



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

**Y Pwyllgor Is-ddeddfwriaeth  
The Subordinate Legislation Committee**

**Dydd Mawrth, 22 Ebrill 2008  
Tuesday, 22 April 2008**

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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
Alun Davies	Llafur Labour
Andrew R.T. Davies	Ceidwadwyr Cymreig Welsh Conservatives
Irene James	Llafur Labour
David Lloyd	Plaid Cymru (Cadeirydd y Pwyllgor) The Party of Wales (Committee Chair)

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

Anna Daniel	Clerc Clerk
Gwyn Griffiths	Cynghorydd Cyfreithiol Legal Adviser
Joanest Jackson	Cynghorydd Cyfreithiol Cynorthwyol Assistant Legal Adviser
Olga Lewis	Dirprwy Glerc Deputy Clerk

*Dechreuodd y cyfarfod am 8.45 a.m.*  
*The meeting began at 8.45 a.m.*

**Cyflwyniad, Ymddiheuriadau, Dirprwyon a Datgan Buddiannau**  
**Introduction, Apologies, Substitutions and Declarations of Interest**

[1] **David Lloyd:** Bore da. Croeso i gyfarfod Pwyllgor Is-ddeddfwriaeth y Cynulliad. Os bydd argyfwng, bydd y tywyswyr yn eich arwain at yr allanfa agosaf. Gellir defnyddio'r clustffonau i gael cyfieithiad ar y pryd ac i addasu lefel y sain. Gall y tywyswyr ddangos i'r cyhoedd sut i ddefnyddio'r clustffonau. Rhaid diffodd ffonau symudol yn llwyr. Mae'r cyfieithiad ar y pryd o'r Gymraeg i'r Saesneg ar gael ar sianel 1, a gellir clywed cyfraniadau yn yr iaith wreiddiol ar sianel 0.

**David Lloyd:** Good morning. Welcome to the meeting of the Assembly's Subordinate Legislation Committee. In the event of an emergency, the ushers will guide you to the nearest exit. Headsets are available for simultaneous translation and amplification. The ushers can show members of the public how to operate the headsets. All mobile phones must be switched off completely. The simultaneous translation from Welsh to English is available on channel 1, and contributions in the floor language are available on channel 0.

[2] Nid ydym wedi derbyn unrhyw ymddiheuriadau. We have received no apologies.

8.46 a.m.

**Offerynnau ac Offerynnau Drafft na fydd y Cynulliad yn cael ei Wahodd i roi Sylw Arbennig iddynt o dan Reol Sefydlog Rhif 15.2 ac Offerynnau sy'n Agored i gael eu Dirymu yn unol â Phenderfyniad gan y Cynulliad (Y Weithdrefn Negyddol)**

**Instruments and Draft Instruments in respect of which the Assembly is not Invited to Pay Special Attention under Standing Order No. 15.2 and Instruments Subject to Annulment Pursuant to a Resolution of the Assembly (Negative Procedure)**

[3] **David Lloyd:** Mae Joanest wedi bod yn craffu ar SLC143, Rheoliadau Semen Buchol (Cymru) 2008, SLC144, Rheoliadau Safonau Sootechnegol (Diwygio) (Cymru) 2008, SLC145, Rheoliadau Tatws Hadyd (Cymru) (Diwygio) 2008, ac SLC147, Rheoliadau Llosgi Grug a Glaswellt etc. (Cymru) 2008. Mae Joanest yn amlwg wedi bod yn brysur. Joanest, a oes gennych unrhyw beth i'w ychwanegu at yr adroddiadau sydd ger ein bron?

**David Lloyd:** Joanest has been scrutinising SLC143, the Bovine Semen (Wales) Regulations 2008, SLC144, the Zootechnical Standards (Amendment) (Wales) Regulations 2008, SLC145, the Seed Potatoes (Wales) (Amendment) Regulations 2008, and SLC147, the Heather and Grass etc. Burning (Wales) Regulations 2008. Joanest has obviously been busy. Joanest, do you have anything to add to the reports that are before us?

[4] **Ms Jackson:** Nid oes gennyf unrhyw sylw.

**Ms Jackson:** I have no comments.

[5] **David Lloyd:** A oes cwestiwn gan unrhyw un? Gwelaf nad oes. Diolch yn fawr. Derbyniwn y rheoliadau hynny.

**David Lloyd:** Does anyone have a question? I see not. Thank you. Those regulations are carried.

8.47 a.m.

**Offerynnau y bydd y Cynulliad yn cael ei Wahodd i Dalu Sylw Arbennig Iddynt o dan Reol Sefydlog Rhif 15.2 ac Offerynnau sy'n Agored i gael eu Dirymu yn Unol â Phenderfyniad gan y Cynulliad (Y Weithdrefn Negyddol)**

**Instruments in Respect of which the Assembly is Invited to pay Special Attention under Standing Order No. 15.2 and Instruments Subject to Annulment Pursuant to a Resolution of the Assembly (Negative Procedure)**

[6] **David Lloyd:** Mae Joanest hefyd wedi bod yn craffu ar SLC141, Rheoliadau Cynhyrchion Reis o Unol Daleithiau America (Cyfyngiad ar eu Rhoi Gyntaf ar y Farchnad) (Cymru) 2008.

**David Lloyd:** Joanest has also scrutinised SLC141, the Rice Products from the United States of America (Restriction on First Placing on the Market) (Wales) Regulations 2008.

[7] **Ms Jackson:** Nid oes gennyf unrhyw beth arbennig i'w adrodd. Mae'r Llywodraeth yn cytuno â'r pwyntiau sydd wedi codi ac yn bwriadu gwneud cywiriadau cyn toriad yr haf.

**Ms Jackson:** I have nothing in particular to report. The Government agrees with the points that have been raised and intends to make corrections before the summer recess.

[8] **David Lloyd:** Yr ydych wedi clywed yr adroddiad. A ydych yn hapus i'w derbyn

**David Lloyd:** You have heard the report. Is everyone happy to carry the regulations in

yn unol â dymuniad Joanest? Gwelaf eich bod. Diolch yn fawr.

line with Joanest's wish? I see that you are. Thank you.

8.47 a.m.

### **Mesur Arfaethedig ynghylch Teithio gan Ddysgwyr (Cymru) Proposed Learner Travel (Wales) Measure**

[9] **David Lloyd:** Byddwch yn cofio i'r Mesur arfaethedig ynghylch Teithio gan Ddysgwyr (Cymru) gael ei osod ar 15 Ebrill, sef yr wythnos diwethaf. Cynhelir dadl ar Gyfnod 1 y Mesur, sef ystyried yr egwyddorion cyffredinol, yr wythnos nesaf, ar 29 Ebrill. Yn dilyn hynny, caiff pwyllgor Cyfnod 2 ei sefydlu i ystyried y Mesur yn fanwl. Ein gorchwyl y bore yma yw ystyried a yw'r pwyllgor hwn am graffu ar y Mesur. Gallwn wneud hynny o dan Reol Sefydlog Rhif 15.6. I ddechrau'r drafodaeth, mae Gwyn wedi paratoi papur, sydd wedi ei gylchredeg, ac yr wyf yn siŵr eich bod wedi darllen pob gair. Gwyn, a hoffet gyflwyno dy bapur?

**David Lloyd:** You will remember that the proposed Learner Travel (Wales) Measure was laid on 15 April, which was last week. A debate on Stage 1 of the Measure, to consider the general principles, will be held next week, on 29 April. Following that, a Stage 2 committee will be established to consider the Measure in detail. Our remit this morning is to consider whether this committee wishes to scrutinise the Measure. We can do that under Standing Order No. 15.6. To begin the discussion, Gwyn has prepared a paper, which has been circulated, and I am sure that you have all read every word. Gwyn, would you like to present your paper?

[10] **Mr Griffiths:** Diolch yn fawr. Nid oes gennyf lawer i'w ychwanegu at y papur. I grynhoi, mae'r Mesur braidd yn od ar y sail ei fod yn croesi o un adran y Llywodraeth i un arall. Y Dirprwy Brif Weinidog, Ieuan Wyn Jones, sy'n gyfrifol am hwn gan ei fod yn Fesur trafnidiaeth, ond mae llawer o'r cyngor yn dod gan yr Adran dros Blant, Addysg, Dysgu Gydol Oes a Sgiliau gan ei fod yn ymwneud â theithio i golegau ac ysgolion. Felly, mae'n Fesur anghyffredin ar y sail honno.

**Mr Griffiths:** Thank you. I do not have much to add to the paper. To summarise, this is quite an odd Measure as it crosses between Government departments. The Deputy First Minister, Ieuan Wyn Jones, is responsible for this as it is a transport Measure, but a considerable amount of advice has been received from the Department for Children, Education, Lifelong Learning and Skills as it relates to travel to colleges and schools. Therefore, it is an usual Measure in that respect.

[11] Wedi dweud hynny, mae'n disgyn yn glir o fewn mater 5.10 yn Atodlen 5 i Ddeddf Llywodraeth Cymru 2006. Mae eithriadau wedi eu nodi ym mharagraff 6 o'r papur i'r pwyllgor. Mae hynny wedi bod yn sail i'r hyn y gall y Gweinidog ei argymhell i'r Cynulliad. Nid oes gan y Cynulliad y cymhwysedd deddfwriaethol yr oedd y Pwyllgor Menter a Dysgu am ei weld. Felly, ni all fynd mor bell ag yr oedd y pwyllgor hwnnw wedi ei argymhell. Mae hynny hefyd wedi ei nodi yn y papur.

Having said that, it falls clearly into matter 5.10 in Schedule 5 to the Government of Wales Act 2006. The exceptions have been noted in paragraph 6 of the paper to the committee. That has been the basis for the Minister's recommendations to the Assembly. The Assembly does not have the legislative competence that the Enterprise and Learning Committee had hoped to see. Therefore, it cannot go as far as that committee had recommended. That is also noted in the paper.

8.50 a.m.

[12] O ran y pwerau is-ddeddfu, mae'r rheini wedi eu crynhoi ym mharagraff 10 y

On the subordinate legislation powers, those are summarised in paragraph 10 of the paper.

paper. Gwelwch fod tri achos penodol lle mae angen defnyddio'r weithdrefn gadarnhaol, sef newid yr amgylchiadau pan fo gan blant hawl i gludiant am ddim, ymestyn y trefniadau i deithwyr ôl-16 a phlant oedran ysgol feithrin, a'r eithriad arferol lle bo rheoliadau naill ai'n diwygio Mesur y Cynulliad neu Ddeddf Seneddol—eto bydd angen defnyddio'r weithdrefn gadarnhaol.

[13] Yn yr achosion eraill, sydd yn gymharol fân, mae'r materion wedi eu nodi yn yr atodlen. Y weithdrefn negyddol sy'n cael ei chymeradwyo gan y Dirprwy Brif Weinidog yn yr achosion hynny.

[14] Mae cwestiwn hefyd o roi canllawiau. Nododd y Pwyllgor Menter a Dysgu, pan oedd yn ystyried y Mesur hwn ar sail drafft, y byddai'n ddymunol gweld y rheini ar sail statudol yn hytrach na sail anstatudol. Dyna'r unig bwynt a ystyriodd y pwyllgor ynlgŷn â'r pwerau is-ddeddfu.

[15] Felly, nid oes dim anghyffredin yn y ffordd y mae'r pwerau is-ddeddfu hyn wedi eu dosrannu yn y Mesur. Mae'n fater i'r pwyllgor hwn a yw am glywed gan y Dirprwy Brif Wweinidog i esbonio pam y penderfynwyd argymhell y ffyrdd hynny.

[16] **David Lloyd:** Diolch, Gwyn. Mae dau fater i'w hystyried, felly. Yn gyntaf, a ydym yn hapus i barhau i graffu ar y Mesur hwn; byddwn yn argymhell ein bod. Yr unig ddewis arall yw a ydym am wahodd Ieuan Wyn Jones, fel y Gweinidog sy'n gyfrifol am y Mesur, i'r pwyllgor hwn i roi tystiolaeth fel ffordd arall o graffu ar y Mesur hwn? A oes unrhyw sylwadau? A yw pawb yn gytún?

[17] **Eleanor Burnham:** Mae hynny'n hollol addas, yn arbennig o glywed yr hyn a ddywedodd ein harbenigwr cyfreithiol ynglŷn â'r ffaith bod y Mesur hwn yn pontio rhwng dwy adran yn y Cynulliad.

[18] **Alun Davies:** Yr wyf yn hapus â hynny, os mai dyna ddymuniad y pwyllgor. Fodd bynnag, cawsom sesiwn dda yn trafod y

You will see that there are three specific cases where the affirmative procedure needs to be used, namely changing the circumstances when children are entitled to free transport, extending the arrangements for post-16 travellers and nursery-aged children, and the usual exemption where regulations either amend the provisions of an Assembly Measure or an Act of Parliament—again the affirmative procedure will need to be used.

In the other cases, which are quite minor, the matters have been noted in the annex. The Deputy First Minister recommends the negative procedure in those cases.

There is also the question of issuing guidelines. The Enterprise and Learning Committee, when it was considering this Measure in draft form, noted that it would be desirable to see those on a statutory basis rather than on a non-statutory basis. That is the only point that the committee considered in relation to the subordinate legislation powers.

Therefore, there is nothing unusual in the manner in which the subordinate legislation powers have been allocated in the Measure. It is a matter for this committee whether it wishes to hear from the Deputy First Minister on why it was decided to recommend these forms.

**David Lloyd:** Thank you, Gwyn. There are two matters for consideration, therefore. Are we content to continue to scrutinise this Measure; I would recommend that we are. The only other consideration is whether we decide to invite Ieuan Wyn Jones as the Minister responsible for the Measure, to this committee to give evidence as another way of scrutinising this Measure? Are there any comments? Is everyone agreed?

**Eleanor Burnham:** That is quite appropriate, particularly having listened to what our legal expert said regarding the fact that the Measure bridges two Assembly departments.

**Alun Davies:** I am happy with that, if that is the committee's wish. However, we had a good session discussing this matter with the

mater hwn gyda'r Dirprwy Weinidog dros Sgiliau. Nid wyf wedi fy argyhoeddi y byddem yn elwa llawer yn fwy drwy gael Gweinidog arall yma i ystyried yr un pwnc. Nid wyf yn siŵr beth yn ychwanegol y byddai Ieuan Wyn Jones yn ei ddweud a pha bynciau y byddem ni fel pwyllgor yn eu trafod â Ieuan Wyn Jones nad ydym wedi eu trafod â John Griffiths.

Deputy Minister for Skills. I am not convinced that we would benefit greatly by having another Minister here to consider the same topic. I am not certain what Ieuan Wyn Jones could say in addition and which issues we as a committee could discuss with Ieuan Wyn Jones that we did not discuss with John Griffiths.

[19] **David Lloyd:** Yr oedd hwnnw'n Fesur gwahanol a drafodwyd gyda John Griffiths, sef y Mesur Dysgu a Sgiliau (Cymru) 2008; y Mesur arfaethedig ynghylch Teithio gan Ddysgwyr (Cymru) sydd dan sylw heddiw.

**David Lloyd:** That was a different Measure that we discussed with John Griffiths, namely the Learning and Skills (Wales) Measure 2008. We are discussing the proposed Learner Travel (Wales) Measure today.

[20] **Eleanor Burnham:** Mae camgymeriad bach yn y fan honno. Credaf y dylem gael Ieuan Wyn yma—mae'n bwysig symud ymlaen. Dyma'r dryswch sy'n bodoli, ac mae hyn yn dangos y dylem gael pwerau deddfu sylfaenol cyn gynted ag sydd yn bosibl, i gael gwared â'r dryswch sy'n bodoli, yn enwedig ymhlith un plaid, efallai, a ddylai wybod yn well.

**Eleanor Burnham:** There is a minor error there. I believe that we should have Ieuan Wyn here—it is important that we move on. That is the confusion that exists, and shows that we should have primary legislative powers as soon as possible, to get rid of the confusion that exists, particularly among one party that should, perhaps, know better.

[21] **David Lloyd:** Efallai bod hynny'n gorymestyn pethau, Eleanor—yr oedd yn gamgymeriad syml.

**David Lloyd:** That may be overstretching things, Eleanor—it was a simple mistake.

[22] Felly, cytunwn i wahodd Ieuan Wyn Jones i'r pwyllgor, i roi tystiolaeth gerbron.

Therefore, we agree to invite Ieuan Wyn Jones to committee, to give evidence.

8.54 a.m.

### **Unrhyw Fater Arall Any Other Business**

[23] **David Lloyd:** Ni allaf fod yn bresennol yng nghyfarfod nesaf y pwyllgor, ddydd Mawrth nesaf, felly mae angen ethol cadeirydd dros-dro ar gyfer y cyfarfod hwnnw. Mae awgrym y byddai'n well gwneud hynny ymlaen llaw, yn hytrach na bod pawb yn chwilio ac yn chwalu fore Mawrth nesaf. Bydd y cyfarfod hwnnw am 8.45 a.m. hefyd, a chyfarfod syml fel heddiw fydd hwnnw.

**David Lloyd:** I cannot be present at the committee's next meeting, next Tuesday, so we need to elect a temporary chair for that meeting. It is suggested that we do that beforehand, rather than being unsure about it next Tuesday. That meeting will also be at 8.45 a.m., and it will be a straightforward meeting, like today's.

[24] Felly, gan na allaf fod yn bresennol, gall unrhyw Aelod eraill gael ei enwebu yn gadeirydd dros-dro. A oes unrhyw enwebiad?

Therefore, as I cannot be present, any other Member can be nominated as temporary chair. Are there any nominations?

[25] **Andrew R.T. Davies:** Is there a need for next week's meeting? We were going fortnightly at one time. Is there something in the system that we have to meet for?

[26] **David Lloyd:** Oes, mae Mesurau sy'n dod gerbron. Cyfarfod fel heddiw fydd cyfarfod yr wythnos nesaf, am 8.45 a.m.. Y gobaith yw y bydd yn rhedeg yr un mor llyfn â chyfarfod heddiw. Felly, a yw unrhyw un am fod yn gadeirydd?  
**David Lloyd:** Yes, there are Measures that will be coming before us. Next week's meeting will be a meeting like today's, at 8.45 a.m.. The hope is that it will run as smoothly as today's. Therefore, does anyone wish to be chair?

[27] **Eleanor Burnham:** Yr wyf yn enwebu Andrew.  
**Eleanor Burnham:** I nominate Andrew.

[28] **Alun Davies:** Yr wyf yn eilio'r enwebiad.  
**Alun Davies:** I second the nomination.

[29] **David Lloyd:** Felly, mae Andrew wedi ei ethol yn unfrydol—llongyfarchiadau. Mae'r cyfarfod am 8.45 a.m. ddydd Mawrth nesaf.  
**David Lloyd:** Therefore, Andrew has been unanimously elected—congratulations. The meeting is at 8.45 a.m. next Tuesday.

[30] **Andrew R.T. Davies:** Do I get the week's allowance, Chair? [*Laughter.*]

[31] **David Lloyd:** No, not for five minutes' work. [*Laughter.*]

[32] Diolch i bawb am eu presenoldeb y bore yma, a diolch am y cyfieithu.  
Thank you all for your attendance this morning, and thank you for the interpretation.

*Daeth y cyfarfod i ben am 8.55 a.m.  
The meeting ended at 8.55 a.m.*