



Cynulliad Cenedlaethol Cymru

The National Assembly for Wales

Y Pwyllgor Busnes

The Business Committee

Dydd Mawrth, 21 Mehefin 2011
Tuesday, 21 June 2011

Cynnwys

Contents

- 2 Cyflwyniad ac Ymddiheuriadau
Introduction and Apologies
- 3 Newidiadau Arfaethedig i'r Rheolau Sefydlog yn Sgil y Refferendwm ar Bwerau'r Cynulliad
Proposed Changes to Standing Orders following the Assembly Powers Referendum
- 3 Newidiadau Arfaethedig i'r Rheolau Sefydlog yn Sgil y Refferendwm ar Bwerau'r Cynulliad: Biliau a Deddfau'r Cynulliad
Proposed Changes to Standing Orders following the Assembly Powers Referendum: Bills and Acts of the Assembly
- 4 Newidiadau Arfaethedig i'r Rheolau Sefydlog yn Sgil y Refferendwm ar Bwerau'r Cynulliad: Gorchmynion yn y Cyfrin Gyngor i Ddiwygio Cymhwysedd Deddfwriaethol y Cynulliad
Proposed Changes to Standing Orders following the Assembly Powers Referendum: Orders in Council to Amend the Assembly's Legislative Competence
- 4 Newidiadau Arfaethedig i'r Rheolau Sefydlog yn Sgil y Refferendwm ar Bwerau'r Cynulliad: Deddfwriaeth a Gynigir gan Aelod
Proposed Changes to Standing Orders following the Assembly Powers Referendum: Member Proposed Legislation
- 6 Newidiadau Arfaethedig i'r Rheolau Sefydlog yn Sgil y Refferendwm ar Bwerau'r Cynulliad: Newiadau Canlyniadol Ychwanegol
Proposed Changes to Standing Orders following the Assembly Powers Referendum: Additional Consequential Changes

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

| | |
|-----------------|--|
| Peter Black | Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats |
| Jocelyn Davies | Plaid Cymru The Party of Wales |
| Rosemary Butler | Llafur (Y Llywydd a Chadeirydd y Pwyllgor) Labour (The Presiding Officer and Committee Chair) |
| Jane Hutt | Llafur (Y Gweinidog Cyllid ac Arweinydd y Tŷ) Labour (The Minister for Finance and Leader of the House) |
| Nick Ramsay | Ceidwadwyr Cymreig Welsh Conservatives |

Eraill yn bresennol
Others in attendance

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|------------------|---|
| David Melding | Aelod Cynulliad, Ceidwadwyr Cymreig (Y Dirprwy Lywydd) Assembly Member, Welsh Conservatives (The Deputy Presiding Officer) |
| Marion Stapleton | Pennaeth Is-adran Busnes y Cynulliad a Rheoli Deddfwriaeth, Llywodraeth Cymru Head of the Assembly Business and Legislation Management Division, Welsh Government |

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

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|-----------------|---|
| Adrian Crompton | Cyfarwyddwr Busnes y Cynulliad Director of Assembly Business |
| Anna Daniel | Clerc Clerk |
| Llinos Madeley | Dirprwy Glerc Deputy Clerk |
| Siân Wilkins | Pennaeth Deddfwriaeth a Gwasanaethau'r Siambr Head of Legislation and Chamber Services |

Dechreuodd y cyfarfod am 8.56 a.m.
The meeting began at 8.56 a.m.

Cyflwyniad ac Ymddiheuriadau
Introduction and Apologies

The Presiding Officer: Good morning, everyone, and welcome to the Business Committee. Before we begin today's proceedings, I remind Members of the following housekeeping arrangements. This causes me some consternation as I am not sure what 'housekeeping' is anymore. I think that we will call them business arrangements in future, if we may. In the event of a fire alarm, you should leave the room by the marked fire exits and follow

instructions from the ushers and staff. There is no test forecast for today, so, if the alarm goes, it will be the real thing. All mobile phones, pagers and BlackBerrys should be switched off as they interfere with the broadcasting equipment. The National Assembly for Wales operates through both the media of Welsh and English. Interpretation is available on channel 1 and the verbatim feed on channel 0. Please do not touch any buttons on the microphones as that can disable the system. If you could make sure that the red light is on before you speak, that would be helpful.

8.57 a.m.

**Newidiadau Arfaethedig i'r Rheolau Sefydlog yn Sgil y Refferendwm ar
Bwerau'r Cynulliad
Proposed Changes to Standing Orders following the Assembly Powers
Referendum**

The Presiding Officer: In accordance with Standing Orders, it is a responsibility of this committee to consider proposals for changes to Standing Orders and to report our recommendations to the Assembly. Today, we are considering proposals to change Standing Orders in light of the 'yes' vote in March's referendum on the Assembly's legislative powers. We will consider matters relating to proposed changes to Standing Orders to provide arrangements for Bills and Acts of the Assembly, Orders in Council to amend the Assembly's legislative competence, Member proposed legislation and additional consequential changes.

**Newidiadau Arfaethedig i'r Rheolau Sefydlog yn Sgil y Refferendwm ar
Bwerau'r Cynulliad: Biliau a Deddfau'r Cynulliad
Proposed Changes to Standing Orders following the Assembly Powers
Referendum: Bills and Acts of the Assembly**

The Presiding Officer: Paper 1, paragraphs 10 to 14 and Annex 14, relate to procedures for the consideration of Assembly Bills. No significant changes to the procedures are necessary, and proposals for Assembly laws will still be subject to the same four-stage process as seen for proposed Measures during the third Assembly. Are there any comments from anyone?

Jocelyn Davies: It is a change in terminology, really. We will now be calling them Acts and Bills rather than Measures.

The Presiding Officer: Yes. That is absolutely right. Therefore, Standing Order No. 26 is to be amended to reflect the terminology changes required by commencement of Part 4 of the Government of Wales Act 2006, which is replacing references to proposed Measures and Measures with references to Bills and Acts respectively. It also updates reference to Bills being submitted to Royal Assent in accordance with section 115 of the Act. It also updates the correct cross-references to Part 4 of the Act. That is really what we are talking about this morning. Are you all comfortable with that? I see that you are.

8.58 a.m.

**Newidiadau Arfaethedig i'r Rheolau Sefydlog yn Sgil y Refferendwm ar
Bwerau'r Cynulliad: Gorchmynion yn y Cyfrin Gyngor i Ddiwygio
Cymhwysedd Deddfwriaethol y Cynulliad
Proposed Changes to Standing Orders following the Assembly Powers
Referendum: Orders in Council to Amend the Assembly's Legislative
Competence**

The Presiding Officer: Following the 'yes' vote in the referendum, Schedule 7 to the Act now defines the Assembly's legislative competence. Schedule 7 can be amended by an Order in Council under section 109 of the Act. This can only happen with the approval of the Assembly and both Houses of the UK Parliament. This replaces the arrangement in the third Assembly where legislative competence Orders were used to amend the Assembly's competence. Are there any comments?

We are asking for Standing Order No. 25 to be amended to allow a process by which section 109 Orders are considered by the Assembly. It is also updated to reflect the fact that there is no provision in Part 4 of the Act requiring the Secretary of State for Wales to lay a section 109 Order within 60 days or give notice in writing of refusal to lay. That is rather convoluted language.

9.00 a.m.

Jocelyn Davies: In the past, if there was a refusal to lay, the Presiding Officer was required to let us know.

I just wanted to mention one thing in relation to section 109 Orders, and that relates to whether there will be some mechanism for individual Members to propose extra powers for the Assembly. I think that there should be. It might not be used very often, or perhaps not at all—I think that Members have come to realise that such proposals are highly unlikely to succeed and become law. However, we know that Members, having won the ballot for an LCO, used the opportunity for all sorts of reasons. Sometimes they knew that the proposal would not succeed, but they still wanted to have a campaign or something. Therefore, I think that there should be a mechanism to allow them to propose an Order. If we are saying that a committee can make a proposal, I do not see any reason why we should prevent a backbencher from doing so as well.

The Presiding Officer: We will flesh that out under the next item, if we can agree on the other matter first.

Jocelyn Davies: Okay.

9.01 a.m.

**Newidiadau Arfaethedig i'r Rheolau Sefydlog yn Sgil y Refferendwm ar
Bwerau'r Cynulliad: Deddfwriaeth a Gynigir gan Aelod
Proposed Changes to Standing Orders following the Assembly Powers
Referendum: Member Proposed Legislation**

The Presiding Officer: Jocelyn's comments are very apt here, as we are looking at the individual Members issue under this item. In the third Assembly, the Welsh Government, the Assembly Commission, committees and individual Members were all permitted to propose Assembly Measures and legislative competence Orders, subject to specific requirements in Standing Orders. No changes are proposed here, so I am asking the committee to consider

whether a mechanism for individual Members to propose a section 109 Order is necessary.

Peter Black: Would that be part of the process whereby, as Jocelyn outlined, if you balloted for individual private Members' Bills, instead of putting forward a Bill a Member could put forward a section 109 Order?

The Presiding Officer: Could we have some legal advice on this point?

Ms Wilkins: It would be the process that we had before. So, it would rely on the Presiding Officer running two separate ballots: one for section 109 Orders and one for Bills. So, if you won a ballot for a Bill, you could only introduce a Bill—unless we were to change the Standing Orders.

Peter Black: I would consider that having a separate ballot for a section 109 Order would be problematic. The Presiding Officer, by inviting that, would, effectively, be undertaking a political act. If you were to say that, having won a ballot for a private Members' Bill, a Member could choose to propose either a Bill or a section 109 Order, then it would be the Member's choice to go for a section 109 Order.

Jocelyn Davies: And they have used their choice.

Peter Black: Yes. However, if there were to be a separate ballot for a section 109 Order, I think that that would be problematic.

Jocelyn Davies: I agree with Peter. If you are running a ballot, Members will put their names in anyway. However, I think that the choice should be available if you win the ballot for a Bill. Although, as I said, Members will soon realise that such proposals are not likely to succeed, I think that the choice should be available.

Nick Ramsay: I would go along with that. Does that mean that we need to change the Standing Orders? Is that the corollary?

Mr Crompton: Yes.

The Minister for Finance and Leader of the House (Jane Hutt): You will not be surprised to hear that, from the Government's perspective, we would be concerned about the resource implications of a section 109 route. As Jocelyn has recognised, it is unlikely that many of the proposals would get through. I would be grateful if we could look at this matter again. I am supporting the changes presented to us today, but this matter needs a little more thought from the Government's perspective and, clearly, from your perspective as Presiding Officer, as to how it is handled.

The Presiding Officer: Okay. We will bring the matter back and have a fuller report, but you understand what the Members are asking.

Jane Hutt: Yes.

The Presiding Officer: Okay. We will look at that next week, hopefully.

9.04 a.m.

**Newidiadau Arfaethedig i'r Rheolau Sefydlog yn Sgil y Refferendwm ar
Bwerau'r Cynulliad: Newiadau Canlyniadol Ychwanegol
Proposed Changes to Standing Orders following the Assembly Powers
Referendum: Additional Consequential Changes**

The Presiding Officer: The last item relates to consequential changes to Standing Orders that are required as a result of the decisions that we have taken during this morning's meeting. I will run through them, and the committee can comment afterwards. We need to agree that the interpretation section of Standing Orders should be updated to provide the necessary definitions of terminology used following the referendum, and that terminological—that is a very good word—changes in relation to Bills, Acts and section 109 Orders are reflected throughout the Standing Orders. Are Members comfortable with those two?

Nick Ramsay: I do not think that the campaign for clear English or clear Welsh would be pleased with that.

The Presiding Officer: Yes. I do not think that I have ever used the word 'terminological' before.

Are there any other issues that anyone wants to raise? I see that there are none.

That brings today's meeting to a close.

*Daeth y cyfarfod i ben am 9:05 a.m.
The meeting ended at 9:05 a.m.*