



## ANALYSIS

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1998, No. 119

**An Act to amend the Private Schools Conditional Integration Act 1975**  
[18 December 1998]

BE IT ENACTED by the Parliament of New Zealand as follows:

**1. Short Title and commencement**—(1) This Act may be cited as the Private Schools Conditional Integration Amendment Act 1998, and is part of the Private Schools Conditional Integration Act 1975 (“the principal Act”).

(2) This Act comes into force on the day after the date on which it receives the Royal assent.

**2. Interpretation**—(1) Section 2 (1) of the principal Act is amended by repealing the definition of “integration agreement”, and substituting the following definition:

“‘Integration agreement’ means an agreement entered into under section 7 between the Proprietors and the Minister, under which provision is made for establishing a private school as an integrated school; and includes a supplementary agreement entered into under that section:”.

(2) Section 2 (1) of the principal Act is amended by repealing the definition of the term “Proprietor”, and substituting the following definition:

“‘Proprietor’ or ‘Proprietors’, in relation to a private school or an integrated school, means that corporation, body of trustees, or other person or body of persons, which or who have the primary responsibility for determining the special character of the school and for supervising the maintenance of that special character, and who own, hold upon trust, or lease the land and buildings that constitute the school premises:”.

**3. New sections substituted**—The principal Act is amended by repealing sections 5 and 6, and substituting the following sections:

**“5. Application to negotiate integration**—(1) The Proprietors of a private school that is registered under section 35A of the Education Act 1989, and any person who proposes to establish a school with the intention that it become an integrated school, may apply to the Minister to enter into negotiations for integration under this Act.

“(2) If the Minister accepts an application to negotiate, the applicant and the Minister may enter into negotiations for an integration agreement under section 7.

“(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 has an absolute discretion to accept applications to enter into negotiations for integration under this Act, and may from time to time, after giving such public notice as he or she considers appropriate, decide not to consider applications from particular areas.

**“6. Applications relating to proposed schools—**If a person who proposes to establish a school with the intention that it become an integrated school makes an application under section 5, this Act applies to the application and to any subsequent negotiations and agreements as if—

“(a) The applicant were a Proprietor; and

“(b) The school were a registered private school.

**“6A. Negotiation of agreement—**(1) The Minister and an applicant may commence negotiations for an integration agreement under section 7 at any time after the Minister has accepted an application under section 5.

“(2) During the course of negotiations, the Minister must consult with such interested persons or groups as he or she considers appropriate.”

**4. Integration agreement—**(1) Section 7 of the principal Act is amended by repealing subsections (1) and (2), and substituting the following subsections:

“(1) The Minister has the sole right to approve the establishment of a private school as an integrated school.

“(2) The Minister must signify his or her approval by entering into a deed of agreement (an ‘integration agreement’) with the Proprietors.”

(2) Section 7 (6) (b) of the principal Act is amended by inserting, after the words “land or buildings owned”, the words “or leased”.

(3) The following enactments are consequentially repealed:

(a) Section 4 (2) of the Private Schools Conditional Integration Amendment Act 1977:

(b) Section 2 (1) of the Private Schools Conditional Integration Amendment Act 1986.

**5. New sections substituted—**The principal Act is amended by repealing section 11, and substituting the following sections:

**“11. Cancellation of integration agreement—**(1) An integration agreement may be cancelled—

“(a) By the Minister, in which case section 11A applies; or

“(b) By the Proprietors, in which case section 11B applies; or

“(c) By agreement between the Minister and the Proprietors, in which case section 11C applies.

“(2) On the cancellation of an integration agreement,—

“(a) The school ceases to be an integrated school; and

“(b) The respective rights and obligations of the parties that arise by virtue of the agreement cease to have effect; and

“(c) In the absence of an agreement to the contrary, the school is deemed to be provisionally registered as a private school under section 35A of the Education Act 1989.

“11A. **Cancellation by Minister**—The Minister may cancel an integration agreement under section 11 (1) (a) if—

“(a) It appears to the Minister on reasonable grounds that the Proprietors or controlling authority of the integrated school are not sufficiently carrying out the functions and obligations accepted by them or it under this Act or under the integration agreement; and

“(b) The Minister has consulted with the Proprietors, the controlling authority, and such other interested persons or groups as he or she considers appropriate.

“11B. **Cancellation by Proprietors**—(1) The Proprietors may give notice of an intention to cancel an agreement under section 11 (1) (b) if—

“(a) It appears to the Proprietors on reasonable grounds that—

“(i) The special character of the integrated school has been or is likely to be jeopardised; or

“(ii) The Minister or any controlling authority is not carrying out the functions and obligations accepted by the Minister or the controlling authority under this Act or the integration agreement; and

“(b) The Proprietors have consulted with the Minister, the controlling authority, and such other interested persons or groups as the Proprietors consider appropriate.

“(2) The notice of intention to cancel takes effect as a cancellation of the integration agreement under section 11 (1) (b) on the date 4 months after the date of the notice.

“11C. **Cancellation by agreement between parties**—The Minister and the Proprietors may cancel an integration agreement under section 11 (1) (c) by mutual agreement, after consultation with such other interested persons or groups as they consider appropriate.”

**6. Closure of integrated school**—The principal Act is amended by repealing section 12, and substituting the following section:

“12. If it appears to the Minister that for the reason set out in section 11A (a) the school should be closed, the Minister may, after the consultation referred to in section 11A (b), disestablish and close the school.”

**7. Repeal of section 13**—Section 13 of the principal Act (which relates to the cancellation of an integration agreement by Proprietors) is repealed.

**8. Rights of appointment**—Section 14 of the principal Act is amended by omitting from subsections (1), (2), and (3) the words “or section 13 of this Act” wherever they occur.

**9. Notification of cancellation or of closing of school**—Section 15 of the principal Act is amended by omitting the words “or section 13 of this Act”.

**10. Disposal of assets on cancellation of integration agreement or closing of school**—(1) Section 16 of the principal Act is amended by omitting from subsections (1), (2), (5), and (6) the words “by the Minister or by the Proprietors” wherever they occur.

(2) Section 16 of the principal Act is amended by repealing subsection (8), and substituting the following subsection:

“(8) Subject to subsections (1) to (7), if an integration agreement is cancelled, or an integrated school is closed, any land, buildings, chattels, and other interests relating to the school that are vested in the Proprietors remain vested in the Proprietors.”

**11. Restriction on cancellation of integration agreement or closure of school**—Section 17 of the principal Act is amended by omitting the words “or section 13 of this Act”.

**12. Compensation**—Section 18 of the principal Act is amended by omitting the words “by the Minister or by the Proprietors”.

**13. Powers and responsibilities of Proprietors**—(1) Section 40 (2) (a) of the principal Act is amended by omitting

the words "Shall own or hold upon trust", and substituting the words "Own, hold upon trust, or lease".

(2) Section 40 (2) (e) of the principal Act is amended by omitting the words "May own, or hold upon trust", and substituting the words "May own, hold upon trust, or lease".

(3) Section 40 (2) of the principal Act is amended by repealing paragraph (g), and substituting the following paragraph:

"(g) Must insure all the buildings, chattels, and other assets owned, held upon trust, or leased by the Proprietors for the purposes of the school against risks normally insured against in some reputable insurance office; and".

**14. Leases of land**—The principal Act is amended by inserting, after section 40, the following section:

"40A. (1) The Proprietors of an 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 Proprietors fail 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 11."

**15. Proprietors unable to meet obligations**—(1) Section 44 (1) (a) of the principal Act is amended by omitting the words "and annul".

(2) Section 44 (1) of the principal Act is amended by repealing paragraph (c), and substituting the following paragraph:

"(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 school that are owned or leased by the Proprietors, and that the Minister considers appropriate for the purpose of establishing a State school."

**16. Repeal of provisions relating to Loreto Hall**—(1) Section 59 of the principal Act is amended by repealing subsections (3) to (9).

(2) Section 60 (1) of the principal Act is amended by omitting the words "and any student enrolled for training as a teacher at Loreto Hall and being paid student allowances out of money appropriated by Parliament,".

**17. Teacher's housing**—Section 79 (2) of the principal Act is amended by omitting the words “vested in or held in trust”, and substituting the words “owned, held upon trust, or leased”.

**18. Integration Standing Committee abolished**—(1) The Integration Standing Committee established by section 20 of the principal Act is abolished.

(2) The following enactments are consequentially repealed:

- (a) Sections 20 to 24, 41, 71 (7), and 72 (4) of the principal Act;
- (b) Section 6 of the Private Schools Conditional Integration Amendment Act 1977;
- (c) So much of the Eighth Schedule of the Education Act 1989 as relates to section 20 of the principal Act.

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This Act is administered in the Ministry of Education.

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