



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

**Pwyllgor Deddfwriaeth Rhif 1
Legislation Committee No. 1**

**Dydd Mercher, 21 Ebrill 2010
Wednesday, 21 April 2010**

Cynnwys
Contents

- 3 Cyflwyniad, Ymddiheuriadau a Dirprwyon
Introduction, Apologies and Substitutions
- 4 Mesur Arfaethedig Cynulliad Cenedlaethol Cymru (Taliadau)—Cyfnod 2: Ystyried
Gwelliannau
Proposed National Assembly for Wales (Remuneration) Measure—Stage 2:
Consideration of Amendments
- 4 Annibyniaeth, Bod yn Agored ac yn Gynhwysol (Gwelliannau 1, 2 a 4)
Independence, Openness and Inclusiveness (Amendments 1, 2 and 4)
- 7 Anghymhwyso rhag bod yn Aelod o'r Bwrdd (Gwelliannau 8 a 5)
Disqualification from Membership of the Board (Amendments 8 and 5)
- 8 Penodi Aelodau'r Bwrdd (Gwelliant 9)
Appointment of Members to the Board (Amendment 9)
- 9 Technegol—Darpariaeth Drosiannol a Darpariaeth Arbed (Gwelliannau 6, 7 a 10)
Technical—Transitional and Saving Provision (Amendments 6, 7 and 10)
- 13 Adroddiad Blynyddol (Gwelliant 3)
Annual Report (Amendment 3)

Cofnodir y trafodion hyn yn yr iaith y llefarwyd hwy ynndi 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

Eleanor Burnham	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Rosemary Butler	Llafur (Cadeirydd y Pwyllgor) Labour (Committee Chair)
Bethan Jenkins	Plaid Cymru (yn dirprwyo ar ran Chris Franks) The Party of Wales (substitute for Chris Franks)
Ann Jones	Llafur Labour
Val Lloyd	Llafur Labour
Nick Ramsay	Ceidwadwyr Cymreig Welsh Conservatives

Eraill yn bresennol
Others in attendance

Yr Arglwydd/Lord Dafydd Elis-Thomas	Aelod Cynulliad, Plaid Cymru (y Llywydd a Chadeirydd Comisiwn y Cynulliad) Assembly Member, The Party of Wales (the Presiding Officer and Chair of the Assembly Commission)
-------------------------------------	--

Swyddogion Cynulliad Cenedlaethol Cymru yn bresennol
National Assembly for Wales officials in attendance

Keith Bush	Cyfarwyddwr, Gwasanaethau Cyfreithiol Director of Legal Services
Claire Griffiths	Dirprwy Glerc Deputy Clerk
Bethan Roberts	Cynghorydd Cyfreithiol Legal Adviser
Liz Wilkinson	Clerc Clerk

Dechreuodd y cyfarfod am 9.30 a.m.
The meeting began at 9.30 a.m.

Cyflwyniad, Ymddiheuriadau a Dirprwyon
Introduction, Apologies and Substitutions

[1] **Rosemary Butler:** Good morning, everyone, and welcome to Legislation Committee No. 1. I have received an apology from Chris Franks; Bethan Jenkins is substituting for him. I remind you that the committee operates bilingually, and you can use the headsets to listen to a translation of the Welsh contributions or as an induction loop to hear the whole proceedings more clearly. Please turn off any mobile phones, pagers or electronic devices, as they interfere with the broadcast and translation system. There are no rehearsals for fire alarms this morning, so if you hear a fire alarm, it is real, and the ushers will escort you from the room. I also remind you not to touch the microphones, as that will disable the system; they come on automatically.

9.31 a.m.

**Mesur Arfaethedig Cynulliad Cenedlaethol Cymru (Taliadau)—Cyfnod 2:
Ystyried Gwelliannau
Proposed National Assembly for Wales (Remuneration) Measure—Stage 2:
Consideration of Amendments**

[2] **Rosemary Butler:** I welcome to the meeting the Presiding Officer and Chair of the Assembly Commission, Dafydd Elis-Thomas, who is the Member in charge of the proposed Measure, and Keith Bush, director of legal services.

[3] Members should have before them a copy of the proposed Measure, the marshalled list of amendments and the groupings of the amendments for debate. The marshalled list of amendments is a list of all tabled amendments that have been marshalled into the order in which the sections appear in the proposed Measure. Schedules will be considered with the relevant sections that introduce them. For today's meeting, the order in which we will be considering amendments is sections 1 to 3, Schedule 1, section 4, Schedule 2, section 5 to 13, Schedule 3, section 14 to 16 and any new sections. I hope that we will all be able to remember that—I shall be asking questions on it in a while. You will see from the groupings list that amendments have been grouped to facilitate debate, but the order in which they are called and moved for a decision is dictated by the marshalled list, and Members will need to follow the two sets of papers. I remind you that there will be one debate on each group of amendments. I will call the sponsor of the first amendment in the group, who should speak to and move their first amendment and speak to all other amendments in that group. For today's purposes, the Presiding Officer is the proposer of the first amendment in all five groups. Members who do not have an amendment in the group, but who wish to speak, should indicate in the usual way. To conclude each debate, I will call the Presiding Officer, as the proposer of the first amendment, to wind up each short debate.

[4] Following the debate on each group, I will clarify whether the Presiding Officer wishes to press the first amendment. If not, he may seek the agreement of the committee to withdraw it. If it is not withdrawn, I will put the question on the first amendment in the group. It is my intention that all votes are recorded, so that the names of those voting for and against and abstaining will be recorded. Any other amendments in the group will be called at the appropriate time during the proceedings, and in accordance with that marshalled list. For the record, only committee members can move amendments, so for today's purposes, and in line with the Business Committee convention, I will move amendments on behalf of the Presiding Officer.

[5] Members will be aware that the only way to debate a section of the proposed Measure is to have tabled an amendment to it. Any sections that do not have amendments tabled will be deemed as agreed, as will any sections where tabled amendments are not agreed to. I will announce which sections have been agreed to at the end of the meeting. For any sections that are not disposed of today, there will be a further opportunity to table amendments. In order to be considered during next week's meeting, amendments would need to be tabled by 6 p.m. today. I am sure that you are very aware of the procedure, but I have read it to remind you. Are there any questions on procedures? I see that there are not.

**Annibyniaeth, Bod yn Agored ac yn Gynhwysol (Gwelliannau 1, 2 a 4)
Independence, Openness and Inclusiveness (Amendments 1, 2 and 4)**

[6] **Rosemary Butler:** The first group of amendments to consider is in relation to independence, openness and inclusiveness—amendments 1, 2 and 4. The lead amendment in the group is amendment 1. Presiding Officer, would you like amendment 1 in your name to be moved?

[7] **The Presiding Officer (Dafydd Elis-Thomas):** Yes.

[8] **Rosemary Butler:** I move amendment 1 in the name of Dafydd Elis-Thomas and call on him to speak to that amendment and the other amendments in the group.

[9] **The Presiding Officer:** I will begin by thanking you for the facility that you are offering and especially for your summary of procedure—that is very helpful to me, because this is my first Stage 2 committee. I am grateful to you.

[10] Byddaf yn cynnig pob grŵp yn ei dro, fel yr ydych wedi gofyn imi ei wneud. Mae'r grŵp cyntaf yn ymwneud ag annibyniaeth, bod yn agored a bod yn gynhwysol. Mae'r gwelliannau yn y grŵp hwn yn cydnabod, ac yn cryfhau ymhellach, yr egwyddorion craidd yn y Mesur arfaethedig, sef annibyniaeth, bod yn agored ac yn gynhwysol. Maent yn gweithredu'r argymhellion a wnaethoch fel pwyllgor yng Nghyfnod 1.

I will move each group in turn, as you have asked me to do. As you said, the first group relates to independence, openness and inclusiveness. The amendments in this group recognise, and further strengthen, the core principles of the proposed Measure, namely independence, openness and inclusiveness. They give effect to the recommendations that you made as a committee at Stage 1.

[11] Mae gwelliant 2 yn ychwanegu adran newydd sy'n gosod yn eglur, ar wyneb y Mesur arfaethedig, annibyniaeth y bwrdd ar unrhyw ddylanwad gan y Cynulliad neu'r Comisiwn. Mae gwelliant 1 yn digwydd o ganlyniad i welliant 2.

Amendment 2 introduces a new section that sets out clearly, on the face of the proposed Measure, the independence of the board from any influence by the Assembly or the Commission. Amendment 1 is consequential to amendment 2.

[12] Mae'r adran newydd hefyd yn gosod dyletswydd benodol ar y bwrdd i weithredu mewn modd agored a thryloyw, gan warchod ei hawl i ystyried mater yn breifat pan fo'n briodol gwneud hynny. Enghraifft fyddai adeg pan fo'r pwyllgor yn derbyn cyngor cyfreithiol neu'n gwneud penderfyniad terfynol ar benderfyniad drafft. Bydd gofyn hefyd i'r bwrdd hysbysu'r cyhoedd ynghylch ei weithgareddau drwy gyhoeddi gwybodaeth ar wefan y Cynulliad.

The new section also imposes on the board a specific duty to operate in an open and transparent way, while preserving its right to consider a matter in private when it is appropriate to do so. An example might be when the committee is taking legal advice or finalising a draft determination. The board will also be required to keep the public informed about its activities by publishing information on the Assembly's website.

[13] Adlewyrchir yr ymrwymiad i fod yn agored yng ngwelliant 4, sy'n cynnwys y bwrdd o fewn y grŵp o awdurdodau cyhoeddus sy'n ddarostyngedig i Ddeddf Rhyddid Gwybodaeth 2000.

The commitment to openness is reflected in amendment 4, which brings the board within the group of public authorities that are subject to the Freedom of Information Act 2000.

[14] Mae gwelliant 2 hefyd yn delio â mater arall. Mae'n ei wneud yn ofynnol ar y bwrdd i ymgynghori ag unrhyw bersonau y mae'n debyg yr effeithir arnynt gan ei benderfyniadau. Fodd bynnag, fel y dywedais yn glir wrth roi tystiolaeth i'r pwyllgor ac yn ystod y ddadl Cyfnod 1 yn y Cyfarfod Llawn, mae angen cydbwysedd gofalus. Mae gwahaniaeth hanfodol rhwng ymgynghori a

Amendment 2 also deals with another matter. It requires the board to consult with any persons who might be affected by its decisions. However, as I stated clearly when I gave evidence to the committee and during the Stage 1 debate in Plenary, a careful balance needs to be struck. There is a crucial difference between consultation and negotiation. This is particularly important

negodi. Mae hyn yn arbennig o bwysig pan ydym yn sôn am daliadau, amodau gwaith, cyflogau ac yn y blaen, sef pwnc y Mesur arfaethedig hwn. Ni ddylem geisio lleihau neu wanhau annibyniaeth y bwrdd oherwydd yr angen i gael ymgynghoriad priodol. Mae'n bwysig, felly, wrth ddeddfu yn y mater hwn, ein bod yn cadw'r cydbwysedd yn gywir. Am y rheswm hwn, yn isadran (4) o'r adran newydd, mae dyletswydd i gadw mewn cof, pan fo'r bwrdd yn ystyried sut i ymgynghori, y gofyniad trosgynnol yn y Mesur arfaethedig hwn bod yn rhaid i'r bwrdd weithredu'n annibynnol ar y Cynulliad.

when we refer to pay, working conditions, salaries and so on—the subject of this proposed Measure. We should not seek to lessen or weaken the independence of the board because of the need for appropriate consultation. It is important, therefore, in legislating on this matter, that we maintain the right balance. This is why, in subsection (4) of the new section, there is a duty to bear in mind, when the board is considering how to consult, the overriding requirement in this proposed Measure for the board to operate independently of the Assembly.

[15] Felly, ymgais yw hwn i ddangos yn glir ar wyneb y Mesur arfaethedig y tensiwn hanfodol rhwng annibyniaeth a bod yn atebol. Wrth drafod grŵp arall yn nes ymlaen, byddaf yn dangos sut yr ydym, yn ymarferol, wedi ceisio cryfhau'r atebolrwydd, gan fod hwnnw'n fater dan ystyriaeth. Felly, dyna gyflwyno a gosod ger eich bron y gwelliannau yn y grŵp cyntaf.

Therefore, this is an attempt to show clearly on the face of the proposed Measure the essential tension between independence and accountability. When I come on to discuss a later group, I will show how we have tried practically to strengthen that accountability, because this was a matter under consideration. Therefore, that is an introduction to the amendments in the first group.

[16] **Rosemary Butler:** Thank you. Does any other Member wish to speak to these amendments? I see that no-one does. Presiding Officer, you obviously do not want to reply to the debate.

[17] **The Presiding Officer:** I think that I reply to myself too often in this place. *[Laughter.]*

[18] **Rosemary Butler:** Do you wish to proceed to a vote on amendment 1?

[19] **The Presiding Officer:** I do.

[20] **Rosemary Butler:** Fine, thank you. The question is that amendment 1 be agreed to. I call for a vote.

*Gwelliant 1: O blaid 5, Ymatal 0, Yn erbyn 0.
Amendment 1: For 5, Abstain 0, Against 0.*

Pleidleisiodd yr Aelodau canlynol o blaid:
The following Members voted for:

Burnham, Eleanor
Jenkins, Bethan
Jones, Ann
Lloyd, Val
Ramsay, Nick

*Derbyniwyd gwelliant 1.
Amendment 1 agreed.*

**Anghymhwyso rhag bod yn Aelod o'r Bwrdd (Gwelliannau 8 a 5)
Disqualification from Membership of the Board (Amendments 8 and 5)**

[21] **Rosemary Butler:** The second group of amendments to consider relates to disqualification from membership of the board and contains amendments 8 and 5. The lead amendment in the group is amendment 8. Presiding Officer, would you like amendment 8 in your name to be moved?

[22] **The Presiding Officer:** I would.

[23] **Rosemary Butler:** I move amendment 8 in the name of Dafydd Elis-Thomas. Would you like to speak to the amendments in this group, please?

[24] **The Presiding Officer:** I would.

9.40 a.m.

[25] Mae'r grŵp hwn, fel y dywedasoch, yn ymwneud ag anghymhwyso, ac mae'n cyfeirio'n benodol at Atodlen 1 y Mesur arfaethedig, sy'n nodi'r personau hynny sydd wedi eu hanghymhwyso. Yn unol ag argymhelliad y pwyllgor, mae gwelliant 8 yn mewnosod yn Atodlen 1 gategori arall o bobl o'r fath, sef aelodau cyrff seneddol eraill o fewn y Deyrnas Unedig neu lle cynrychiolir y Deyrnas Unedig. Nododd y pwyllgor hefyd fod angen sicrhau y gellid diwygio'r rhestr o bersonau sydd wedi eu hanghymhwyso o dro i dro wrth i amgylchiadau newid, heb fod angen Mesur diwygio.

This group, as you said, is in relation to disqualification, and it specifically refers to schedule 1 of the proposed Measure, which identifies those persons who are disqualified. In accordance with the committee's recommendation, amendment 8 inserts into Schedule 1 a further category of such persons, namely members of other parliamentary bodies within the United Kingdom or in which the United Kingdom is represented. The committee also identified the need to ensure that the list of persons disqualified could be amended from time to time as circumstances change, without the need for an amending Measure.

[26] Mae gwelliant 5 yn llwyddo, yn ein barn ni, i gyflawni'r nod hwn. Mae'n seiliedig yn fras ar adran 5 Deddf Anghymhwyso Tŷ'r Cyffredin 1975. Mae angen i gynnig gael ei basio gan y Cynulliad i ddiwygio Atodlen 1 drwy ychwanegu neu ddiddymu swydd neu berson neu drwy newid y disgrifiad o swydd neu berson o'r fath. Unwaith y caiff cynnig o'r fath ei basio, mae'n darparu dull deddfwriaethol o roi'r penderfyniad hwnnw ar waith drwy ddiwygio'r Mesur ei hun. Yr ydym hefyd yn awgrymu yn y gwelliant hwn ein bod yn gosod y pŵer hwnnw, drwy offeryn statudol, ar y Cwnsler Cyffredinol. Bydd gofyn i'r Cwnsler Cyffredinol weithredu'r pŵer hwnnw cyn gynted ag y bo modd ar ôl i'r cynnig gael ei basio gan y Cynulliad. Efallai fod hyn yn ddatblygiad cyfansoddiadol gwreiddiol, ond mae yn un sydd yn gweithio, a'r Cwnsler Cyffredinol yw'r person cyfrifol priodol i allu arfer y pŵer hwn. Gan mai

In our opinion, amendment 5 achieves this aim. It is broadly based on section 5 of the House of Commons Disqualification Act 1975. It requires a resolution of the Assembly to amend Schedule 1 by adding or removing an office or person, or by altering the description of such an office or person. Once such a resolution has been passed, it provides the legislative means for putting that decision into effect by amending the proposed Measure itself. We also suggest in this amendment that that power, by statutory instrument, be conferred on the Counsel General. The Counsel General will be required to exercise that power as soon as possible after the resolution is passed by the Assembly. This is perhaps an original constitutional development, but it is one that works, and the Counsel General is the relevant responsible person to exercise the power. As this proposed Measure relates to the Assembly and the establishment of a

Mesur arfaethedig sy'n ymwneud â'r board and functions independent of the Cynulliad a sefydlu bwrdd annibynnol ar Assembly and the Assembly Commission, it swyddogaethau'r Cynulliad a Chomisiwn y is more appropriate, in our opinion, that the Cynulliad yw hwn, mae'n fwy priodol, yn ein power be conferred on the Counsel General barn ni, fod y pŵer yn cael ei osod ar y than on a Minister. So, those are the Cwnsler Cyffredinol nag ar Weinidog. Felly, amendments in the second group. yr wyf wedi gosod gerbron y gwelliannau yn yr ail grŵp.

[27] **Ann Jones:** May I ask for clarification? If the Assembly resolves that Schedule 1 be amended, is it subject to a two-thirds majority vote by the Assembly? Are these the same rules, or are we setting up new rules?

[28] **The Presiding Officer:** No, it is subject to a normal majority in this case, because it is a resolution of the Assembly in the normal way. It is not one that requires a two-thirds majority under Standing Orders.

[29] **Rosemary Butler:** So, it is a majority of those in the Assembly at the time.

[30] **The Presiding Officer:** Yes.

[31] **Ann Jones:** Like any other resolution that is not constitutional.

[32] **The Presiding Officer:** Yes.

[33] **Rosemary Butler:** Are there any other questions? I see that there are not. Presiding Officer, can I assume that you wish to proceed to a vote on amendment 8?

[34] **The Presiding Officer:** Your assumption is correct, thank you, Chair.

[35] **Rosemary Butler:** The question is that amendment 8 be agreed to. I call for a vote.

*Gwelliant 8: O blaid 5, Ymatal 0, Yn erbyn 0.
Amendment 8: For 5, Abstain 0, Against 0.*

Pleidleisiodd yr Aelodau canlynol o blaid:
The following Members voted for:

Burnham, Eleanor
Jenkins, Bethan
Jones, Ann
Lloyd, Val
Ramsay, Nick

*Derbyniwyd gwelliant 8.
Amendment 8 agreed.*

Penodi Aelodau'r Bwrdd (Gwelliant 9) Appointment of Members to the Board (Amendment 9)

[36] **Rosemary Butler:** Presiding Officer, would you like amendment 9 in your name to be moved?

[37] **The Presiding Officer:** I would, thank you.

[38] **Rosemary Butler:** Therefore, I move amendment 9 in the name of Dafydd Elis-

Thomas.

Y Llywydd: Mae grŵp 4, sef gwelliant 9, yn ymwneud ag adran 4, sy'n delio â phenodi aelodau'r bwrdd gan y Comisiwn, ac mae Atodlen 2 yn gwneud darpariaeth bellach ynglŷn â'r broses sydd i'w dilyn. Bydd Clerc y Cynulliad yn gyfrifol am roi'r trefniadau priodol ar waith i sicrhau proses benodi gadarn a theg, gan roi sylw priodol i'r gofyniad y dylid cael cyfle cyfartal i bawb. Yn unol ag argymhelliad y pwyllgor, mae gwelliant 9 yn ei gwneud yn ofynnol i'r clerco gyhoeddi'r trefniadau hynny ar wefan y Cynulliad. Mae'n rhaid gwneud hynny cyn y rhoddir y trefniadau hynny ar waith. Yn ein barn ni, bydd hyn yn cryfhau hyder y cyhoedd y bydd pob agwedd ar waith y bwrdd yn cyd-fynd â'r egwyddorion trosgynnol o annibyniaeth ac o fod yn agored ac yn gynhwysol, fel y gwnaethoch chi ei gymeradwyo yn y gwelliannau blaenorol. Felly, dyna'r gwelliant yn grŵp 3.

The Presiding Officer: Group 4, namely amendment 9, relates to section 4, which deals with the appointment of members to the board by the Commission, and Schedule 2 makes further provision for the process to be followed. The Clerk to the Assembly will be responsible for putting the relevant arrangements in place to ensure that the appointment process is robust and fair, giving due consideration to equality of opportunity for all. In accordance with the committee's recommendation, amendment 9 requires the clerk to publish those arrangements on the Assembly's website. That must be done before the arrangements are implemented. In our view, this will strengthen the public's confidence that all aspects of the board's work will be compatible with the overarching principles of independence and of being open and inclusive, as you approved in the previous amendments. Therefore, that is the amendment in group 3.

[39] **Rosemary Butler:** Does any Member wish to speak on that? I see that no-one does. Presiding Officer, do you wish to proceed to a vote on amendment 9?

[40] **The Presiding Officer:** I wish to proceed to a vote, Chair.

[41] **Rosemary Butler:** The question is that amendment 9 be agreed to. I call for a vote.

Gwelliant 9: O blaid 5, Ymatal 0, Yn erbyn 0.

Amendment 9: For 5, Abstain 0, Against 0.

Pleidleisiodd yr Aelodau canlynol o blaid:
The following Members voted for:

Burnham, Eleanor
Jenkins, Bethan
Jones, Ann
Lloyd, Val
Ramsay, Nick

*Derbyniwyd gwelliant 9.
Amendment 9 agreed.*

**Technegol—Darpariaeth Drosiannol a Darpariaeth Arbed (Gwelliannau 6, 7 a 10)
Technical—Transitional and Saving Provision (Amendments 6, 7 and 10)**

[42] **Rosemary Butler:** The lead amendment is amendment 6 in the name of Dafydd Elis-Thomas, which is grouped with amendments 7 and 10. Presiding Officer, would you like amendment 6 in your name to be moved?

[43] **The Presiding Officer:** Yes, Chair.

[44] **Rosemary Butler:** I move amendment 6 in the name of Dafydd Elis-Thomas. I call on the Presiding Officer to speak to amendment 6 and the other amendments in the group.

[45] **Y Llywydd:** Fel y dywedaso, mae grŵp 4, sef gwelliannau 6, 7 a 10 yn ymwneud â darpariaeth drosiannol a darpariaeth arbed.

The Presiding Officer: As you said, group 4, namely amendments 6, 7 and 10 relate to transitional and saving provision.

[46] Diben y Mesur arfaethedig yw trosglwyddo i'r bwrdd yr holl swyddogaethau sy'n ymwneud â thaliadau i Aelodau'r Cynulliad sy'n cael eu gweithredu ar hyn o bryd gan y Cynulliad neu gan Gomisiwn y Cynulliad. Mae adran 15 yn ymwneud â'r mecanwaith cyfreithiol i sicrhau bod proses drosiannol lyfn ac effeithiol o ran dod â'r pwerau hyn i mewn fel y maent yn cael eu trosglwyddo i'r bwrdd annibynnol.

The purpose of the proposed Measure is to transfer to the board all functions relating to the remuneration of Assembly Members that are currently exercised by the Assembly or by the Assembly Commission. Section 15 deals with the legal mechanism to ensure a smooth and effective transition process in terms of bringing forth these powers as they are transferred to the independent board.

[47] Mae gwelliannau 6, 7 a 10, sy'n deillio o ddeialog adeiladol rhwng cynghorwyr cyfreithiol y Comisiwn a chynghorwyr cyfreithiol cynllun pensiwn Aelodau'r Cynulliad, yn gwella'r mecanwaith hwn mewn ffordd sy'n ymddangos yn fach, ond sy'n bwysig iawn o ran cysondeb a throsglwyddo trefnus.

Amendments 6, 7 and 10, which arise from a constructive dialogue between the Commission's legal advisers and the legal advisers of the Assembly Members' pension scheme, will improve this mechanism in a way that seems minor, but that is very important in terms of consistency and orderly transfer.

[48] Bwriad adran 15 yw sicrhau unwaith y daw'r Mesur arfaethedig i rym fod y rheolau sy'n bodoli eisoes, a wnaed gan y Cynulliad a'r Comisiwn ynglŷn â'r amrywiol agweddau ar gynhalieth ariannol ar gyfer Aelodau'r Cynulliad, yn cael eu trin fel pe baent wedi eu creu gan y bwrdd. Dyna'r ddyfais gyfreithiol i ddod â'r bwrdd i rym ac i drosglwyddo pwerau oddi wrth y Cynulliad a'r Comisiwn i'r bwrdd annibynnol. Mae hyn wrth gwrs yn caniatáu i'r pwerau barhau mewn grym hyd nes y cânt eu diwygio ac mae'n sicrhau y bydd y bwrdd yn gallu eu diwygio pan fydd angen gwneud hynny.

The aim of section 15 is to ensure that once the proposed Measure comes into force the existing rules, made by the Assembly and by the Commission regarding the various aspects of financial support for Assembly Members, are treated as though they had been created by the board. That is the legal device to bring the board into force and to transfer powers from the Assembly and the Commission to the independent board. This of course allows the powers to remain in force until they have been amended and will ensure that the board can amend them when necessary.

[49] Disgrifir bron pob rheol o dan sylw yn y ddeddfwriaeth bresennol sy'n rheoli'r materion hyn fel 'penderfyniadau'. Mae'r rhain eisoes wedi eu cynnwys yn adran 15. Fodd bynnag, mae un set o reolau sy'n parhau i fodoli a ddisgrifir fel 'cyfarwyddyd' gan eu bod mynd yn ôl i'r Oesoedd Tywyll, gan eu bod wedi'u gwneud yn wreiddiol gan yr Ysgrifennydd Gwladol cyn sefydlu'r Cynulliad. Mae ychwanegu'r gair 'cyfarwyddyd' yn sicrhau y cânt eu trin yn yr un ffordd â'r rheolau a wnaed gan y

Almost all the rules in question are described in the current legislation that governs these matters, as 'determinations'. These are already included in section 15. However, one set of rules that is still in existence is described as a 'direction' because those rules go back to the Dark Ages, given that they were made originally by the Secretary of State before the Assembly was established. The addition of the word 'direction' ensures that they are treated in the same way as the rules made by the Assembly and the

Cynulliad a'r Comisiwn drwy benderfyniadau. Dyna fwriad y gwelliannau hyn.

Commission by determination. That is the intention of these amendments.

[50] Mae gwelliant 10 hefyd wedi'i gynllunio i ddelio â mater cyfreithiol technegol a pherthynol arall. Mae'r rheolau sy'n bodoli eisoes ynglŷn â chymorth ariannol i Aelodau'r Cynulliad yn cynnwys cyfeiriadau at y Cynulliad a'r Comisiwn a fydd, yn y rhan fwyaf o achosion, yn afraid pan ddaw'r Mesur arfaethedig i rym. Effaith y gwelliant hwn fydd galluogi'r cyfeiriadau yn y rheolau hynny ac yn y dogfennau cyfreithiol sy'n gysylltiedig â hwy i gael eu dehongli fel cyfeiriadau at y bwrdd. Ni fydd hwn ond yn berthnasol lle bo'n angenrheidiol i roi egwyddor adran 15(2) ar waith, hynny yw, bod y bwrdd i gael ei amnewid am y Cynulliad a'r Comisiwn o ran gwneud penderfyniadau am gymorth ariannol, heb fod angen diwygio pob un o'r cyfeiriadau hynny'n unigol. Gobeithiaf fy mod wedi esbonio hynny'n glir. Amcan y gwelliannau ar eu ffurf bresennol, fel yr argymhellir yma, yw galluogi trosglwyddiad cyfreithiol effeithlon ac effeithiol.

Amendment 10 is also designed to deal with another related technical legal matter. The existing rules relating to the financial support for Assembly Members include references to the Assembly and the Commission that, in most cases, will become out of date when the proposed Measure comes into force. The effect of this amendment will be to enable the references in those rules and in the legal documents associated with them to be interpreted as references to the board. This will only apply where it is necessary in order to give effect to the principle of section 15 (2), that is, that the board is to be substituted for the Assembly and the Commission in relation to the making of determinations on financial support, without the need to amend each reference individually. I hope that I have explained that clearly. The intention of the amendments in their current form, as is recommended here, is to enable a legal transfer that is effective and efficient.

9.50 a.m.

[51] **Rosemary Butler:** Thank you. Do any Members wish to comment on that?

[52] **Nick Ramsay:** I would like to correct the Presiding Officer's use of the term 'Dark Ages'. As I am sure that you are aware, the modern historical term is 'the Early Middle Ages'. [*Laughter.*]

[53] **Rosemary Butler:** I do not think that that is for debate this morning. We will debate that elsewhere. You have obviously explained it very clearly, Presiding Officer.

[54] **The Presiding Officer:** I attempted to respond to this debate very briefly. The Dark Ages in Wales are normally known as the Age of the Saints, but I do not think that that is true of Secretaries of State. [*Laughter.*]

[55] **Rosemary Butler:** Do you wish to proceed to a vote on amendment 6?

[56] **The Presiding Officer:** Yes.

[57] **Rosemary Butler:** The question is that amendment 6 be agreed to. I call for a vote.

*Gwelliant 6: O blaid 5, Ymatal 0, Yn erbyn 0.
Amendment 6: For 5, Abstain 0, Against 0.*

Pleidleisiodd yr Aelodau canlynol o blaid:
The following Members voted for:

Burnham, Eleanor
Jenkins, Bethan
Jones, Ann
Lloyd, Val
Ramsay, Nick

*Derbyniwyd gwelliant 6.
Amendment 6 agreed.*

[58] **Rosemary Butler:** We now come to dispose of amendment 7 in the name of Dafydd Elis-Thomas; this has already been debated with amendment 6. Presiding Officer, would you like amendment 7 in your name to be moved?

[59] **The Presiding Officer:** Yes.

[60] **Rosemary Butler:** I move amendment 7 in the name of Dafydd Elis-Thomas. The question is that amendment 7 be agreed to. I call for a vote.

*Gwelliant 7: O blaid 5, Ymatal 0, Yn erbyn 0.
Amendment 7: For 5, Abstain 0, Against 0.*

Pleidleisiodd yr Aelodau canlynol o blaid:
The following Members voted for:

Burnham, Eleanor
Jenkins, Bethan
Jones, Ann
Lloyd, Val
Ramsay, Nick

*Derbyniwyd gwelliant 7.
Amendment 7 agreed.*

[61] **Rosemary Butler:** In accordance with the marshalled list, we now move to dispose of amendment 10 in the name of Dafydd Elis-Thomas; this has already been debated with amendment 6. Presiding Officer, would you like amendment 10 in your name to be moved?

[62] **The Presiding Officer:** Yes.

[63] **Rosemary Butler:** I move amendment 10 in the name of Dafydd Elis-Thomas. The question is that amendment 10 be agreed to. I call for a vote.

*Gwelliant 10: O blaid 5, Ymatal 0, Yn erbyn 0.
Amendment 10: For 5, Abstain 0, Against 0.*

Pleidleisiodd yr Aelodau canlynol o blaid:
The following Members voted for:

Burnham, Eleanor
Jenkins, Bethan
Jones, Ann
Lloyd, Val
Ramsay, Nick

*Derbyniwyd gwelliant 10.
Amendment 10 agreed.*

[64] **Rosemary Butler:** In accordance with the marshalled list, we now move to dispose of amendment 2 in the name of Dafydd Elis-Thomas, which was discussed earlier as part of

group 1. Presiding Officer, would you like amendment 2 in your name to be moved?

[65] **The Presiding Officer:** Yes.

[66] **Rosemary Butler:** I move amendment 2 in the name of Dafydd Elis-Thomas. The question is that amendment 2 be agreed to. I call for a vote.

*Gwelliant 2: O blaid 5, Ymatal 0, Yn erbyn 0.
Amendment 2: For 5, Abstain 0, Against 0.*

Pleidleisiodd yr Aelodau canlynol o blaid:
The following Members voted for:

Burnham, Eleanor
Jenkins, Bethan
Jones, Ann
Lloyd, Val
Ramsay, Nick

*Derbyniwyd gwelliant 2.
Amendment 2 agreed.*

Adroddiad Blynyddol (Gwelliant 3) Annual Report (Amendment 3)

[67] **Rosemary Butler:** We now move on to the fifth and final group on the annual report of the board. The only amendment in this group is amendment 3. Presiding Officer, would you like amendment 3 in your name to be moved?

[68] **The Presiding Officer:** Yes.

[69] **Rosemary Butler:** I move amendment 3 in the name of Dafydd Elis-Thomas. Would you like to speak to amendment 3?

[70] **The Presiding Officer:** I would, thank you.

[71] Argymhellodd y pwyllgor yn ei adroddiad Cyfnod 1 y dylai'r Mesur arfaethedig ei gwneud yn ofynnol i'r bwrdd baratoi adroddiad blynyddol. Mae'r gwelliant hwn yn rhoi'r argymhelliad hwnnw ar waith. Effaith y gwelliant fydd rhoi dyletswydd ar y bwrdd, cyn gynted ag y bo modd ar ddiwedd pob blwyddyn ariannol, i osod adroddiad blynyddol gerbron y Cynulliad. Bydd yr adroddiad hwnnw'n cynnwys holl weithgareddau'r bwrdd, ond bydd yn cyfeirio'n benodol at ei ddefnydd o adnoddau yn ystod y flwyddyn ariannol flaenorol. In its Stage 1 report, the committee recommended that the proposed Measure should impose a requirement on the board to prepare an annual report. This amendment gives effect to that recommendation. The effect of the amendment will be to place a duty on the board, as soon as possible after the end of each financial year, to lay an annual report before the Assembly. That report will extend to all of the board's activities, but will refer specifically to its use of resources during the preceding financial year.

[72] Yr oedd yr argymhelliad y dylai'r bwrdd adrodd yn flynyddol yn gysylltiedig ag argymhelliad y dylwn fynd i'r afael ag atebolrwydd yn gyffredinol fel mater o flaenoriaeth. Yr ydym wedi ystyried hyn yn ofalus iawn, a drwy gydol yr ystyriaethau ar The recommendation that the board should report annually was linked to a recommendation that I should, as a matter of priority, address accountability in general. We have considered this very carefully, and throughout our deliberations on the proposed

y Mesur arfaethedig hwn, yr wyf wedi pwysleisio pwysigrwydd annibyniaeth y bwrdd. Nid oes angen imi ailadrodd y pwynt hwnnw eto y bore yma. Yn wir, mae'r gwelliant a gynigiwyd i gryfhau annibyniaeth y bwrdd wedi cael ei dderbyn. Bydd yn glir, felly, pam fy mod yn meddwl ei bod yn angenrheidiol na ddylai cryfhau atebolrwydd y bwrdd danseilio'i annibyniaeth. Dim ond drwy fod yn glir ynglŷn â'r agweddau hynny o waith y bwrdd y dylai fod yn atebol i'r Cynulliad amdanynt a'r agweddau y dylai fod yn atebol i bobl Cymru amdanynt, yn hytrach nag i'r Cynulliad, y gellir sicrhau'r cydbwysedd cywir rhwng annibyniaeth ac atebolrwydd. Yr ydym wedi ystyried y ddwy agwedd yn ofalus iawn, gan fod y cydbwysedd cywir rhwng annibyniaeth ac atebolrwydd yn ganolog i swyddogaeth y bwrdd ac i'r modd y bydd yn gweithredu.

[73] Mae'r defnydd y mae'r bwrdd yn ei wneud o adnoddau yn amlwg yn syrthio i'r categori cyntaf. Hynny yw, mae'n atebol am yr adnoddau. Dyna pam mae'r gwelliant yn nodi'n benodol y dylid cynnwys y defnydd a wna'r bwrdd o'i adnoddau yn ei adroddiad blynyddol, a bydd yn rhaid iddo osod yr adroddiad hwnnw gerbron y Cynulliad. Bydd cyfle wedyn i'r Cynulliad, drwy ei ddulliau arferol o ystyried effeithlonrwydd cyrff sy'n atebol iddo, drwy'r pwyllgorau priodol, megis y Pwyllgor Cyllid a'r Pwyllgor Cyfrifon Cyhoeddus, drafod yr adroddiad.

[74] Yr wyf yn sicr y bydd galw ar gadeirydd y bwrdd i ymddangos gerbron y pwyllgorau hynny i ateb cwestiynau ynglŷn â defnydd y bwrdd o adnoddau. Gan y bydd yr adnoddau o dan sylw yn cael eu darparu gan Gomisiwn y Cynulliad, bydd defnydd y bwrdd ohonynt hefyd yn destun archwilio a sylw gan Archwilydd Cyffredinol Cymru.

[75] Felly, wedi ystyried y mater hwn a gwrando ar y trafodaethau blaenorol yn y pwyllgor ac yn y sesiwn Cyfarfod Llawn ar Gyfnod 1, yr wyf yn fodlon mai'r agwedd hyblyg hon yw'r agwedd gywir o ran atebolrwydd y bwrdd. Mae'n darparu lefel gywir o atebolrwydd o ran defnydd y bwrdd o adnoddau wrth gyflawni ei ddyletswyddau, ond ni fydd yn cyfaddawdu annibyniaeth y bwrdd o ran pennu lefelau o gymorth

Measure, I have stressed the importance of the independence of the board. I do not need to repeat that point this morning. Indeed, the amendment that was proposed to strengthen the board's independence has been accepted. It will be clear, therefore, why I regard it as essential that strengthening the board's accountability should not undermine its independence. It is only by being clear about those aspects of the work of the board for which it should be accountable to the Assembly and those aspects for which it should be accountable to the people of Wales, rather than to the Assembly, that it will be possible to ensure the correct balance between independence and accountability. We have considered these two aspects very carefully, because the correct balance between independence and accountability is central to the function of the board and the way in which it will operate.

The board's use of resources clearly falls into the first category. That is, it is accountable for the resources. That is why the amendment specifically requires that the board's use of its resources should be included in its annual report, and that report will have to be laid before the Assembly. The Assembly will then have the opportunity, through its usual means of considering the efficiency of bodies that are accountable to it, through the use of appropriate committees, such as the Finance Committee and the Public Accounts Committee, to debate the report.

I am sure that the chair of the board will be asked to appear before those committees to answer questions about the board's use of resources. Given that the resources in question will be provided by the Assembly Commission, the board's use of them will also be subject to audit and comment by the Auditor General for Wales.

Therefore, after considering this matter and listening to the previous discussions in this committee and in the Plenary session at Stage 1, I am satisfied that this flexible approach is the right approach in relation to the accountability of the board. It provides a proper level of accountability in relation to the board's use of resources in accomplishing its duties, without compromising its independence when fixing the level of

ariannol i Aelodau'r Cynulliad. Felly, mae'n financial support for Assembly Members.
dda gennyf gynnig y grŵp olaf, sef grŵp 5. Therefore, I am pleased to move this last
group of amendments, which is group 5.

[76] **Rosemary Butler:** Do any Members wish to speak? I see that no-one does. Presiding Officer, do you wish to say anything more on that matter? I see that you do not. Therefore, do you wish to proceed to a vote on amendment 3?

[77] **The Presiding Officer:** Yes.

[78] **Rosemary Butler:** The question is that amendment 3 be agreed to. I call for a vote.

*Gwelliant 3: O blaid 5, Ymatal 0, Yn erbyn 0.
Amendment 3: For 5, Abstain 0, Against 0.*

Pleidleisiodd yr Aelodau canlynol o blaid:
The following Members voted for:

Burnham, Eleanor
Jenkins, Bethan
Jones, Ann
Lloyd, Val
Ramsay, Nick

*Derbyniwyd gwelliant 3.
Amendment 3 agreed.*

[79] **Rosemary Butler:** In accordance with the marshalled list, we now move to dispose of amendment 4, which was discussed earlier as part of group 1. Presiding Officer, would you like amendment 4 in your name to be moved?

[80] **The Presiding Officer:** Yes, Chair.

[81] **Rosemary Butler:** I move amendment 4 in the name of Dafydd Elis-Thomas. The question is that amendment 4 be agreed to. I call for a vote.

*Gwelliant 4: O blaid 5, Ymatal 0, Yn erbyn 0.
Amendment 4: For 5, Abstain 0, Against 0.*

Pleidleisiodd yr Aelodau canlynol o blaid:
The following Members voted for:

Burnham, Eleanor
Jenkins, Bethan
Jones, Ann
Lloyd, Val
Ramsay, Nick

*Derbyniwyd gwelliant 4.
Amendment 4 agreed.*

[82] **Rosemary Butler:** In accordance with the marshalled list, we now move to dispose of amendment 5, which was discussed earlier as part of group 2. Presiding Officer, would you like amendment 5 in your name to be moved?

[83] **The Presiding Officer:** Yes.

[84] **Rosemary Butler:** I move amendment 5 in the name of Dafydd Elis-Thomas. The

question is that amendment 5 be agreed to. I call for a vote.

*Gwelliant 5: O blaid 5, Ymatal 0, Yn erbyn 0.
Amendment 5: For 5, Abstain 0, Against 0.*

Pleidleisiodd yr Aelodau canlynol o blaid:
The following Members voted for:

Burnham, Eleanor
Jenkins, Bethan
Jones, Ann
Lloyd, Val
Ramsay, Nick

*Derbyniwyd gwelliant 5.
Amendment 5 agreed.*

[85] **Rosemary Butler:** All sections and schedules of the proposed Measure have been deemed to have been agreed by the committee. Under Standing Order No. 23.40:

[86] ‘If a proposed Measure is amended at Stage 2 proceedings so as to insert a section or schedule, or substantially alter any existing provision, the committee considering Stage 2 proceedings may request that the Member in charge prepare a revised Explanatory Memorandum.’

[87] I consider that the amendments agreed by this committee have substantially altered some existing provisions and, as such, do Members agree that the Member in charge is to prepare a revised explanatory memorandum? I see that you are in agreement.

[88] In accordance with Standing Order No. 23.42, Stage 3 begins tomorrow, 22 April, and the deadline for tabling amendments will be notified to Members in due course and will also be published in the business notice. I therefore declare this meeting closed. Thank you.

*Daeth y cyfarfod i ben am 9.58 a.m.
The meeting ended at 9.58 a.m.*