

## **EXECUTIVE NOTE**

### **DRAFT : THE TEACHING COUNCIL (SCOTLAND) ACT 1965 MODIFICATION ORDER 2009**

The above instrument is proposed to be made by the Scottish Ministers in exercise of the powers conferred by section 102(a) of the Charities and Trustee Investment (Scotland) Act 2005 (“the 2005 Act”) and all other powers enabling them to do so. The instrument is subject to the affirmative resolution procedure.

#### **Policy Objectives**

The purpose of the instrument is to repeal powers of the Scottish Ministers under the Teaching Council (Scotland) Act 1965 (“the 1965 Act”) that allow Ministers to confer additional functions to the General Teaching Council for Scotland (“GTCS”) and govern aspects of the Council’s work. It is considered that the existence of these powers prevent the GTCS from fulfilling the condition contained in section 7(4)(b) of the 2005 Act. That section provides that a body does not meet the charity test if its constitution expressly permits the Scottish Ministers to direct or otherwise control its activities.

The instrument repeals the listed sections of the 1965 Act so that the Ministers no longer have the ability to confer additional functions to the GTCS or to influence the way in which it operates. This policy is in keeping with the Scottish Government’s stated commitment to changing the status of the GTCS from being an advisory NDPB to becoming a fully independent body. The instrument has been made in accordance with the policy of Ministers that bodies should not lose their charitable status on account of any inability to meet the requirements of section 7(4)(b) of the 2005 Act.

#### **Consultation**

The Scottish Government has worked closely with the GTCS since the Office of the Scottish Charity Regulator (“OSCR”) issued their initial Direction in April 2006 indicating they believed the GTCS was failing the charity test. OSCR has been informed of Ministers’ intention to make this instrument as have other education stakeholders with an interest in the work of the GTCS.

#### **Financial Effects**

As it will have no financial impact, a Regulatory Impact Assessment has not been prepared for this instrument. Charity status is worth approximately £100,000 per annum to the Council.

Scottish Government  
Schools Directorate  
September 2009