



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

**Y Pwyllgor Materion Cyfansoddiadol
The Constitutional Affairs Committee**

**Dydd Iau, 17 Chwefror 2011
Thursday, 17 February 2011**

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Cofnodir y trafodion hyn yn yr iaith y llefarwyd hwy ynnddi 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

Alun Davies	Llafur Labour
William Graham	Ceidwadwyr Cymreig Welsh Conservatives
Rhodri Morgan	Llafur Labour
Janet Ryder	Plaid Cymru (Cadeirydd y Pwyllgor) The Party of Wales (Committee Chair)
Kirsty Williams	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats

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

Stephen George	Clerc Clerk
Gwyn Griffiths	Uwch-gynghorydd Cyfreithiol Senior Legal Adviser
Gareth Howells	Cyfreithiwr dan hyfforddiant Trainee Solicitor
Olga Lewis	Dirprwy Glerc Deputy Clerk
Lisa Salkeld	Cynghorydd Cyfreithiol Legal Adviser

Dechreuodd y cyfarfod am 9.31 a.m.
The meeting began at 9.31 a.m.

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

[1] **Janet Ryder:** Good morning everyone. I welcome Members, officials and members of the public to this morning's meeting of the Constitutional Affairs Committee. In an emergency, ushers will indicate the nearest safe exit. Headsets are available for translation and amplification. I ask everybody to switch off mobile devices completely. We have received no apologies.

Offerynnau ac Offerynnau Drafft na Fydd y Cynulliad yn Cael ei Wahodd i Roi Sylw Arbennig Iddynt o dan Reolau Sefydlog Rhif 15.2 a 15.3, Offerynnau sy'n Agored i Gael eu Dirymu yn unol â Phenderfyniad gan y Cynulliad (Y Weithdrefn Negyddol) ac Offerynnau Drafft sy'n Agored i Gael eu Cymeradwyo yn unol â Phenderfyniad gan y Cynulliad (Y Weithdrefn Gadarnhaol)
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[2] **Janet Ryder:** The first instrument is CA529, the Bee Diseases and Pests Control (Wales) (Amendment) Order 2011.

[3] **Mr Howells:** Mae rheoliad y Comisiwn Ewropeaidd yn gosod amodau ar gyflwyno gwenyn i'r Undeb Ewropeaidd. Mae'r Gorchymyn hwn yn gweithredu gofynion rheoliad y Comisiwn, megis gofynion o ran trosglwyddo gwenyn i gewyll newydd ac anfon y cewyll i labordy. Nid oes pwyntiau i'w hadrodd.

Mr Howells: The European Commission directive imposes conditions on introducing bees to the European Union. This Order implements the directive's requirements, such as requirements around transferring bees to new hives and sending the hives to a laboratory. There are no points to report.

[4] **Janet Ryder:** A yw pawb yn hapus gyda hynny? Gwelaf eich bod.

Janet Ryder: Is everyone content with that? I see that you are.

[5] The next instrument is CA533, the Local Curriculum in Higher Education Institutions (Wales) Regulations 2011.

[6] **Mr Griffiths:** Mae'r rheoliadau hyn yn ymwneud â chymhwyso'r cwricwlwm lleol i'r ychydig fyfyrwyr hynny dan 19 oed sydd yn cael rhan o'u haddysg mewn sefydliadau addysg uwch. Nid oes unrhyw beth arbennig i'w nodi o safbwynt technegol ar y rheoliadau hyn.

Mr Griffiths: These regulations deal with applying the local curriculum to those few students under the age of 19 who receive part of their education in higher education institutions. There is nothing in particular of a technical nature to report on these regulations.

[7] **Janet Ryder:** A yw pawb yn hapus gyda hynny? Gwelaf eich bod.

Janet Ryder: Is everyone content with that? I see that you are.

[8] The next instrument to be considered is CA530, the Children Act 1989 (Higher Education Bursary) (Wales) Regulations 2011.

[9] **Mr Howells:** Mae'r rheoliadau hyn yn rhagnodi mai'r bwrsari addysg uwch sy'n daladwy i fyfyrwyr penodol yw £2,000. I fod yn gymwys, rhaid i fyfyrwyr a oedd yn arfer bod o dan ofal awdurdod lleol fod yn 18 oed neu hŷn. Mae'n rhaid i'r myfyrwyr hefyd ddechrau cwrs addysg yn unol â chynllun llwybr y myfyrwyr. Eto, nid oes pwyntiau i'w hadrodd.

Mr Howells: These regulations specify that the higher education bursary payable to specific students is £2,000. To be eligible, students who used to be in the care of a local authority must be 18 years old or older. The students must also embark upon an education course in line with the students' learning pathway. Again, there are no points to report.

[10] **Janet Ryder:** Steve, was there a small point?

[11] **Mr George:** It is a very small point. The explanatory memorandum referred throughout to 'former relevant children', and other legalese, without telling us what that meant. It means kids that were formerly in care.

[12] **Rhodri Morgan:** People do not like that phrase anymore—it is supposed to be 'looked-after', not 'in care'. So, it should say 'previously looked-after children'.

[13] **Mr George:** Yes, or something like that. The explanatory memorandum was not particularly explanatory, but I am not suggesting that you need to report on that.

[14] **Rhodri Morgan:** It is an obfuscatory memorandum—an OM, not an EM.

[15] **Janet Ryder:** We have e-mailed the Government to highlight that issue. Is everyone content with that?

[16] **Rhodri Morgan:** It is an unusually obfusatory memorandum.

[17] **William Graham:** The first paragraph tells you what they are.

[18] **Janet Ryder:** In that case, we will move on to CA534, the Flood and Coastal Erosion Risk Management Information Appeal (Wales) Regulations 2011.

[19] **Mr Griffiths:** Mae'r rheoliadau hyn yn darparu cyfundrefn apelio i'r bobl hynny sydd wedi cael cosb sifil o dan Ddeddf Rheoli Llifogydd a Dŵr 2010. Unwaith eto, nid oes unrhyw bwyntiau technegol i'w nodi.

Mr Griffiths: These regulations provide for an appeals procedure for those people who have received a civil penalty under the Flood and Water Management Act 2010. Again, there are no technical points to note.

[20] **Janet Ryder:** A yw pawb yn hapus gyda hynny? Gwelaf eich bod.

Janet Ryder: Is everyone content with that? I see that you are.

9.34 a.m.

Offerynnau ac Offerynnau Drafft y Caiff y Cynulliad ei Wahodd i Roi Sylw Arbennig Iddynt o dan Reolau Sefydlog Rhifau 15.2 a/neu 15.3, Offerynnau sy'n Agored i Gael eu Dirymu yn unol â Phenderfyniad gan y Cynulliad (Y Weithdrefn Negyddol) ac Offerynnau Drafft sy'n Agored i Gael eu Cymeradwyo yn unol â Phenderfyniad gan y Cynulliad (Y Weithdrefn Gadarnhaol)
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[21] **Janet Ryder:** The first instrument is CA532, the Plastic Materials and Articles in Contact with Food (Wales) (Amendment) Regulations 2011.

[22] **Mr Griffiths:** Mae'r rheoliadau hyn yn cyflwyno diwygiad yn sgîl diwygiad mewn deddfwriaeth Ewropeaidd. Nid oes unrhyw beth arbennig i'w nodi o'r safbwynt hwnnw. Nodwyd un pwynt technegol, sef bod y rhagymadrodd yn cyfeirio at un darn o ddeddfwriaeth nas defnyddiwyd i wneud y rheoliadau hyn. Mae'r Llywodraeth yn cydnabod bod hynny'n gywir, ond nid oes angen gwneud unrhyw waith cywiro. Felly, mater technegol yn unig sydd i'w nodi.

Mr Griffiths: These regulations introduce an amendment as a result of amending European legislation. There is nothing in particular to report from that perspective. One technical point has been noted, namely that the introduction refers to a piece of legislation that was not used to make these regulations. The Government acknowledges that that is right, but no corrections need to be made. So, there is just one technical issue to note.

[23] **Janet Ryder:** Are Members content? I see that you are.

[24] Next we have CA531, the National Health Service (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2011. Gwyn, do you have any comments?

[25] **Mr Griffiths:** Byddwch yn cofio bod y rheoliadau hyn i fod i ddod gerbron y pwyllgor bythefnos yn ôl, ond fe'u tynnwyd yn ôl gan fod gwall wedi'i nodi gan y

Mr Griffiths: You will recall that these regulations were due to come before the committee a fortnight ago, but they were withdrawn because an error had been

Llywodraeth yn y memorandwm esboniadol. Oherwydd hynny, cymerwyd y cyfle i gywiro dau o'r gwallau a nodwyd yn yr adroddiad drafft gwreiddiol. Y trydydd pwynt a nodwyd oedd nad oedd rhai o'r pwerau y dibynnir arnynt i wneud y rheoliadau wedi'u cychwyn. Bellach, mae'r gorchmynion cychwyn wedi dod drwodd, felly nid oes pwynt technegol i'w nodi mewn perthynas â'r rheoliadau hyn.

identified by the Government in the explanatory memorandum. For that reason, we took the opportunity to correct two errors identified in the original draft report. The third issue raised was that some of the powers relied upon to make the regulations had been commenced. The commencement orders have now come through, so there is no technical point to note in relation to these regulations.

[26] **Janet Ryder:** You will note that you have a paper from the Members' research service on this, as these are the first regulations that have been published under the NHS Redress (Wales) Measure 2008, which was the first Measure passed by the Assembly. Given that these are the first regulations of the first Measure, would the committee consider it worth putting forward a short merits report on that, just to note the point?

[27] **Rhodri Morgan:** I have a comment following on from what William said about how the explanatory memorandum should read, so that you know what it applies to—and, even more importantly, what it does not apply to—right from the top. The paper refers to the fact that some of the complaints about the complaints procedure have been around the fact that it does not cover primary care very well, and, in response, the Government said that it is not supposed to cover primary care at all—forget it, that was not the intention. The first two paragraphs of the explanatory note state that there is no compensation payable for primary care complaints, but it does not say that the redress procedure does not apply to primary care. I am just trying to be clear in my mind. Am I misreading this? In paragraph 1, which is about the general purpose of the Measure, should it not say that you cannot have compensation for anything that goes wrong in primary care under this procedure? It only says that you cannot have compensation; it does not say that primary care is excluded from the redress Measure, unless I am misreading it.

[28] **Mr Griffiths:** Mae modd defnyddio'r gyfundrefn hon ar gyfer cwynion, ond nid ar gyfer hawlio iawndal. Er enghraifft, pe baech am gwyno am feddyg i'r bwrdd iechyd lleol, byddai'r rheoliadau hyn yn gymwys i'r drefn lle mae'r bwrdd iechyd yn ymchwilio i'r peth ac yn ymateb. Fodd bynnag, ni fydddech yn gallu hawlio iawndal o dan y rheoliadau hyn.

Mr Griffiths: This system can be used for complaints, but not for compensation. For example, if you wanted to complain about a doctor to the local health board, these regulations would apply to the system under which the health board investigates the matter and responds. However, you would not be able to claim compensation under these regulations.

[29] **Rhodri Morgan:** Efallai fy mod wedi camddarllen yr adroddiad.

Rhodri Morgan: I may have misread the report.

[30] **Alun Davies:** Yr wyf yn ddigon hapus i lunio adroddiad rhagoriaeth ar y rheoliadau hyn, ond nid wyf yn siŵr beth fyddai'r adroddiad hwnnw yn ei ddweud. Dyna beth sy'n achosi rhywfaint o bryder i mi. Mae'r papur ymchwil yn dangos bod y Llywodraeth wedi ymgynghori ac wedi newid ei meddwl ar sail yr ymgynghori. Oherwydd hynny, mae wedi gwneud yr hyn y mae'r pwyllgor hwn wedi gofyn iddi wneud.

Alun Davies: I am quite happy to compile a merits report on these regulations, but I am not sure what such a report would say. That is what causes me some concern. The research paper shows that the Government consulted on this and changed its mind on the basis of the consultation. As such, it has done what the committee asked it to do.

[31] **Janet Ryder:** It would not be a technical report; it would be a merits report. The

issue would be that these are the very first regulations. Given that the Measure is three years old—

[32] **Mr George:** The only purpose of a merits report would be to lay out what the Government has done, as a matter of legal or political importance. It would be to say that, despite our criticisms, we are satisfied. So, it is almost a clean bill of health report or an information report rather than being critical in any way. Whatever the initial criticisms, I do not think that this outlines any further criticism of the process.

[33] **Alun Davies:** I am happy with that, but I think that it would be worth noting that the committee was told that this was an urgent matter that had to be resolved immediately at the beginning of this Assembly; we are now within a month of dissolution and are finally seeing the regulations. If we are going to lay a report of this nature, a note about that should probably be included.

[34] **Janet Ryder:** Would everyone be content with that? I see that you would.

9.41 a.m.

Unrhyw Fusnes Arall Any Other Business

[35] **Janet Ryder:** There is no other business to note. The Assembly will not be meeting next week, as it is recess, so the next meeting would be on Thursday 3 March, which is the day of the referendum. However, we have managed to clear the legislation for that week, so there will be no need for a meeting. The next meeting of this committee will, therefore, be on 10 March. We had invited Carl Sargeant to come to that meeting to discuss the Police Reform and Social Responsibility Bill. That has now been overtaken by events, namely the vote in the Chamber, so I propose to invite John Griffiths, the Counsel General, to come to that meeting to discuss the situation that the Assembly might be facing. Are you content with that? I see that you are.

9.42 a.m.

Cynnig Trefniadol Procedural Motion

[36] **Janet Ryder:** I move that.

the committee resolves to exclude the public from the remainder of the meeting, in accordance with Standing Order No. 10.37.

[37] **Janet Ryder:** I see that the committee is in agreement.

*Derbyniwyd y cynnig.
Motion agreed.*

*Daeth rhan gyhoeddus y cyfarfod i ben am 9.42 a.m.
The public part of the meeting ended at 9.42 a.m.*