

Below is a briefing note in advance of the Education and Lifelong Learning Committee Meeting on Wednesday, when the Order to safeguard the Charitable Status of Scotland's Colleges will be addressed.

Charitable Status of Scotland's Colleges

The committee is considering charitable status of Scotland's Colleges. This note gives briefing on views from the Association of Scotland's Colleges (ASC) on The Charity Test (Specified Bodies) (Scotland) Order 2008. From the date of Wednesday's committee meeting there are 409 days until Scotland's Colleges are scheduled to lose their charitable status.

Continuing charitable status is vital for Scotland's Colleges. ASC recognises this is an issue for the Scottish Parliament to consider and resolve. ASC welcomed the First Minister Alex Salmond's announcement on 21 May during a visit to John Wheatley College in Glasgow that this order had been laid in the Scottish Parliament. Subject to Parliamentary agreement ASC understands it is expected to come into force later this year.

ASC was consulted by the Scottish Government on what it considered to be the most appropriate and practicable means for Scotland's Colleges to retain charitable status. After consideration of the options presented by the Scottish Government, ASC asked Scottish Ministers to ensure an order is made to disapply aspects of the test from Sections 7(4) (a) and (b) of the Charities and Trustee Investment (Scotland) Act 2005 in relation to Scotland's Colleges. Such an Order is not unique and has been passed before to allow other bodies to retain their charitable status.

ASC supports the Scottish Government's proposal to examine thoroughly where it might be possible to make legislative changes which reduce as fully as possible Ministerial control over colleges in order to allow to comply with the recommendations from OSCR. This will also mean Scotland's Colleges are given, so far as possible, the same standing as other fundable bodies delivering further and higher education.

ASC understands that the next stage of the process is for the Scottish Government to draft a second Order to ensure that college assets, when disposed of, are used for charitable purposes. The Scottish Government has indicated this Order to be laid later in the year and it is expected to be straightforward and uncontroversial.

ASC urges the Education, Lifelong Learning and Culture Committee to support motion S3M-1999—that the Charity Test (Specified Bodies) (Scotland) Order 2008 be approved.