



**Part 33**  
**State integrated schools**

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**Part 33 State integrated schools**

Part 33: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

**414 Interpretation**

(1) In this Part, unless the context otherwise requires,—

**board**, in relation to a State integrated school, means its board of trustees established under Part 9

**education with a special character** means education within the framework of a particular or general religious or philosophical belief, and associated with observances or traditions appropriate to that belief

**effective date**, in relation to an integration agreement, means the date on which the integration of the school takes place

**integration** has the same meaning as in section 2(1)

**integration agreement** means an agreement entered into under section 421

**land** has the same meaning as in the Land Transfer Act 1952

**proprietor** means the body corporate that—

- (a) has the primary responsibility for determining the special character of a school registered under section 35A and for supervising the maintenance of that special character; and
- (b) owns, holds in trust, or leases the land and buildings that constitute the premises of the private school or a State integrated school

**State integrated school** has the same meaning as in section 2(1).

(2) Unless the context otherwise requires,—

- (a) every reference in this Part to a State school is to be treated as excluding a State integrated school:
- (b) every reference in the other Parts of this Act and in any other enactment or document to—
  - (i) a State primary school is to be treated as including a State integrated school that is a primary school:
  - (ii) a State secondary school is to be treated as including a State integrated school that is a secondary school:
  - (iii) a State school is to be treated as including a reference to a State integrated school.

Compare: 1975 No 129 s 2

Section 414: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

**415 Part to bind the Crown**

This Part binds the Crown.

Compare: 1975 No 129 s 2A

Section 415: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

*Conditional integration*

Heading: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

**416 Preservation of special character of State integrated schools**

- (1) A State integrated school must on integration continue to have the right to reflect, through its teaching and conduct, the education with a special character provided by it.
- (2) Integration must not jeopardise the special character of a State integrated school.
- (3) The proprietor of a State integrated school must, subject to the provisions of the integration agreement,—
  - (a) continue to have the responsibility to supervise the maintenance and preservation of the education with a special character provided by the school:
  - (b) continue to have the right to determine what is necessary to preserve and safeguard the special character of the education provided by the school and described in the integration agreement.
- (4) If, in the opinion of a proprietor, the special character of the school as defined and described in the integration agreement has been or is likely to be jeopardised, or the education with a special character provided by the school as defined and described in the integration agreement is no longer preserved and safeguarded, the proprietor may invoke the powers conferred on the proprietor by this Part.

Compare: 1975 No 129 s 3

Section 416: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

**417 State integrated schools part of State system**

- (1) Subject to subsection (2),—
  - (a) on integration, a State integrated school becomes part of the State system of education in New Zealand; and
  - (b) a State integrated school is subject to all the provisions of this Act and of all regulations made under this Act; and
  - (c) a State integrated school is subject to all the provisions of the State Sector Act 1988 as if service in the employment of the board of the school were education service within the meaning of that Act.
- (2) In their application to State integrated schools, the enactments applied to State integrated schools by subsection (1) are subject to sections 416 and 475, and to the other provisions of this Part that relate to State integrated schools.

Compare: 1975 No 129 s 4

Section 417: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

*Procedure for establishing, disestablishing, merging, and closing State integrated schools*

Heading: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

**418 Application to negotiate integration**

- (1) The proprietor of a school that is registered under section 35A, and any person who proposes to establish a school with the intention that it become a State integrated school, may apply to the Minister to enter into negotiations for integration under this Part.
- (2) If the Minister accepts an application to negotiate, the applicant and the Minister may enter into negotiations for an integration agreement under section 421.
- (3) If the Minister declines the application, the applicant may make a fresh application at any time.
- (4) Without limiting the factors that the Minister may consider, the Minister must, in considering an application, consider the nature, character, and capacity of the existing network of schools.
- (5) The Minister may, in the Minister's absolute discretion,—
  - (a) accept applications to enter into negotiations for integration under this Part; and
  - (b) after giving any public notice that the Minister considers appropriate, decide not to consider applications from particular areas.

Compare: 1975 No 129 s 5

Section 418: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

**419 Applications relating to proposed schools**

If a person who proposes to establish a school with the intention that it become a State integrated school makes an application under section 418, this Part applies to the application and to any subsequent negotiations and agreements prior to integration as if—

- (a) the applicant were a proprietor; and
- (b) the school were a school registered under section 35A.

Compare: 1975 No 129 s 6

Section 419: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

**420 Negotiation of integration agreements**

- (1) The Minister and an applicant may commence negotiations for an integration agreement under section 421 at any time after the Minister has accepted an application under section 418.
- (2) During the course of negotiations, the Minister may consult any interested persons or groups that the Minister considers appropriate.

Compare: 1975 No 129 s 6A

Section 420: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

**421 Integration agreements**

- (1) The Minister (and only the Minister) may approve the establishment of a private school as a State integrated school.
- (2) The Minister must signify his or her approval by entering into an integration agreement with the proprietor.
- (3) No proprietor is competent to execute an integration agreement unless the proprietor is constituted as a body corporate.
- (4) Every integration agreement must record the agreement of the proprietor that no persons employed at the school and paid for their services in whole or in part out of money appropriated by Parliament may be—
  - (a) paid by the proprietor or the proprietor's agents any remuneration additional to that provided for by this Act; or
  - (b) granted or permitted any condition of service more favourable than that permitted in the case of a person employed in a State school.

Compare: 1975 No 129 s 7(1)–(5)

Section 421: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

**422 Other matters that may be included in integration agreements**

- (1) Without restricting the provisions that may be included in an integration agreement, any integration agreement may include provisions for all or any of the following matters:
  - (a) specifying the land and buildings that constitute the school to which the integration agreement refers:
  - (b) specifying any part of the land or buildings owned or leased by the proprietor and used in conjunction with the school before integration that do not constitute part of the school:
  - (c) describing the education with a special character for which the school is or was originally established:
  - (d) prescribing the religious or philosophical instruction and observances that are to form part of the school programme after integration:
  - (e) providing for the determination of the maximum number of students who may be enrolled in the school:
  - (f) permitting limitation of the number of children not given preference of enrolment under the provisions of section 442 who are required to be enrolled if places are available:
  - (g) any other particular matter that is relevant to the education with a special character for which the school was originally established:
  - (h) any other matter that is not contrary to the provisions of this Part.
- (2) Despite anything in subsection (1)(e), when determining the basis of the limitation under subsection (1)(f), regard must be had only to the necessity of preserving and safeguarding the education with a special character that the school provides.

Compare: 1975 No 129 s 7(6)

Section 422: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

**423 Integration agreements: machinery matters**

- (1) Any proprietor may enter into integration agreements for the integration of more than 1 school.
- (2) There must be a separate integration agreement for each school that is to become a State integrated school.
- (3) If the Minister and the proprietor agree, the terms of an integration agreement may be varied by a supplementary agreement.
- (4) Despite section 421, the Minister's power to enter into a supplementary agreement may be delegated under section 28 of the State Sector Act 1988.
- (5) An integration agreement is, for all purposes, a binding agreement between the proprietor and the Crown.

Compare: 1975 No 129 s 7(7)–(10)

Section 423: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

**424 Effective date of integration agreement**

- (1) Every integration agreement must specify an effective date.
- (2) A State integrated school's board must take office on the effective date.
- (3) In any case where the requirements of this section are not met, the Minister may give notice to the proprietor of a new effective date as the Minister thinks fit, and the integration agreement must be interpreted accordingly.

Compare: 1975 No 129 s 8

Section 424: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

**425 Notification of integration agreement**

Every integration agreement must be notified in the *Gazette*, and a copy of every integration agreement must be retained by the Secretary and must be available for inspection without charge by any member of the public on an Internet site maintained by the Secretary.

Compare: 1975 No 129 s 10

Section 425: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

**426 Minister may require information to be provided**

- (1) This section applies in any of the following situations:
  - (a) a proprietor or a potential proprietor has applied to integrate a school:
  - (b) the Minister holds reasonable concerns about the ability of a proprietor or potential proprietor to meet any obligation under an integration agreement or under this Part:
  - (c) a proprietor or potential proprietor has submitted a specific funding request to the Minister or the Secretary.
- (2) If this section applies, the Minister may require the relevant proprietor or potential proprietor to provide all or any of the following:
  - (a) all of the information needed to assess the financial and managerial capacity of the proprietor or potential proprietor:
  - (b) any other information that the Minister considers relevant to assessing—

- (i) an application to integrate a school:
- (ii) any concerns about the ability of a proprietor or potential proprietor to meet any obligation under an integration agreement or under this Part:
- (iii) any funding request that a proprietor or potential proprietor has submitted.

Section 426: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

#### **427 Cancellation of integration agreement**

- (1) An integration agreement may be cancelled—
- (a) by the Minister, in which case section 428 applies; or
  - (b) by the proprietor, in which case section 429 applies; or
  - (c) by agreement between the Minister and the proprietor, in which case section 430 applies.
- (2) On the cancellation of an integration agreement,—
- (a) the school ceases to be a State integrated school; and
  - (b) the respective rights and obligations of the parties that arise by virtue of the integration agreement cease to have effect; and
  - (c) in the absence of an agreement to the contrary, the school is to be treated as provisionally registered as a school under section 35A.

Compare: 1975 No 129 s 11

Section 427: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

#### **428 Cancellation by Minister**

The Minister may cancel an integration agreement under section 427(1)(a) if—

- (a) it appears to the Minister on reasonable grounds that the proprietor or the board of the State integrated school is not sufficiently carrying out the functions and obligations accepted by it under this Act or under the integration agreement; and
- (b) the Minister has consulted the proprietor, the board, and other interested persons or groups as the Minister considers appropriate.

Compare: 1975 No 129 s 11A

Section 428: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

#### **429 Cancellation by proprietor**

- (1) A proprietor may give notice of an intention to cancel an integration agreement under section 427(1)(b) if—
- (a) it appears to the proprietor on reasonable grounds that—
    - (i) the special character of the State integrated school has been or is likely to be jeopardised; or
    - (ii) the Minister or any board is not carrying out the functions and obligations accepted by the Minister or the board under this Act or the integration agreement; and
  - (b) the proprietor has consulted the Minister, the board, and any other interested persons or groups as the proprietor considers appropriate.

- (2) The notice of intention to cancel takes effect as a cancellation of the integration agreement under section 427(1)(b) on the date that is 4 months after the date of the notice.

Compare: 1975 No 129 s 11B

Section 429: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

#### 430 Cancellation by agreement between parties

The Minister and the proprietor may cancel an integration agreement under section 427(1)(c) by mutual agreement, after consultation with other interested persons or groups as they consider appropriate.

Compare: 1975 No 129 s 11C

Section 430: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

#### 431 Mergers

- (1) A State integrated school may merge with another State integrated school (the **merging schools**) if—
- (a) each school has the same proprietor; and
  - (b) each school has the same or a similar special character; and
  - (c) the proprietor has consulted the Minister; and
  - (d) the Minister determines that the schools may merge.
- (2) Before determining whether the State integrated schools may merge, the Minister must—
- (a) be satisfied that—
    - (i) the proprietor has made reasonable efforts to consult its adult students or the parents of its full-time students (other than adult students) about the proposed merger; and
    - (ii) the consultation that has taken place for each school is adequate in the circumstances; and
    - (iii) the creation of a single school by the proposed merger (the **continuing school**) is appropriate in the circumstances; and
  - (b) consult the boards of all the other schools whose rolls might, in the opinion of the Minister, be affected by the proposed merger.
- (3) If the Minister determines that the State integrated schools may merge, the proprietor must apply under section 418 to negotiate an integration agreement for the school that is to be created by the merger.
- (4) If an integration agreement is negotiated, the Minister must give notice of the merger in the *Gazette*.
- (5) The notice takes effect on a day specified in the notice, and has effect as follows:
- (a) the merging schools are part of the continuing school:
  - (b) if the continuing school and each merging school are not already administered by a single board,—
    - (i) the board of each merging school is dissolved; and
    - (ii) all rights, assets, liabilities, and debts of each merging school are vested in the board of the continuing school:

- (c) the continuing school is a school of the class specified in the notice and provides education for the student class levels specified in the notice.
- (6) The notice does not affect the name of the continuing school.
- (7) Before a notice given under subsection (4) takes effect, the Minister must give notice in the *Gazette* of whether,—
- (a) during the period between a date specified in the notice and the date on which new trustees take office, the board of the continuing school is to be—
- (i) the board of the continuing school plus at least 1 co-opted trustee representing each of the merging schools; or
- (ii) a board appointed by the Minister; or
- (b) the board of the continuing school is to have an alternative constitution approved under section 98A.
- (8) The board of the continuing school must have no more than 4 members appointed by the proprietor.

Section 431: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

#### **432 Closure of State integrated school**

If it appears to the Minister that for the reason set out in section 428(a) a State integrated school should be closed, the Minister may, after the consultation referred to in section 428(b), disestablish and close the school.

Compare: 1975 No 129 s 12

Section 432: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

#### **433 Notification of cancellation or of closing of State integrated school**

When an integration agreement is cancelled under section 427, or when a State integrated school is closed under section 432, the Minister must give notice of the cancellation or closure in the *Gazette*.

Compare: 1975 No 129 s 15

Section 433: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

#### **434 Disposal of assets on cancellation of integration agreement or closing of State integrated school**

- (1) This section applies if expenses or capital expenditure appropriated by Parliament has been used to meet all or part of the cost of supplying a State integrated school with furniture, or equipment, or other chattels, and the integration agreement for that school is cancelled, or the school is closed.
- (2) If this section applies, the furniture, equipment, or chattels may be disposed of by the Secretary at his or her sole discretion, whether by sale or otherwise, and the disposition has effect as if the Secretary were the owner.
- (3) However, any sale must be by way of public auction or public tender.

Compare: 1975 No 129 s 16(1)

Section 434: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

**435 Repayment of moneys advanced**

- (1) This section applies if—
  - (a) expenses or capital expenditure appropriated by Parliament has been advanced otherwise than by way of loan to be used to meet all or part of the cost of erecting any building or supplying or installing any fixture as part of a State integrated school; and
  - (b) the integration agreement for that school is cancelled, or the school is closed.
- (2) The current value of the contribution to the building or fixture from the money appropriated must be assessed by the Minister.
- (3) The amount assessed is to be treated as a debt due by the proprietor to the Crown, and is to be treated as a charge on the land of the State integrated school.
- (4) That charge may be registered without the payment of a fee against the land under the provisions of the Statutory Land Charges Registration Act 1928.
- (5) However, the Minister may, with the agreement of the Minister of Finance, approve the writing off of all or part of the debt.
- (6) For the purposes of the Statutory Land Charges Registration Act 1928, notice of any charge under subsection (3), and any certificate releasing the charge, may be signed by the Secretary.

Compare: 1975 No 129 s 16(2), (3)

Section 435: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

**436 Moneys to be paid into Crown Bank Account**

- (1) In the case of any sale made under section 434(2), the money received must be credited to a Crown Bank Account.
- (2) In the event of the cancellation of an integration agreement, or the closing of a State integrated school, any unspent money granted to the board of that school for that school under this Act or under regulations made under this Act or under any other Act must be credited to a Crown Bank Account.

Compare: 1975 No 129 s 16(4), (5)

Section 436: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

**437 Certain assets remain vested in proprietors**

Subject to sections 434 to 436, if an integration agreement is cancelled, or a State integrated school is closed, any land, buildings, chattels, and other interests relating to the school that are vested in the proprietor remain vested in the proprietor.

Compare: 1975 No 129 s 16(8)

Section 437: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

**438 Restriction on cancellation of integration agreement or closure of State integrated schools**

No integration agreement may be cancelled in accordance with section 427, and (despite anything in section 154) no State integrated school may be closed under section 432, solely on the ground that adequate accommodation for the students exists in an adjacent State school.

Compare: 1975 No 129 s 17

Section 438: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

#### **439 Compensation**

If an integration agreement is cancelled, or a State integrated school is closed, no compensation of any kind is due or payable to the proprietor.

Compare: 1975 No 129 s 18

Section 439: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

#### *Administration*

Heading: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

#### **440 Administration of State integrated schools**

- (1) Except as provided in this Part, all the provisions of this Act and of any other enactment relating to the education of the people of New Zealand in State schools apply to a State integrated school.
- (2) Subject to sections 416 and 417, when a private school is integrated it must be controlled and managed and operate in all respects as if it were a State school.
- (3) The powers of control and management of the board of a State integrated school must be exercised subject to the provisions of sections 416 and 417.
- (4) To give effect to subsection (3), the board of a State integrated school must make provision for adequate consultation between the board and the proprietor of that school.

Compare: 1975 No 129 ss 19, 25(6)

Section 440: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

#### *Enrolment, conditions of attendance, and instruction of students at State integrated schools*

Heading: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

#### **441 Free education**

Every student enrolled at a State integrated school must be given free education on the same terms and in accordance with the same conditions as students enrolled at a State school.

Compare: 1975 No 129 s 35(1)

Section 441: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

#### **442 Preference of enrolment**

The children of parents who have a particular or general philosophical or religious connection with a State integrated school must be preferred to other children for enrolment at the school.

Compare: 1975 No 129 s 29

Section 442: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

**443 Participation in general school programmes**

By enrolling a student at a State integrated school, the parent is taken to have accepted as a condition of enrolment that the student is to participate in the general school programme that gives the school its special character.

Compare: 1975 No 129 s 30

Section 443: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

**444 Instruction of students**

- (1) Each State integrated school must instruct its students in accordance with the curricula and syllabuses prescribed under this Act or any regulations made under this Act.
- (2) However, the general school programme must reflect the education with a special character provided by the State integrated school, and religious and other examples may be used to reinforce teaching throughout the school day.

Compare: 1975 No 129 s 31

Section 444: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

**445 Religious observances and religious instruction**

- (1) Subject to the provisions of section 444, if religious observances and religious instruction form part of the education with a special character provided by a State integrated school, these must continue to form part of the general school programme in accordance with the terms and conditions prescribed in the integration agreement relating to that school.
- (2) If religious observances and religious instruction form part of the education with a special character provided by a State integrated school, that school—
  - (a) must be responsive to the sensitivities of students and parents of different religious or philosophical affiliations; and
  - (b) may not require a student of a different religious or philosophical affiliation to participate in religious observances and religious instruction concerned with particular observances if the parents of the student state at any time that they do not wish that student to participate.

Compare: 1975 No 129 s 32

Section 445: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

**446 School transport assistance**

In providing school transport assistance for students enrolled at a State integrated school, the Secretary must have reasonable regard to the preference of parents to enrol their children at a State integrated school or at a State school.

Compare: 1975 No 129 s 34

Section 446: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

**447 Attendance dues**

- (1) The proprietor of a State integrated school may, if the integration agreement for the school so provides, enter into an agreement with the parents or other persons accepting responsibility for the education of a child providing that the parents or other persons must pay attendance dues as a condition of the child's enrolment at the school.

- (2) The dues must be established for the State integrated school or group of State integrated schools at the rates, and subject to the conditions, that are approved by the Minister by notice in the *Gazette*.
- (3) Revenue received by the proprietor from attendance dues must be used solely for the following:
  - (a) paying, in respect of the school or group of schools in respect of which it is received, for improvements to the State integrated school or schools' buildings and associated facilities that are required by any integration agreement or integration agreements under section 456(2)(c):
  - (b) any capital works that may be required by the Minister under section 456(2)(d):
  - (c) meeting debts, mortgages, liens, or other charges associated with the land and the buildings that constitute the premises of the State integrated school or schools.
- (4) No revenue received by the proprietor from attendance dues may be used to provide or improve the State integrated school buildings and associated facilities to a standard higher than that approved by the Secretary as appropriate for a comparable State school.

Compare: 1975 No 129 s 36(1)–(4)

Section 447: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

#### **448 Withdrawal and reinstatement of right to charge attendance dues**

- (1) Should any proprietor use any revenue from attendance dues for any purpose other than one permitted by section 447, the Minister may, despite anything in the integration agreement, by notice in the *Gazette*, withdraw the right to charge attendance dues, and the board must, while the withdrawal continues, permit the attendance of children without the payment of attendance dues.
- (2) The Minister may, by notice in the *Gazette*, cancel any withdrawal at any time.

Compare: 1975 No 129 s 36(5)

Section 448: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

#### **449 Consequences of failure to pay attendance dues**

- (1) If a parent, or other person who has accepted the responsibility for the education of a child, has entered into an agreement to pay attendance dues and fails to make a payment, the payment not made may be recoverable from that parent or person in any court of competent jurisdiction as a debt due to the proprietor.
- (2) Any failure to make payment constitutes grounds for the principal of the State integrated school to suspend the child from attendance at that school and to remove the child's name from the school register.
- (3) However, no child may be suspended and have his or her name removed from the school register until arrangements have been made to the satisfaction of the Secretary for the child to be enrolled at some other school.

Compare: 1975 No 129 s 36(6), (7)

Section 449: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

**450 Accounts for attendance dues**

- (1) Each proprietor who is permitted to charge attendance dues must keep accounts in a manner approved by the Secretary showing—
  - (a) the total amount of attendance dues received; and
  - (b) how the attendance dues have been spent.
- (2) The accounts must be—
  - (a) balanced at a date each year approved by the Secretary; and
  - (b) audited by a qualified auditor (within the meaning of section 35 of the Financial Reporting Act 2013).
- (3) The proprietor must send a copy of the accounts, together with the auditor's report on them, to the Secretary by a date to be approved by the Secretary.

Compare: 1975 No 129 s 36(8)

Section 450: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

**451 Financial contributions**

- (1) In addition to the power to collect attendance dues under section 447, the proprietor of a State integrated school may—
  - (a) conduct fund-raising activities within the school; and
  - (b) inform the parents of the financial obligations of the proprietor in the prospectus and in other ways; and
  - (c) request the parents of students attending the school to make regular financial contributions to the proprietor for the benefit of the proprietor in meeting any debt, mortgage, lien, and other charge associated with the land and buildings that constitute the school premises or are associated with the school.
- (2) Financial contributions other than attendance dues must be made on a voluntary basis and no student may be refused enrolment because of the unwillingness of the parents to contribute in this way.

Compare: 1975 No 129 s 37(1), (2)

Section 451: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

**452 Restrictions on fund-raising**

No board of any State integrated school, nor the principal nor any member of the staff (whether employed or retained as a teacher or in any other capacity), nor any student of the school may take part during normal school hours in any school activity directed to raising funds for the benefit of the proprietor in meeting any debt, mortgage, lien, or other charge associated with the land and buildings that constitute the school premises or are associated with the school.

Compare: 1975 No 129 s 37(3)

Section 452: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

**453 Accounts of money raised under section 451**

The proprietor must—

- (a) keep accounts of money raised by it and by a board, principal, staff member, or student under this section; and
- (b) have the accounts audited by a qualified auditor (within the meaning of section 35 of the Financial Reporting Act 2013) at least once in every period of 12 months; and
- (c) make a copy of the accounts and of the auditor's report on them available on request to the parents of students attending the State integrated school and to other contributors.

Compare: 1975 No 129 s 37(4)

Section 453: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

**454 Fund-raising**

Subject to the provisions of section 451, the board, the principal, staff members, and students of a State integrated school may take part in fund-raising activities in the same manner and for the same purposes for the benefit of the students of the school that are permitted in the case of State schools.

Compare: 1975 No 129 s 38

Section 454: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

**455 Use of school office**

The school office of a State integrated school may be used for the purpose of communication between the proprietor of the school and the parents of students enrolled at the school, and for other purposes related to the benefit of the school and the students.

Compare: 1975 No 129 s 39

Section 455: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

*Proprietors of State integrated schools*

Heading: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

**456 Powers and responsibilities of proprietors**

- (1) The proprietor of a State integrated school must exercise its powers under an integration agreement in a manner that is consistent with section 416.
- (2) Subject to subsection (1), the proprietor of a State integrated school—
  - (a) owns, holds upon trust, or leases the land and buildings that are specified in the integration agreement as constituting the school premises; and
  - (b) must accept and meet the liability for all mortgages, liens, and other charges upon the land and buildings; and
  - (c) must plan, pay for, and implement, over the period that may be specified in the integration agreement, the improvements to the school buildings and associated facilities that are required in accordance with the integration agreement to bring the buildings and associated facilities up to the minimum standard laid down by the Secretary for State schools; and
  - (d) must plan, implement, and pay for the capital works that are approved or required by the Minister, with a view to replacing, improving, or enlarging the school, its

buildings, and its associated facilities to maintain the school, its buildings, and its associated facilities at the minimum standard laid down by the Secretary for comparable State schools; and

- (e) may own, hold upon trust, or lease and control, and maintain any land, buildings, and associated facilities that, although not part of the school in terms of the integration agreement, are regarded by the proprietor as appropriate to maintain the special character of the school; and
- (f) may, in conjunction with the board, make provision for the accommodation of students living away from home; and
- (g) must insure all the buildings, chattels, and other assets owned, held upon trust, or leased by the proprietor for the purposes of the school against risks normally insured against with some reputable insurance company; and
- (h) must arrange with its insurers that the policy of the insurance is endorsed to the effect that the benefit of the indemnity provided by the policy extends to the Minister for the buildings, chattels, and other assets paid for in whole or in part by a loan or grant made out of money appropriated by Parliament; and
- (i) must, together with the proprietor's agents and licensees, have at all reasonable times access to the school to ensure that the special character of the school is being maintained.

Compare: 1975 No 129 s 40

Section 456: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

#### **457 Decision-making criteria for proprietors**

- (1) When making a decision under a provision of this Part, a proprietor must take into account—
  - (a) the ability of the proprietor's State integrated school or schools to continue to provide the level of education required; and
  - (b) the average per student cost of the continued operation of the proprietor's State integrated school or schools relative to the average per student cost for other State schools; and
  - (c) the extent to which the proprietor's State integrated school or schools provide for students whose needs are not met by other State schools; and
  - (d) the ability of the proprietor to meet any obligations regarding the proprietor's State integrated school or schools over the next 7 years.
- (2) A proprietor must assess the proprietor's compliance with subsection (1) at least once every 5 years.
- (3) However, the Secretary may direct a proprietor to carry out an assessment at any time if the Secretary considers it appropriate in the circumstances.
- (4) The proprietor must, as soon as practicable,—
  - (a) complete any assessment begun under subsection (2) or (3); and
  - (b) provide the Secretary with a copy of the assessment.

Section 457: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

**458 Consequences of failure to arrange insurance**

Despite section 456(2)(h), in any case where the proprietor has not arranged with the proprietor's insurers for the benefit of any policy of insurance to extend to the Minister,—

- (a) no money appropriated by Parliament may be used to pay any part of the cost of repairing or replacing any buildings, chattels, or other assets that have been destroyed or damaged from any cause whatsoever; and
- (b) any additional charges by way of premium made by the insurer for the extension of the benefit of any policy of insurance to the Minister may not be met out of money appropriated by Parliament.

Compare: 1975 No 129 s 40(2)(h)

Section 458: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

**459 Proprietors not to question curriculum or teaching methods**

The right of access specified in section 456(2)(i) does not give a proprietor the right to question the curriculum or the teaching methods adopted by the teachers, both of which are, subject to the provisions of this Act, controlled by the principal of the State integrated school.

Compare: 1975 No 129 s 40(2)(i)

Section 459: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

**460 Leases of land**

- (1) The proprietor of a State integrated school must obtain the prior consent of the Minister before entering into a lease relating to land that is used, or to be used, for the school.
- (2) If the proprietor fails to obtain the prior consent of the Minister to a lease, the lease is not affected but the Minister may cancel the integration agreement under section 427.

Compare: 1975 No 129 s 40A

Section 460: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

**461 Assistance to proprietors**

- (1) The Minister may, with the concurrence of the Minister of Finance, approve the granting of loans from capital expenditure that may be appropriated by Parliament for the purpose to the proprietor of any State integrated school.
- (2) The loans are to be made for the purposes and subject to the terms and conditions, including the writing off of any amount repayable, that the Minister, with the concurrence of the Minister of Finance, determines.

Compare: 1975 No 129 s 42

Section 461: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

**462 Proprietors unable to meet obligations**

- (1) In the event of the proprietor of a State integrated school becoming unable to meet the financial or other commitments accepted by them under the integration agreement, they must notify the Minister.
- (2) If the Minister is notified, the Minister may, after any consultation with the proprietor that the Minister thinks necessary,—
  - (a) cancel the integration agreement in accordance with section 427; or

- (b) close the State integrated school under section 432; or
  - (c) arrange for the acquisition by the Crown, in accordance with the Public Works Act 1981, of any land, buildings, and chattels relating to the State integrated school that are owned or leased by the proprietor and that the Minister considers appropriate for the purpose of establishing a State school.
- (3) When the Minister acts in accordance with subsection (2)(a) or (b), the provisions of this Act relating to the cancellation of an integration agreement or to the closure of a State integrated school apply.
- Compare: 1975 No 129 s 44
- Section 462: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

#### *Appointment and employment of teachers*

Heading: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

### **463 Requirements in respect of appointments of teachers**

- (1) The board of a State integrated school must appoint teachers in that school in accordance with the provisions of the State Sector Act 1988.
- (2) When a board delegates to a committee the power to appoint a teacher or to recommend the appointment of a teacher, that committee must contain at least 1 of the persons appointed to the board by the proprietor.

Compare: 1975 No 129 s 63

Section 463: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

### **464 Religious instruction: appointments to special positions relating to character of State integrated school**

Subject to the provisions of this section, where religious instruction forms part of the special character of a State integrated school,—

- (a) if provided for by the integration agreement, an advertisement for the position of principal of that school must state that a willingness and an ability to take part in religious instruction appropriate to that school is a condition of appointment:
- (b) if provided for by the integration agreement, the board of that school must—
  - (i) designate a position at that school as director of religious studies; and
  - (ii) state in any advertisement for that position that a willingness and an ability to take part in religious instruction appropriate to that school is a condition of appointment (a director of religious studies must be a member of the normal staffing entitlement of the school, as established by regulations made under this Act; and
  - (iii) carry out the teaching duties, if any, that may be provided for in the integration agreement):
- (c) the board must—
  - (i) designate any other proportion of teaching positions in that school that may be provided for in the integration agreement as positions of importance carrying a responsibility for religious instruction; and

- (ii) state in advertisements for the positions that a willingness and an ability to take part in religious instruction appropriate to that school is a condition of appointment:
- (d) the board must state in any advertisement for a position at that school that a willingness and an ability to take part in religious instruction appropriate to that school is a condition of appointment if—
  - (i) that school is a primary school; and
  - (ii) the person holding the position of deputy principal of that school or a position of assistant principal at that school has responsibility for supervising the junior classes at that school; and
  - (iii) it is provided for by the terms of the integration agreement of that school.

Compare: 1975 No 129 s 65(1)

Section 464: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

#### **465 Effect of religious instruction requirements in advertisements**

If, in accordance with section 464, an advertisement for a position states a requirement that a willingness and an ability to take part in religious instruction is a condition of appointment, any person appointed to that position must accept that requirement as a condition of the person's appointment.

Compare: 1975 No 129 s 65(2)

Section 465: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

#### **466 Restrictions on requirement for teacher to take part in religious instruction**

Except as provided in section 464, the appointment of a teacher to a position in a State integrated school may not be conditional on the willingness and ability of that teacher to take part in religious instruction, and no appointed teacher may be required to take part.

Compare: 1975 No 129 s 65(3)

Section 466: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

#### **467 Other special positions**

- (1) If an integration agreement records that any teaching position in the State integrated school concerned is a special position that requires particular capabilities on the part of the teacher holding it, an advertisement for that position must require an appointee to possess those capabilities as a condition of appointment to that position.
- (2) Without limiting the generality of subsection (1), if any integration agreement relating to a State integrated primary school requires the person holding a position as assistant principal at that school (being a position the holder of which has responsibility for supervising senior classes at that school) to maintain programmes and activities that reflect the special character of that school, an advertisement for that position must require an appointee to maintain those programmes and activities as a condition of appointment to that position.
- (3) If, in accordance with subsection (1) or (2), an advertisement for a position makes any requirement a condition of appointment to that position, any person appointed to that position must accept that requirement as a condition of the person's appointment to it.

Compare: 1975 No 129 s 66

Section 467: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

**468 Selection for appointment**

In the case of a State integrated primary school, the person to be appointed to any of the positions specified in section 464 or to any position specified in section 467 must be selected in accordance with the provisions of section 469.

Compare: 1975 No 129 s 67

Section 468: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

**469 Requirements in respect of appointments**

- (1) Before appointing any person to a position in a State integrated primary school, being a position specified in section 464 or 467, the board must consult the proprietor, who must report to the board the names of those applicants (if any) who, in terms of the special character of the school or in terms of the advertisement calling for applicants with particular capabilities, are acceptable for appointment.
- (2) On receipt of the report required by subsection (1), the board may consider for appointment only those applicants who are stated in the report to be acceptable for appointment.

Compare: 1975 No 129 s 68

Section 469: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

**470 Employment for special purposes**

- (1) With the consent of the board, any retired teacher may undertake, in any State integrated school, voluntary tasks relating to the beliefs and instruction that are the foundation of that school's special character.
- (2) If religious instruction forms part of the education with a special character provided by a State integrated school, the proprietor of that school may employ any person, whether as a chaplain or otherwise, for duties relating to that instruction.
- (3) The salary of a person employed under subsection (2) must not be paid by the board or be in any way a charge on money appropriated by Parliament.
- (4) The proprietor must notify the board of the name of any person employed under subsection (2).

Compare: 1975 No 129 s 69

Section 470: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

**471 Appointment of teachers on integration**

- (1) If, in accordance with sections 421 and 424, an integration agreement is implemented in respect of any private school,—
  - (a) the contract of service of every teacher at that school is to be treated as being determined from the effective date of integration; and
  - (b) each of those teachers, if the teacher so wishes, is to be treated as being in the employment of the board of the State integrated school until the teacher is formally appointed to a teaching position under subsection (4), and the provisions of subsection (6) apply accordingly from the effective date of integration; and
  - (c) each teaching position at that school must, within 60 days after the effective date of integration, be advertised as required by the State Sector Act 1988.

- (2) Every advertisement must state that the teacher appointed to the position as at the effective date of integration, if the teacher so wishes, has an absolute right of appointment to that position irrespective of the qualifications of any other applicant.
- (3) The teacher previously appointed to the position advertised under subsection (1) must, if the teacher wishes to continue in that appointment, apply in the manner prescribed by the State Sector Act 1988 for appointment to that position.
- (4) A teacher who applies must be appointed to the position.
- (5) A teacher who does not so apply is to be treated as having relinquished the position.
- (6) A teacher who is appointed to a teaching position must—
  - (a) be paid out of expenses appropriated by Parliament for the purpose the same salary that a teacher with comparable service and qualifications would be paid for a comparable teaching position in a State school; and
  - (b) continue to be paid no less than the same salary, and to be accorded the same status, as the teacher received or was accorded on the day before the effective date of integration.

Compare: 1975 No 129 s 71

Section 471: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

#### **472 Other employees**

- (1) The contract of service of every person employed in a State integrated school in a capacity other than that as a teacher, is to be treated as being determined from the effective date of integration.
- (2) If the position in which that person was employed has a parallel or close parallel in a State school, that person may—
  - (a) be re-employed by the board in such parallel position; and
  - (b) be paid out of expenses appropriated by Parliament for the purpose the same salary as that person would be paid for comparable service in a State school.

Compare: 1975 No 129 s 72

Section 472: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

#### **473 No compensation for determination of employment**

When a contract of employment of a teacher is treated as being determined under section 471(1)(a), or when the contract of employment of a person other than a teacher is treated as being determined under section 472, no compensation of any kind is payable to the teacher or to any person employed otherwise than as a teacher in respect of the determination of the contract of employment.

Compare: 1975 No 129 s 73

Section 473: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

*General provisions*

Heading: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

**474 Grants to private schools before integration**

Any obligation or other commitment entered into by the managers of a private school before the integration of that school as a condition of a grant under this Act binds the proprietor of that school, whether or not the obligation or commitment is specified in the integration agreement.

Compare: 1975 No 129 s 78

Section 474: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

**475 Relationship between this Part and other Parts and other enactments**

- (1) If this Part deals with the same or a similar subject matter as other Parts of this Act, the State Sector Act 1988, or any regulations made under any of those Acts or under any enactment repealed by any of those Acts,—
  - (a) express provisions in this Part prevail in respect of State integrated schools; but
  - (b) this Part must be interpreted in a way that is consistent with the other Parts of this Act or any other enactments concerned whenever this construction is appropriate and reasonable.
- (2) Subject to sections 416 and 417, where any matter concerning State integrated schools is not dealt with by express provision in this Part, the appropriate provisions of other Parts of this Act, the State Sector Act 1988, and all regulations made under any of those Parts or Acts or under any enactment repealed by any of those Acts apply.

Compare: 1975 No 129 s 80

Section 475: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).

**476 Regulations relating to State integrated schools**

- (1) The Governor-General may, by Order in Council, make regulations for the following purposes:
  - (a) prescribing a form of integration agreement:
  - (b) providing for the control, management, organisation, finance, and conduct of State integrated schools.
- (2) Where there is a conflict between regulations made under this section and regulations made under another section of this Act or under the Education Act 1964 or any enactment repealed by this Act or the Education Act 1964, the regulations made under this section apply.

Compare: 1975 No 129 s 82

Section 476: inserted, on 19 May 2017, by section 155 of the Education (Update) Amendment Act 2017 (2017 No 20).