead " , any other Act  
or otherwise".

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*Securities Industry (Fidelity Funds) Amendment.*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE SECURITIES INDUSTRY ACT,  
1975—*continued.*

(2) Section 50 (1)—

5 Omit “the Commissioner”, insert instead “a Commissioner”.

(3) (a) Section 97 (1) (a)—

10 Omit “who is a sole trader and who is liable, or would, but for section 93, be liable, to contribute to the fund”, insert instead “who, when the loss is suffered, is a sole trader”.

(b) Section 97 (1) (b)—

15 Omit “a partner in a member firm recognised by the stock exchange any of the partners in which are liable, or would, but for section 93, be liable, to contribute to the fund”, insert instead “a person who, when the loss is suffered, is a partner in a member firm”.

(c) Section 97 (8)—

Omit the subsection, insert instead :—

(8) Where—

20 (a) any money, securities, documents of title to securities or other property has or have been entrusted or received to or by a person who has at any time been, but has ceased to be, a member of a stock exchange or to or by

25 an employee or servant of such a person;

(b) by reason of a defalcation, or the fraudulent misuse of the securities, documents of title or other property by the person referred to

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*Securities Industry (Fidelity Funds) Amendment.*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE SECURITIES INDUSTRY ACT,  
1975—*continued.*

5 in paragraph (a) or by an employee or  
servant of the person so referred to, the  
person by or from whom the money,  
securities, documents of title or other  
property was or were so entrusted or  
received suffered pecuniary loss; and

10 (c) the person suffering the pecuniary loss had,  
at the time the money, securities, documents  
of title or other property was or were so  
entrusted or received, reasonable grounds  
15 for believing and believed that the person  
referred to in paragraph (a) was a member  
of the stock exchange concerned,

the reference in this section to a member of a stock  
exchange includes a reference to the person referred to  
in paragraph (a).

20 (4) (a) Section 124 (a)—

Omit “the Commissioner or the Commission”, insert  
instead “the Commission, a Commissioner, a person  
authorised as referred to in section 8 (1) or (4) or  
30 (3) or (4) or a person nominated as referred to in  
25 section 10 (1) (a) or (b)”.

(b) Section 124 (a)—

Omit “his or its”, insert instead “its or his”.

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*Securities Industry (Fidelity Funds) Amendment.*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE SECURITIES INDUSTRY ACT,  
1975—*continued.*

(c) Section 124 (b)—

5 Omit “the Commissioner or the Commission” where  
firstly occurring, insert instead “the Commission, a  
Commissioner, a person authorised as referred to in  
section 8 (1) or (4) or 30 (3) or (4) or a person  
10 nominated as referred to in section 10 (1) (a) or  
(b)”.

(d) Section 124 (b)—

Omit “the Commissioner” where secondly occurring,  
insert instead “he”;

(e) Section 124 (b)—

15 Omit “the Commissioner or the Commission”, insert  
instead “him”.

(5) (a) Section 132 (1) (f)—

Omit “Commissioner”, insert instead “Commission”.

(b) Section 132 (1) (f)—

20 Omit “him”, insert instead “it”.

(6) Section 138 (2)–(6)—

Omit section 138 (2), insert instead :—

25 (2) The common seal of the Commission may be  
affixed to an instrument or writing by a Commissioner or  
by an officer or employee of the Commission authorised  
so to do either generally or in a particular case or class of

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*Securities Industry (Fidelity Funds) Amendment.*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE SECURITIES INDUSTRY ACT,  
1975—*continued.*

5 cases and the Commissioner or other person so authorised shall attest by his signature the fact and date of the seal being so affixed.

(3) Section 38 (II) of the Interpretation Act, 1897, does not apply to or in respect of the Commission.

10 (4) A Commissioner authorised to do so by the Commission may execute any document on behalf of the Commission.

15 (5) Where a Commissioner has been authorised, as referred to in subsection (4), to execute any document on behalf of the Commission, that document may be executed in the name and on behalf of that Commissioner by any person authorised in writing by that Commissioner to do so.

20 (6) A document purporting to be executed as referred to in subsection (4) or (5) shall be deemed to have been duly executed by the Commission unless it is proved that the person who executed it was not duly authorised as referred to in subsection (4) or (5), as the case may be, and shall be admissible in evidence in any proceedings in the same way as it would be if it had been executed by the Commission.

25 (7) Section 140 (2)—

Omit “the Commissioner”, insert instead “a Commissioner”.

Section 100 (1) (a) - (b)

Section 100 (2) - (3)

Section 100 (4) - (5)

Section 100 (6) - (7)

Section 100 (8) - (9)

Section 100 (10) - (11)

Section 100 (12) - (13)

Section 100 (14) - (15)

Section 100 (16) - (17)

Section 100 (18) - (19)

Section 100 (20) - (21)

Section 100 (22) - (23)

Section 100 (24) - (25)



**SECURITIES INDUSTRY (FIDELITY FUNDS)  
AMENDMENT ACT, 1979, No. 181**

**New South Wales**



ANNO VICESIMO OCTAVO

**ELIZABETHÆ II REGINÆ**

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**Act No. 181, 1979.**

An Act to amend the Securities Industry Act, 1975, with respect  
to fidelity funds of stock exchanges and for other purposes.  
[Assented to, 18th December, 1979.]

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*Securities Industry (Fidelity Funds) Amendment.*

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**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

Short title.      **1.** This Act may be cited as the "Securities Industry (Fidelity Funds) Amendment Act, 1979".

Commence-      **2.** (1) Except as provided in subsections (2), (3) and (4),  
ment.            this Act shall commence on the date of assent to this Act.

(2) Section 3 shall in its application to a provision of Schedule 1 commence or be deemed to have commenced on the day on which the provision commences or is deemed to have commenced, as the case may require.

(3) Section 4 and Schedule 1 (1) and (6) shall be deemed to have commenced on 26th September, 1979.

(4) Schedule 1 (3) shall be deemed to have commenced on 1st March, 1976.

Amendment      **3.** The Securities Industry Act, 1975, is amended in the  
of Act No.      manner set forth in Schedule 1.  
3, 1976.

Amendment      **4.** The Companies Act, 1961, is amended by omitting from  
of Act No.      section 7 (9) the words "or a person" and by inserting instead the  
71, 1961.      words "by a person".  
Sec. 7.  
(Admini-  
stration  
of Act.)

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*Securities Industry (Fidelity Funds) Amendment.*

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5. (1) In this section—

Saving.

“the later Act” means the Securities Industry Act, 1975, as deemed to be amended by subsection (2), but without any other amendments;

“the repealed Act” means the Securities Industry Act, 1970, with or without amendments;

“the 1978 Act” means the Securities Industry (Amendment) Act, 1978.

(2) For the purposes only of the definition of “the later Act” in subsection (1), the Securities Industry Act, 1975, shall be deemed to have been amended, on and from 1st March, 1976—

(a) by omitting from section 97 (1) (a) the words “who is liable, or would, but for section 93, be liable, to contribute to the fund” and by inserting instead the words “, being a member of the stock exchange when the loss is suffered,”;

(b) by omitting from section 97 (1) (b) the words “a partner in a member firm recognised by the stock exchange any of the partners in which are liable, or would, but for section 93, be liable, to contribute to the fund” and by inserting instead the words “a person who, when the loss is suffered, is a partner in a member firm”;

(c) by omitting section 97 (8) and by inserting instead the following subsection :—

(8) Where—

(a) any money, securities, documents of title to securities or other property has or have been entrusted or received to or by a person who has at any time been, but has ceased to be, a member of a stock exchange or to or by an employee or servant of such a person;

(b) by reason of a defalcation, or the fraudulent misuse of the securities, documents of title or other property by the person referred to

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*Securities Industry (Fidelity Funds) Amendment.*

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in paragraph (a), the person by or from whom the money, securities, documents of title or other property was or were so entrusted or received suffered pecuniary loss; and

- (c) the person suffering the pecuniary loss had, at the time the money, securities, documents of title or other property was or were so entrusted or received, reasonable grounds for believing and believed that the person referred to in paragraph (a) was a member of the stock exchange concerned,

the reference in this section to a member of a stock exchange includes a reference to the person referred to in paragraph (a).

(3) Notwithstanding the repeal of the repealed Act by the later Act—

- (a) where pecuniary loss has been suffered by any person, as provided by section 58 (1) of the repealed Act or as provided by section 97 (1) of the later Act, through a defalcation or fraudulent misuse of securities or documents of title or of other property that occurred before the day appointed and notified under section 1 (3) of the later Act, compensation therefor shall be deemed, on and from 1st March, 1976, to have been, and, to the extent that it has not been paid before the day appointed and notified under section 2 (2) of this Act, to be, payable out of the fidelity fund of the stock exchange concerned, referred to in section 97 (1) of the later Act, as amended by the 1978 Act, as if Part IX of the later Act applied to and in respect of the claim; and
- (b) where there has been a deficiency arising by reason of the available assets of a bankrupt being insufficient to satisfy debts arising from dealings in securities, as referred to in section 58 (2) of the repealed Act or section 97 (2) of the later Act, that occurred after the commencement of Part VII of the repealed Act and

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*Securities Industry (Fidelity Funds) Amendment.*

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before the day appointed and notified under section 1 (3) of the later Act, the amount of that deficiency shall be deemed, on and from 1st March, 1976, to have been, and, to the extent that it has not been paid before the day appointed and notified under section 2 (2) of this Act, to be, payable out of the fidelity fund of the stock exchange concerned, referred to in section 97 (1) of the later Act as amended by the 1978 Act, as if Part IX of the later Act applied to and in respect of the payment.

(4) Where compensation is not payable under subsection (3) (a) or the amount of a deficiency is not able to be paid under subsection (3) (b) but, if the references in subsection (3) to Part IX of the later Act were references to Part VII of the repealed Act and Part VII of the repealed Act were amended as referred to in subsection (5), compensation would be payable under subsection (3) (a) or the amount of a deficiency would be able to be paid under subsection (3) (b), that compensation or amount shall be paid or payable out of the fidelity fund of the stock exchange concerned, referred to in section 97 (1) of the later Act, as amended by the 1978 Act.

(5) For the purposes of only subsection (4), Part VII of the repealed Act shall be deemed to be amended by omitting from section 58 (3) the words "two hundred and fifty thousand dollars" and by inserting instead the words "five hundred thousand dollars".

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**SCHEDULE 1.**

Sec. 3.

**AMENDMENTS TO THE SECURITIES INDUSTRY ACT, 1975.**

(1) Section 7 (1)—

Omit "or that other Act", insert instead " , any other Act or otherwise".

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*Securities Industry (Fidelity Funds) Amendment.*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE SECURITIES INDUSTRY ACT,  
1975—*continued.*

## (2) Section 50 (1)—

Omit “the Commissioner”, insert instead “a Commissioner”.

## (3) (a) Section 97 (1) (a)—

Omit “who is a sole trader and who is liable, or would, but for section 93, be liable, to contribute to the fund”, insert instead “who, when the loss is suffered, is a sole trader”.

## (b) Section 97 (1) (b)—

Omit “a partner in a member firm recognised by the stock exchange any of the partners in which are liable, or would, but for section 93, be liable, to contribute to the fund”, insert instead “a person who, when the loss is suffered, is a partner in a member firm”.

## (c) Section 97 (8)—

Omit the subsection, insert instead :—

## (8) Where—

- (a) any money, securities, documents of title to securities or other property has or have been entrusted or received to or by a person who has at any time been, but has ceased to be, a member of a stock exchange or to or by an employee or servant of such a person;
- (b) by reason of a defalcation, or the fraudulent misuse of the securities, documents of title or other property by the person referred to

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*Securities Industry (Fidelity Funds) Amendment.*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE SECURITIES INDUSTRY ACT,  
1975—*continued.*

in paragraph (a) or by an employee or servant of the person so referred to, the person by or from whom the money, securities, documents of title or other property was or were so entrusted or received suffered pecuniary loss; and

- (c) the person suffering the pecuniary loss had, at the time the money, securities, documents of title or other property was or were so entrusted or received, reasonable grounds for believing and believed that the person referred to in paragraph (a) was a member of the stock exchange concerned,

the reference in this section to a member of a stock exchange includes a reference to the person referred to in paragraph (a).

- (4) (a) Section 124 (a)—

Omit “the Commissioner or the Commission”, insert instead “the Commission, a Commissioner, a person authorised as referred to in section 8 (1) or (4) or 30 (3) or (4) or a person nominated as referred to in section 10 (1) (a) or (b)”.

- (b) Section 124 (a)—

Omit “his or its”, insert instead “its or his”.

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*Securities Industry (Fidelity Funds) Amendment.*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE SECURITIES INDUSTRY ACT,  
1975—*continued.*

## (c) Section 124 (b)—

Omit “the Commissioner or the Commission” where firstly occurring, insert instead “the Commission, a Commissioner, a person authorised as referred to in section 8 (1) or (4) or 30 (3) or (4) or a person nominated as referred to in section 10 (1) (a) or (b)”.

## (d) Section 124 (b)—

Omit “the Commissioner” where secondly occurring, insert instead “he”;

## (e) Section 124 (b)—

Omit “the Commissioner or the Commission”, insert instead “him”.

## (5) (a) Section 132 (1) (f)—

Omit “Commissioner”, insert instead “Commission”.

## (b) Section 132 (1) (f)—

Omit “him”, insert instead “it”.

## (6) Section 138 (2)–(6)—

Omit section 138 (2), insert instead :—

(2) The common seal of the Commission may be affixed to an instrument or writing by a Commissioner or by an officer or employee of the Commission authorised so to do either generally or in a particular case or class of



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SCHEDULE 1—*continued.*

AMENDMENTS TO THE SECURITIES INDUSTRY ACT,  
1975—*continued.*

cases and the Commissioner or other person so authorised shall attest by his signature the fact and date of the seal being so affixed.

(3) Section 38 (II) of the Interpretation Act, 1897, does not apply to or in respect of the Commission.

(4) A Commissioner authorised to do so by the Commission may execute any document on behalf of the Commission.

(5) Where a Commissioner has been authorised, as referred to in subsection (4), to execute any document on behalf of the Commission, that document may be executed in the name and on behalf of that Commissioner by any person authorised in writing by that Commissioner to do so.

(6) A document purporting to be executed as referred to in subsection (4) or (5) shall be deemed to have been duly executed by the Commission unless it is proved that the person who executed it was not duly authorised as referred to in subsection (4) or (5), as the case may be, and shall be admissible in evidence in any proceedings in the same way as it would be if it had been executed by the Commission.

(7) Section 140 (2)—

Omit “the Commissioner”, insert instead “a Commissioner”.

*In the name and on behalf of Her Majesty I assent to this Act.*

A. R. CUTLER,  
*Governor.*

*Government House,  
Sydney, 18th December, 1979.*





