



**Cynulliad Cenedlaethol Cymru
The National Assembly for Wales**

**Y Pwyllgor ar y Gorchymyn Arfaethedig ynghylch
Diwydiant Cig Coch Cymru
The Proposed Welsh Red Meat Industry LCO
Committee**

**Dydd Mawrth, 11 Tachwedd 2008
Tuesday, 11 November 2008**

Cynnwys
Contents

- 3 Cyflwyniad, Ymddiheuriadau a Dirprwyon
Introduction, Apologies and Substitutions
- 4 Gorchymyn Arfaethedig Cynulliad Cenedlaethol Cymru (Cymhwysedd
Deddfwriaethol) (Amaethyddiaeth a Datblygu Gwledig) 2008
Proposed National Assembly for Wales (Legislative Competence) (Agriculture and
Rural Development) Order 2008

Cofnodir y trafodion hyn yn yr iaith y llefarwyd hwy ynddi yn y pwyllgor. Yn ogystal,
cynhwysir cyfieithiad Saesneg o gyfraniadau yn y Gymraeg.

These proceedings are reported in the language in which they were spoken in the committee.
In addition, an English translation of Welsh speeches is included.

Aelodau'r pwyllgor yn bresennol
Committee members in attendance

Mick Bates	Democratiaid Rhyddfrydol Cymru (Cadeirydd y Pwyllgor) Welsh Liberal Democrats (Committee Chair)
Nerys Evans	Plaid Cymru The Party of Wales
Ann Jones	Llafur Labour
Val Lloyd	Llafur Labour
Brynle Williams	Ceidwadwyr Cymreig Welsh Conservatives

Eraill yn bresennol
Others in attendance

Huw Brodie	Cyfarwyddwyr Materion Gwledig a Threftadaeth, Llywodraeth Cynulliad Cymru Director of Rural Affairs and Heritage, Welsh Assembly Government
Dorian Brunt	Gwasanaethau Cyfreithiol, Llywodraeth Cynulliad Cymru Legal Services, Welsh Assembly Government
Elin Jones	Aelod Cynulliad, Plaid Cymru (Y Gweinidog dros Faterion Gwledig) Assembly Member, The Party of Wales (The Minister for Rural Affairs)

Swyddogion Gwasanaeth Seneddol y Cynulliad yn bresennol
Assembly Parliamentary Service officials in attendance

Sarah Beasley	Clerc Clerk
Carys Jones	Gwasanaeth Ymchwil yr Aelodau Members' Research Service
Bethan Roberts	Cynghorydd Cyfreithiol y Pwyllgor Legal Adviser to the Committee
Sarah Sargeant	Dirprwy Glerc Deputy Clerk

Dechreuodd y cyfarfod am 9.01 a.m.
The meeting began at 9.01 a.m.

Cyflwyniad, Ymddiheuriadau a Dirprwyon
Introduction, Apologies and Substitutions

[1] **Mick Bates:** Good morning. Thank you for your attendance this morning at the Proposed Welsh Red Meat Industry LCO Committee. I just want to make a few introductory remarks and advise you that, in the event that a fire alarm should sound, Members should leave the room by the marked fire exits and follow the instructions of the ushers and staff. There is no fire alarm test forecast for today. All mobile phones, pagers and BlackBerrys should be switched off, as they will interfere with the broadcasting equipment. The National Assembly for Wales operates through the media of both the Welsh and English languages. Headphones are provided, through which instantaneous translation may be received. For those

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9.02 a.m.

**Gorchymyn Arfaethedig Cynulliad Cenedlaethol Cymru (Cymhwysedd
Deddfwriaethol) (Amaethyddiaeth a Datblygu Gwledig) 2008
Proposed National Assembly for Wales (Legislative Competence) (Agriculture
and Rural Development) Order 2008**

[2] **Mick Bates:** I welcome, this morning, Elin Jones, Minister for Rural Affairs, Huw Brodie, the Director of Rural Affairs and Heritage for the Welsh Assembly Government, and Dorian Brunt from legal services to the Welsh Assembly Government. I welcome you to the committee on this important piece of legislation and I invite the Minister to make an opening statement, if she so wishes, before we move to questions from the committee.

[3] **The Minister for Rural Affairs (Elin Jones):** I will be brief, Chair. Thank you for the invitation to attend this meeting and I wish the committee well in its role in scrutinising this legislation.

[4] This legislation recognises the important role that the red meat sector, in particular, plays in Wales and will look to confer on the Assembly powers, as outlined, over the red meat sector. However, it has a specific and more immediate role in allowing us to rectify the current situation in which we find ourselves, whereby the Assembly Government has created a Welsh Levy Board for the purposes of raising a levy as a result of the Natural Environment and Rural Communities Act 2006, which confers the levy and delegates functions to Hybu Cig Cymru. It is our view, as a Government, that it would be more appropriate for the Assembly to have the powers to provide a Measure so that Welsh Ministers could, ultimately, be the levy-raising body and could delegate directly to Hybu Cig Cymru, without there being a need for the Welsh Levy Board.

[5] That would be the immediate Measure that the Government would want to introduce, if the powers described in this Order were conferred on the Assembly.

[6] **Mick Bates:** Diolch yn fawr. It is obvious from your opening statement that you believe that the Assembly Government should have competence in this area. What do you think that the powers being conferred by this LCO would be able to achieve that cannot be achieved through the use of existing legislation?

[7] **Elin Jones:** I have referred to the most obvious one, which is the ability of Welsh Ministers to raise a levy and to delegate functions to Hybu Cig Cymru. Currently, we have a complex arrangement, in that the Welsh Ministers have an interest, but, by means of the powers in the NERC Act, a non-departmental public body had to be created for the purposes of raising the levy. Therefore, the Welsh Levy Board was created by Order in April 2008 for that purpose, although the work on the levy collection is delegated to Hybu Cig Cymru. We can rationalise that complexity by means of a Measure following the passing of this legislative competence Order.

[8] **Mick Bates:** Did you consider any other means of achieving the policy objective that you have just outlined? If so, why did you decide to pursue the proposed LCO route?

[9] **Elin Jones:** The Natural Environment and Rural Communities Act 2006 does not allow us to do what we would have wanted, namely for Welsh Ministers to raise the levy and delegate directly to Hybu Cig Cymru. Given that it does not allow that, we were not of the opinion that anything else would allow it, either. Were we?

[10] **Mr Brunt:** That is right.

[11] **Mr Brodie:** There is no means of achieving that objective other than to go down the legislative route. More broadly, as the Minister was saying, it makes sense for the Assembly to have devolved legislative competence over the red meat industry. The proposal for levy-making arrangements will be the most immediate particular example that we have in our minds as to how the legislative competence could be used, but that does not rule out the fact that it may make sense to bring forward other Measures subsequently.

[12] **Val Lloyd:** Minister, are you content that the proposed Order will enable you to achieve your stated policy objectives?

[13] **Elin Jones:** Yes.

[14] **Val Lloyd:** That was a very categorical answer. I think that you have already told us how you expect it to do that, but are there any matters outside the scope of the Order that you would have wanted to see included?

[15] **Elin Jones:** No. As it stands, the red meat industry Order includes Hybu Cig Cymru's current responsibilities for cattle, sheep and pigs. The Radcliffe review, which preceded the new levy-making arrangements, and the consultation that we had in Wales were quite clear about wanting to see levy-making responsibilities and functions and the promotion and marketing of red meat undertaken by a Welsh company along the lines of Hybu Cig Cymru, but other aspects of Welsh agriculture, such as dairy and cereals, retained at a UK level. Is it UK-wide or at an England-and-Wales level?

[16] **Mr Brodie:** It is British.

[17] **Elin Jones:** So, that includes Scotland, England and Wales. So, those aspects of agricultural levy-making will be undertaken by the new levy board, AHDB. Have I got that right? Let me check my notes. Yes, I was right. It is the Agriculture and Horticulture Development Board.

[18] **Mick Bates:** Full marks for that, Minister.

[19] **Nerys Evans:** Yn y nodyn esboniadol, ceir esboniad o Fwrdd Ardollau Cymru. A yw'r Gorchymyn cymhwysedd deddfwriaethol drafft yn cynnwys yr holl faterion sy'n dod o dan Orchymyn Bwrdd Ardollau Cymru 2008? A yw'n mynd ymhellach na'r Gorchymyn hwnnw ai peidio? Os oes gwahaniaeth rhwng y ddau, a allwch ei esbonio?

Nerys Evans: In the explanatory note, there is an explanation of the Welsh Levy Board. Does the draft legislative competence Order include all the matters contained in the Welsh Levy Board Order 2008? Does it go further than that Order or not? If there is a difference between the two, could you explain to us what it is?

[20] **Elin Jones:** Credaf fod gwahaniaeth, ond gofynnaf i Dorian gadarnhau hynny. Credaf i'r union eiriad gael ei ddefnyddio o ran pwerau'r bwrdd ardollau presennol ag a geir yn y Gorchymyn cymhwysedd

Elin Jones: I believe that there is, but I will ask Dorian to confirm that. I think that the exact same wording has been used with regard to the powers of the existing levy board as was used in the legislative

deddfwriaethol.

competence Order.

[21] **Mr Brunt:** Mae'n flin gennyf. Yr wyf yn siarad Cymraeg, ond nid digon i ateb. A fyddai modd cael y cwestiwn yn Saesneg?

Mr Brunt: Sorry. I speak Welsh, but not enough to answer the question. Would it be possible to have the question in English?

[22] **Elin Jones:** You can use the translation equipment.

[23] **Nerys Evans:** Mae'r memorandwm esboniadol yn delio gyda Bwrdd Ardollau Cymru. A yw'r Gorchymyn drafft yn cynnwys yr holl faterion a gynhwysir yn y Gorchymyn hwnnw? A yw'n mynd ymhellach, neu a yw'n cwmpo'n brin o hynny?

Nerys Evans: The explanatory memorandum deals with the Welsh Levy Board. Does the draft Order include all the matters that were included in that Order? Does it go further, or does it fall short of that?

9.10 a.m.

[24] **Mr Brunt:** Bydd yn bosibl gwneud mwy o dan y Gorchymyn cymhwysedd deddfwriaethol. Mae pwerau a bwriadau Gorchymyn Bwrdd Ardollau Cymru 2008 yr un peth â'r rheiny a osodwyd yn yr LCO, yn adran 2(2), sy'n nodi mater 1.1. Yr un geiriad sydd yno, er bod posibilrwydd o wneud mwy yn y dyfodol o dan yr LCO. Ar hyn o bryd, yr ydym yn canolbwyntio ar y broblem sydd gennym o ran y diwydiant cig coch.

Mr Brunt: It will be possible to do more under this particular legislative competence Order. The powers and the intentions of the Welsh Levy Board Order 2008 are the same as those set out in the wording of the LCO, in section 2(2), which sets out matter 1.1. It is the same wording, although it is possible that more could be done in future under the LCO. We are currently focusing on the problem that we have regarding the red meat industry.

[25] **Nerys Evans:** Diolch. Bu ichi sôn gynnu mai prif bwrpas y Gorchymyn arfaethedig yw casglu'r pwerau sydd ar hyn o bryd gan y bwrdd ardollau ar gyfer Gweinidogion Cymru, a diddymu deddfwriaethau eilaidd. A wnewch chi esbonio mwy am hynny?

Nerys Evans: Thank you. You mentioned earlier that the main intention of the proposed Order is to collate the powers that the levy board currently has for Welsh Ministers, and to repeal subordinate legislation. Can you explain more about that?

[26] **Elin Jones:** Mae Deddf yr Amgylchedd Naturiol a Chymunedau Gwledig 2006 yn rhoi'r hawl i gorff anlywodraethol—sef cwango—i godi a dosbarthu ardollau. Mae gennym yr hawl i greu Gorchymyn ac i greu cwango a fydd yn codi ardoll, ond nid oes gennym yr hawl i godi ardoll yn uniongyrchol. Felly, yr ydym wedi penderfynu ein bod am weld yr hawl honno yn dod i Lywodraeth a Gweinidogion Cymru, fel nad oes angen inni gael Bwrdd Ardollau Cymru fel cyfryngwr yn hyn oll. Ar hyn o bryd, mae'r bwrdd yn meddu ar ddim byd ond yr hawl i godi'r ardoll, ond mae'n datganoli'r swyddogaeth honno i Hybu Cig Cymru. Dyna fyddai bwriad Gweinidogion Cymru hefyd, sef datganoli'r swyddogaeth i Hybu Cig Cymru, ond, ar hyn o bryd, yr

Elin Jones: The Natural Environment and Rural Communities Act 2006 gives the power to a non-governmental body—that is, a quango—to raise and distribute levies. We have the power to create an Order and to create a quango that will raise a levy, but we do not have the power to raise a levy directly. Therefore, we have decided that we want to see that power given to the Welsh Ministers and the Government, so that we do not need to have the Welsh Levy Board as an intermediary in all this. Currently, the levy board has no power other than that that of raising a levy, and it devolves that function in its entirety to Meat Promotion Wales. That would also be the intention of the Welsh Ministers, namely to devolve the function to Meat Promotion Wales, but, currently, we

ydym yn gorfod creu bwrdd penodol ar wahân, yn ôl ein pwerau. Felly, nid ydym yn gallu cael perthynas gyda Hybu Cig Cymru, ac nid yw'n atebol inni yn uniongyrchol drwy'r broses bresennol. I'r cwango y mae ei atebolrwydd ar hyn o bryd, sef Bwrdd Ardollau Cymru.

have to create a specific board separately, because that is all that our powers allow. Therefore, under the current system, we cannot have a direct relationship with Meat Promotion Wales, and it is not directly accountable to us. It is to the quango, the Welsh Levy Board, that it is accountable.

[27] **Mick Bates:** On that point, Minister, you mentioned the Agriculture and Horticulture Development Board and the Welsh Levy Board. What is the different between the two? Are they exactly the same, or what is the difference?

[28] **Elin Jones:** They are separate organisations created by different Orders. One organisation operates only in Wales and only in relation to the red meat industry, but they both operate as a result of an Order from powers vested by the Natural Environment and Rural Communities Act 2006.

[29] **Mr Brunt:** To add to that, if I may, the AHDB is made under the same power as the Welsh Levy Board. The Welsh Levy Board relates specifically to the red meat industry in Wales. The AHDB relates to cereals, dairy products, and so on, for England, Scotland and Wales, but to the red meat industry for England only because Scotland has a similar arrangement to ours. They have used the same power as we have used to create the Welsh Levy Board. So, the AHDB is a national board, apart from in relation to red meat, where it relates exclusively to England.

[30] **Mick Bates:** So, did Scotland have an Order that gave the Scottish Government the power to take control over the levy straight away, or did it have to create an intermediary as we have done with the Welsh Levy Board?

[31] **Mr Brodie:** The situation in Scotland is different, because the Scottish red meat body is a quango.

[32] **Mick Bates:** Is it like Hybu Cig Cymru?

[33] **Mr Brodie:** No, because Hybu Cig Cymru is not, legally, a quango.

[34] **Mick Bates:** Is it now a company limited by guarantee?

[35] **Mr Brodie:** Yes.

[36] **Mick Bates:** Although it was previously a quango, was it not?

[37] **Mr Brodie:** No, it was always a company limited by guarantee. The legal membership has changed.

[38] **Mick Bates:** I see. Thank you for that information. Are you okay with that, Nerys? I see that you are.

[39] **Brynle Williams:** Bore da, **Brynle Williams:** Good morning, Minister. Weinidog.

[40] Good morning, gentlemen. In your statement in Plenary, Minister, you said that,

[41] 'The Order will clarify the 'Bydd y Gorchymyn yn egluro'r berthynas relationship between Hybu Cig Cymru, rhwng Hybu Cig Cymru, ffermwyr,

farmers, producers and Government, and will clarify roles'. cynhyrchwyr a'r Llywodraeth ac yn egluro rolau'.

[42] Can you expand on that, and tell us how the proposed Order will clarify these roles and relationships?

[43] **Elin Jones:** It will make the relationship between Hybu Cig Cymru and the Welsh Assembly Government a direct one, rather than the Government having to set up the Welsh Levy Board as a quango to meet the requirements of the NERC Act. So, the relationship will become direct without the need for an intermediary quango to perform the functions. I do not foresee the day-to-day work of Hybu Cig Cymru needing to change as a result of a Measure that would allow Welsh Ministers to raise the levy. The levy-making functions and the spending of that levy would continue to be a role for Hybu Cig Cymru, in line with its red meat strategy. It is currently working on that, and it will be the subject of discussion in the near future, I hope, for us to get an understanding of, and some agreement on, the potential for the red meat strategy in the next five to 10 years.

[44] **Brynle Williams:** We have received evidence from the farming unions supporting the accountability of spending, provided that it is done by an independent body. The Farmers' Union of Wales in particular stated that it would not support the absorption of Hybu Cig Cymru into WAG. Would you like to comment on that?

[45] **Elin Jones:** I have no intention of absorbing Hybu Cig Cymru into the Assembly Government. Its role as a company limited by guarantee, as has been explained, is appropriate, and it commands, I hope, the respect of levy payers and gives them ownership over the future of the red meat sector.

[46] **Brynle Williams:** Diolch yn fawr am yr ateb hwnnw. **Brynle Williams:** Thank you very much for that answer.

[47] **Mick Bates:** On that point, under various policies like 'Making the Connections', a great many quangos have been brought into the Government. For example, in agriculture, we have seen the administration of Tir Gofal move to the Government. There is great concern in the evidence about the possibility of that happening. You have just said that your intention is to keep it separate from the Government. However, previous policies seem to suggest that the absorption of such bodies into the Government is the norm. Are you convinced that you can make this an exception to previous policies?

[48] **Elin Jones:** It is the appropriate and established mechanism for the red meat sector, and it was clarified and supported during the Radcliffe review that we should have an all-Wales red meat promoting agency. That work is undertaken by Hybu Cig Cymru, which has a significant membership of farmers and direct levy payers. That is an appropriate way of ensuring that the industry feels that it owns the plans for the future of support for the industry. So, the Government has no intention of changing the set-up of Hybu Cig Cymru. The only intention of this proposed legislative competence Order and the Measure that will follow is that the Welsh Levy Board, which is a quango, will disappear and the relationship between Welsh Ministers and Hybu Cig Cymru will be direct.

[49] **Mick Bates:** Thank you for that confirmation, Minister. I hope that that will be the case.

[50] **Brynle Williams:** That has been a concern of the whole industry, which has been waiting for that answer this morning.

[51] **Mick Bates:** There was great excitement.

[52] **Brynle Williams:** As someone who pays a considerable amount to the board, I can tell you that there was.

[53] **Ann Jones:** You should declare an interest, then.

[54] **Brynle Williams:** I declare an interest. Sorry.

[55] **Mick Bates:** On that point, because I can see that you are concerned, Ann, under Standing Orders, the question is whether Brynle gains more advantage than anyone else who has the same interest. Therefore—

9.20 a.m.

[56] **Ann Jones:** However, to protect himself, he should have declared an interest. You should have asked Members to declare any interest at the beginning, Chair.

[57] **Mick Bates:** Would that have been necessary, given that he would not have any more advantage than anyone else?

[58] **Brynle Williams:** Chair, I declare an interest, at this late stage.

[59] **Mick Bates:** What interest do you declare?

[60] **Brynle Williams:** I declare an interest as a member of a practising farmers' partnership.

[61] **Mick Bates:** Thank you, Brynle; in that case, I too declare an interest as a partner in a farming business.

[62] **Brynle Williams:** I thank Ann Jones for bringing this important issue to our attention.

[63] **Mick Bates:** I am sure that Ann will also declare any appropriate interest on future legislative committees.

[64] **Ann Jones:** I did not want the legislative competence Order not to go through because you had not declared an interest. I do not want to sit through this again.

[65] **Brynle Williams:** Remember who feeds you, Mrs Jones. [*Laughter.*]

[66] **Ann Jones:** You do not feed me. [*Laughter.*]

[67] **Mick Bates:** Brynle, can you now return to the questions?

[68] **Brynle Williams:** The proposed Order relates to red meat in the form of cattle, sheep and pigs. As part of the Radcliffe review, the extension of levies to sectors where they do not currently exist was considered, and the report states that

[69] 'there could be a case for extending the meat levy to venison'.

[70] In light of this, have you considered, Minister, broadening the scope of the Order to include other red meats, such as venison and goat?

[71] **Elin Jones:** No, I have not given it any consideration. I felt that the most appropriate

and direct way of doing things would be to retain the LCO within the confines of the Natural Environment and Rural Communities Act 2006 and the current responsibilities of Hybu Cig Cymru Cymru, so I did not seek to extend it in any way. Do you want to add anything to that, Huw?

[72] **Mr Brodie:** The LCO has been constructed on the simplest possible basis, of following the set of definitions that already exist in the Natural Environment and Rural Communities Act, based on cattle, sheep and pigs. The only thing that I would add to what the Minister has said is that a levy, in terms of the particular purpose that is envisaged, is not currently collected in respect of deer.

[73] **Mick Bates:** Further to Brynle's question about venison, we have the Welsh Venison Centre in the Brecon Beacons, so it may be an expanding industry. Will you give further consideration to the inclusion of venison?

[74] **Elin Jones:** I have not considered it fully. As Huw Brodie mentioned, there is currently no levy-making responsibility on venison, and it would be a new responsibility for Hybu Cig Cymru if it was to take that on. If we were to extend the current red meat sector definition of cattle, sheep and pigs, it could be that we would need to undertake a further consultation. It would, possibly, be a bit of a shock to the system if it was extended beyond the current definition of red meat.

[75] **Mick Bates:** Minister, if you gave further consideration to that, leading to the inclusion of venison, where would it to be included? Would you include it on the face of the LCO or would it be via a Measure?

[76] **Elin Jones:** It would have to be through the LCO, because we could not pass a Measure that was beyond the scope of the original LCO.

[77] **Mr Brodie:** The only point that I would make is that, if Hybu Cig Cymru felt that it was important to provide support for the development of the venison industry, we could, using the general economic development powers that we have—not levy money—work with the industry to enable that support to be provided. So, it is not as if we are unable, as the Welsh Assembly Government, to work with Hybu Cig Cymru in respect of that sector. This is simply about the terms in which the levy would operate.

[78] **Brynle Williams:** I do not want to be contentious, but we are also seeing quite a dramatic expansion in goat herds, of which there are quite a few in Wales. Should we be looking at goat meat? One by-product of the goat milk industry is the male kids. I am not throwing this out for the sake of it, but should we look at including that as red meat? I believe that goat meat is a growing part of the sector.

[79] **Elin Jones:** I am not aware of the current arrangements on goat meat, or what the levy-raising powers are. I do not know where responsibility lies. I was not expecting that issue to be raised, so I will take it away and clarify it for you, and for the committee, at a later point—looking at the levy-raising powers that are available, and the extent of the goat meat industry in Wales. I am aware of the significant and growing goat milk sector, but I do not know how much goat meat is sold as a by-product.

[80] **Brynle Williams:** I am not trying to be argumentative. I thought that it was another strand to this, which possibly had not been looked at, and I wondered if we should look at it.

[81] **Mr Brodie:** The distinction that I would make is that this LCO is intended to provide the Assembly with legislative competence. The fact that deer or goats are not included within its scope does not mean to say that Welsh Ministers do not have broader economic

development powers to work with Hybu Cig Cymru and others to help those sectors through the normal mechanisms—including the processing and marketing grant. I just wanted to make that point.

[82] **Mick Bates:** That is a good point. However, the continuity that this legislation will provide is vital to the industry. We accept the point about economic development funds being used, but some of them may only last for a limited period—say, until 2013—so we are quite concerned about whether this legislation secures the long-term future of the industry. It is important to look further at that, and we would welcome any papers on goats—I will mention sheep later, as well.

[83] **Val Lloyd:** My question is on an issue that Mr Brodie may have touched upon at the start of his reply to my colleague Brynle. However, I would like to pursue it anyway, so that we have the answer on record. The interpretation section of the proposed Order lists the activities involved in the red meat industry, including breeding, keeping, processing and marketing. Are there any other activities involved in the red meat industry that are not covered by the proposed Order?

[84] **Mr Brunt:** The interpretation field of the LCO was as extensive as we could make it. We discussed this with the office of the Welsh legislative counsel, which drafted the Order, and our wish was to make the wording as expansive as possible. We are not aware of any other type of activity that we have left out, and nothing was left out deliberately. However, if you think that we have missed something, then you have the opportunity to mention it in your report. This was designed to be as expansive as possible.

[85] **Elin Jones:** Perhaps we should ask the farmers on the committee whether they do anything else with their cattle, sheep and pigs, other than ‘breeding, keeping, processing, marketing and distributing’ them.

[86] **Mick Bates:** That is a fine offer, Minister, but I think that we will take it up in a more informal setting.

[87] **Val Lloyd:** Perhaps we do not want to know. [*Laughter.*]

[88] **Mick Bates:** Thank you, Val. Are you happy with the answer?

[89] **Val Lloyd:** Yes.

[90] **Ann Jones:** Have you given any thought to cross-border issues that might arise from the LCO?

9.30 a.m.

[91] **Elin Jones:** Under the current arrangements, and indeed the previous ones, Hybu Cig Cymru’s role is within Wales, with products originating in Wales. The levy itself is raised on animals slaughtered in Welsh abattoirs. Therefore, there is a clear understanding of that. As you are probably aware, there is a great deal of cross-border trade, but it is well established that the levy is paid where the animal is slaughtered. Therefore, if Scottish lamb is killed in Ynys Môn, the levy is collected in Wales.

[92] **Mr Brodie:** Therefore, we do not believe that the LCO will create cross-border difficulties. If a Measure following from the LCO were passed by the Assembly, it would confer on Welsh Ministers the legal power to determine the rate of the levy, in the way that the Welsh Levy Board currently does. If there was any question of setting a different rate of levy in Wales from that in England, there would be cross-border issues and people would

need to ponder long and hard before going down that road. We certainly have no intention at the moment of going down that road. The LCO does not raise any cross-border issues per se.

[93] **Ann Jones:** I want to come back on that point about what would happen if the levies were different. If, for example, England's levy were much lower than Wales's, would you see farmers going over to English markets?

[94] **Mr Brodie:** There would be a very real danger of a significant difference between the levies either side of the border having a big impact on movements of animals. That is why I said that we have no intention of setting off down that road—certainly as far as we can see at this stage.

[95] **Ann Jones:** If we get to the stage of a Measure, would it be the intention of the Government to always set the same levy rate as set by the board in England?

[96] **Elin Jones:** I would not want to commit to that, here and now, for this Government or any other Government. However, as Huw Brodie has outlined, it could be very unwise for the sake of the industry in all its aspects to start some kind of bidding war on levies in order to attract short-term increases of work in Welsh abattoirs. I would suggest that we do not want to be in such a bidding war with Scotland or England. It would make very little sense for Government or the industry.

[97] **Brynle Williams:** Huw, I think that you touched on the fact that the processing industry's part of the levy is paid at the point of slaughter. If we are unfortunate enough to lose another abattoir in Wales—you know how precarious the meat situation is—will we lose a sizeable chunk of our levy too?

[98] **Mr Brodie:** There is, indeed, that risk, and it is something that we, as with Hybu Cig Cymru, are very conscious of.

[99] **Brynle Williams:** I know that, regrettably, it happens. We are in very troubled times, and we have seen a major abattoir close in north Wales. I am not trying to be contentious; I am just asking what the situation is. Some of these big plants are processing an awful lot of lambs each day, which represents a sizeable chunk of money.

[100] **Elin Jones:** That is a vulnerability in the system as it stands, but this legislative competence Order or the Measure that would follow would not necessarily make any difference to that, because it is about the businesses—the abattoirs themselves. A number of people have expressed their concern about the declining number of abattoirs in Wales, because it has a financial impact on levies raised as well as the role of those abattoirs in providing local employment and local food sourcing as well.

[101] **Mick Bates:** That point about economic viability is an interesting one. Minister, you mentioned that Scottish lambs, for example, come to Wales to be killed, and we collect the levy on them. Do you know what proportion of the Welsh levy is collected from lambs imported into Wales to be killed and processed here?

[102] **Elin Jones:** I do not know offhand; I am not even sure whether that information is collected.

[103] **Mr Brodie:** We will have to try to come back to you on that point.

[104] **Mick Bates:** It may be important in order to get a good background to this LCO. It is important to us in Wales. The point was raised by Brynle and, although it is a little beyond the scope of scrutinising the LCO, it is something that, when we make recommendations, may

lead to an interesting discussion about the viability of the Welsh industry and the intent of this LCO to make it more efficient. So, if that information is available, it would be very useful.

[105] **Ann Jones:** I turn to the matter 1.1 proposed in the LCO, which has four points that are labelled (a) to (d). The wording of the matter makes reference to ‘increasing’ or ‘improving or developing’ matters to do with the red meat industry. Can you explain why you felt it necessary to include all four points? Would it not have been sufficient to have said, ‘The red meat industry in relation to—(a) efficiency or productivity in the industry’?

[106] **Elin Jones:** The main reason was to replicate word for word the definitions under the Natural Environment and Rural Communities Act 2006. Those very words are in that Act. It is also to emphasise that we aspire to increase, improve, and develop the industry, so that is clear from the legislation as well as from the political aspiration that could follow. I would like to emphasise that the primary reason for it being like that is that it mirrors the Natural Environment and Rural Communities Act provisions. Would you like to add anything, Dorian?

[107] **Mr Brunt:** As the Minister has said, this wording replicates subsection 88(1) of the Natural Environment and Rural Communities Act. Our concern was that, if we had not put in the words ‘increasing’, ‘improving’, and so on, which are used in the Act, and this LCO came to be interpreted by the courts, it could be seen as a deliberate exclusion and, therefore, the LCO powers could be considered to be more restricted than the powers under section 88 of the Natural Environment and Rural Communities Act, because there is a statutory rule of interpretation. There is a Latin term for it that means ‘to express one thing is to exclude another’. Our concern was to replicate exactly the wording in the Natural Environment and Rural Communities Act. If we had not, it could be interpreted as though we were expressly excluding the words ‘increasing’ and ‘improving’ from the LCO and, therefore, it could be seen to be more restricted than the powers under the Natural Environment and Rural Communities Act. Our view, as the Minister said, is that it is all-encompassing and it shows a progressive, forward-looking view of the powers under the LCO. However, it is also has a specific legal purpose in that we wanted to make it absolutely clear that the powers under the LCO are not more restricted than those in the Natural Environment and Rural Communities Act.

[108] **Mick Bates:** What is the Latin term for this?

[109] **Ann Jones:** Mick did Latin at school.

[110] **Mr Brunt:** I have been waiting all week to say this. It is: ‘expressio unius est exclusio alterius’.

[111] **Mick Bates:** Ah, that one.

[112] **Mr Brunt:** It means, ‘to express one thing is to exclude another’. I have tried to memorise it, but it was too difficult.

[113] **Ann Jones:** I got as far as ‘Amo, amas, amat’.

[114] **Mick Bates:** I struggled with Latin, but French was okay. Thank you very much. Ann, do you wish to continue with questions?

[115] **Ann Jones:** No, that is fine.

[116] **Brynle Williams:** Can you explain why it was felt to be necessary to include interpretation provisions in the Order rather than leaving that as a matter for future Measures?

[117] **Elin Jones:** I will ask Dorian to answer that. Is this in relation to cattle and pigs?

[118] **Brynle Williams:** Yes.

9.40 a.m.

[119] **Mr Bunt:** There is an interpretation section in this LCO because we wanted the wording in the LCO to be very clear about what it related to and for it to be as all-encompassing and expansive as possible. If you look through Schedule 5 to the Government of Wales Act 2006 and the matters there—you may have worked on committees that have introduced these matters—you will see that there are a lot of matters in the fields of education, health and social welfare where the matter is followed by an interpretation section. So, it is not an uncommon practice and it is the way in which the Office of the Welsh Legislative Counsel wants to take this forward, to make it exactly clear what it relates to, because once this LCO is, hopefully, made, the National Assembly will then be able to consider making a Measure. It is important for us to make it clear to the National Assembly what the LCO includes. For example, if we had left ‘the red meat industry’ or ‘cattle’, ‘sheep’ or ‘pigs’ undefined, it may have been unclear to the National Assembly whether processing, marketing, or bison and buffalo and so on were within the Assembly’s competence. So, we wanted to make that clear upfront, in a way that was consistent with other matters that have been inserted into Schedule 5, to give as much information as possible.

[120] **Brynle Williams:** The definitions of ‘cattle’ and ‘pigs’ in the proposed Order contain the word ‘including’. Government legal advice to the Proposed Environmental Protection and Waste Management LCO Committee stated that, as a rule of statutory construction, the use of the word ‘including’ in a definition limits the definition to the words that follow it. Can you confirm that that is the case here, that the definition of ‘cattle’ and ‘pigs’ is inclusive and that nothing more can be added to the list appearing after the word ‘including’? Even I do not understand that question.

[121] **Elin Jones:** I guess that what you are asking is whether ‘cattle’ means cattle plus bison and buffalo, or whether there is anything else that could be included and whether ‘bison and buffalo’ are just examples of what ‘cattle’ could include.

[122] **Brynle Williams:** Yes.

[123] **Elin Jones:** My understanding is that they are not examples. The reason why they are included here is because there might otherwise be some ambiguity as to whether they are included or not. Therefore, we have stated in the legislation that they are. The same is true of pigs and wild boar because, if you left it as just ‘pigs’, the first question that somebody is bound to ask is, ‘Does that include wild boar?’, and then there would be an ambiguity. I understand that there is no such ambiguity with sheep because ‘sheep’ means sheep. Somebody may want to—

[124] **Ann Jones:** You were brave to say that.

[125] **Mick Bates:** We will come to that point in a moment. Brynle, was there anything else?

[126] **Brynle Williams:** I am happy with that, Chair.

[127] **Mick Bates:** It is a vital point. The proposed Order defines cattle and pigs, but not sheep. Why is that?

[128] **Ann Jones:** Because sheep are sheep, as the Minister said.

[129] **Elin Jones:** We are not aware that there would be any animal out there that could be defined within the ‘sheep’ category that therefore needs to be defined within the ‘sheep’ category. If we just put ‘cattle’ down, one of you would have asked, ‘Does that include buffalo?’, because that is the obvious thing to ask. If you can think of an animal about which there could be some ambiguity as to whether or not it is included within the definition of ‘sheep’, then this is your opportunity to raise that.

[130] **Mick Bates:** There is a little bit of history to this, of course, with the genetic modification experiments that have taken place. If, for example, there were breeding experiments from genetic bases and the genetically modified animal resembled a sheep, but did not have all of the genetic material of a sheep, would you require a further definition to include that particular animal?

[131] **Elin Jones:** ‘Sheep, including Dolly’—is that what you are suggesting? [*Laughter.*]

[132] **Mick Bates:** In that event, surely you would have to modify this, if there is no definition given of a sheep.

[133] **Brynle Williams:** I think, Chair—I am just offering an opinion—that sheep are sheep. Somebody might turn around and mention milk sheep, but I do not think that there is a difference. Sheep are sheep and that is it. I agree with you, Minister.

[134] **Ann Jones:** We will accept that.

[135] **Mick Bates:** Yes, we will accept that at the moment. Thank you very much.

[136] **Mr Brunt:** On that point, we used the terms ‘cattle’, ‘pigs’ and ‘sheep’ in the first instance to mean all types of cattle, pigs and sheep. However, in relation to cattle, for example, we have specified that that is not just domesticated cattle, but also bison and buffalo. They are examples of what comes within the term ‘cattle’, so the term ‘sheep’ could include these different types of sheep to which you are referring. It is just that we have not given that as an example, but we are trying to be helpful in relation to the other definitions by adding in as many as we can.

[137] **Mick Bates:** I take your point, and you include wild boar in the definition of pigs, and feral pigs, but I am not aware that there are any wild boar in Wales.

[138] **Brynle Williams:** There are in Monmouth.

[139] **Mick Bates:** Do we collect levies on them?

[140] **Ann Jones:** We will send you to do that, Chair.

[141] **Mick Bates:** It may become an important point. Finally, point (i) of the interpretation provides for

[142] ‘breeding, keeping, processing, marketing and distributing cattle, sheep and pigs (alive or dead)’

[143] Do the words in brackets, that is, ‘alive or dead’, apply to cattle, sheep and pigs or just to pigs? If they only apply to pigs, can you explain why?

[144] **Elin Jones:** No, it applies to all three categories: cattle, sheep and pigs.

[145] **Mick Bates:** Thank you very much. I think that that is clear. Are there any further questions from the committee? Is everyone content with the issues that were raised? I see that you are. In that case, I thank the Minister, Huw Brodie and Dorian for your attendance and answers. You will be sent a transcript of the proceedings. If the two pieces of information that we mentioned earlier are made available, it would be useful for our deliberations when we come to make recommendations. I thank you for your attendance, and I look forward to the final LCO.

[146] I will just remind Members that the next meeting is on Tuesday, 18 November.

Daeth y cyfarfod i ben am 9.47 a.m.
The meeting ended at 9.47 a.m.