



Newidiadau arfaethedig i'r Rheolau Sefydlog yn dilyn y refferendwm ar bwerau'r Cynulliad – Gorchmynion adran 109

Diben

1. Yn unol â Rheol Sefydlog 11.7(iv), mae'r Pwyllgor Busnes yn gyfrifol am wneud argymhellion ar arferion a gweithdrefnau cyffredinol y Cynulliad, gan gynnwys unrhyw gynigion ar gyfer ail-wneud y Rheolau Sefydlog, neu eu diwygio.
2. Mae'r Pwyllgor Busnes yn argymhell newidiadau mewn perthynas â Rheolau Sefydlog 25 a 26. Bydd newidiadau canlyniadol hefyd yn angenrheidiol i Reol Sefydlog 24.
3. Mae'r newidiadau hyn i'r Rheolau Sefydlog yn angenrheidiol yn sgil y bleidlais gadarnhaol yn y refferendwm ar bwerau'r Cynulliad ar 3 Mawrth 2011 a rhoi darpariaethau Rhan 4 o Ddeddf Llywodraeth Cymru 2006 ar waith.
4. Yn dilyn cychwyn darpariaethau Rhan 4 o'r Ddeddf, mae atodlen 7 yn diffinio cymhwysedd deddfwriaethol y Cynulliad. Gellir diwygio Atodlen 7 (er enghraifft i ychwanegu pynciau newydd, i ehangu ar bynciau neu eu hegluro'n well, neu i ddileu eithriadau) drwy Orchymyn yn y Cyfrin Gyngor o dan adran 109 o'r Ddeddf ("Gorchymyn adran 109"). Rhaid cael cymeradwyaeth y Cynulliad a dau Dŷ Senedd y Deyrnas Unedig er mwyn i hyn ddigwydd.
5. Cytunwyd ar derminoleg newydd Rheol Sefydlog 25 gan y Cynulliad ym mis Gorffennaf 2011, er mwyn adlewyrchu'r newid hwn.

6. Ar yr adeg honno, cytunodd y Pwyllgor Buesnes i gyflwyno cynigion yn ystod tymor yr hydref a fyddai'n darparu prosesau i Aelodau, ac eithrio aelodau o'r Llywodraeth, gyflwyno cynigion i Orchmynion adran 109.

7. Gellir dod o hyd i'r newidiadau y cytunwyd arnynt gan y Pwyllgor Busnes yn Atodiad A. Caiff y Rheolau Sefydlog eu hailrifo fel y'u hamlinellir yn Atodiad B.

Cefndir

8. Yn ystod y Trydydd Cynulliad, roedd hynt llwyddiannus Gorchymyn arfaethedig Aelod yn dibynnu i raddau helaeth ar drafodaethau ag adrannau perthnasol Llywodraeth y Deyrnas Unedig. Yn ystod y Trydydd Cynulliad, cafodd dau Orchymyn arfaethedig Aelod Gydsyniad Brenhinol: Gorchymyn Jonathan Morgan AC ynghylch darparu gwasanaethau iechyd meddwl a Gorchymyn Ann Jones ynghylch diogelwch tân domestig.

9. Wrth ystyried yr opsiynau sy'n agored i Aelodau unigol gynnig Gorchmynion adran 109, penderfynodd y Pwyllgor Busnes y byddai parhau â'r system balot yn amhriodol oherwydd bod llai o ddisgwyliad y bydd Atodlen 7 yn cael ei diwygio o'i chymharu â'r trefniadau o dan Ran 3 ar gyfer diwygio atodlen 5. Hefyd, os a phryd bydd angen diwygio Atodlen 7, bydd gwneud hynny dim ond yn bosibl ar sail consensws rhwng y deddfwrfeydd a llywodraethau perthnasol. Roedd paratoi cynigion ar gyfer Gorchmynion adran 109 drwy falot a gynhelir gan y Llywydd felly'n cael ei ystyried i fod yn anghyson o ran y setliad fel y'i hamlinellir yn Rhan 4.

Rheol Sefydlog 25

Cynnig Gorchymyn

10. Mae'r Rheolau Sefydlog newydd yn darparu proses sy'n cynnwys Aelod yn cyflwyno cynnig yn galw ar y Llywodraeth i gyflwyno Gorchymyn arfaethedig o dan adran 109 o'r Ddeddf. Bydd angen Memorandwm Esboniadol i gyd-fynd â'r cynnig yn darparu gwybodaeth ar yr effaith y caiff y Gorchymyn arfaethedig ar gymhwysedd deddfwriaethol y Cynulliad; eglurhad o pam bod angen y Gorchymyn arfaethedig; a manylion unrhyw gefnogaeth a gafwyd ar gyfer y cynnig, gan gynnwys manylion unrhyw ymgynghoriad a gynhaliwyd;

11. Bydd yn rhaid i'r Pwyllgor Busnes gyfeirio unrhyw gynnig sydd wedi cael lefel benodol o gefnogaeth at bwyllgor neu bwyllgorau i'w ystyried yn fwy manwl. Diben cyfeiriad o'r fath fyddai gofyn i'r Pwyllgor gyflwyno adroddiad ar rinweddau'r cynnig erbyn dyddiad arbennig er mwyn i'r adroddiad hwnnw lywio unrhyw ystyriaeth a phenderfyniad sy'n dilyn gan y Cynulliad mewn perthynas â'r cynnig ar gyfer Gorchymyn adran 109.

12. Ar ôl i'r pwyllgor neu bwyllgorau gyflwyno adroddiad ar rinweddau'r cynnig ar gyfer Gorchymyn, neu os bydd y dyddiad cau ar gyfer gwneud hynny wedi mynd heibio, bydd yn rhaid i'r Pwyllgor Busnes neilltuo amser ar gyfer trafod y cynnig.

Meini prawf ar gyfer cyfeirio

13. Mae'r Rheol Sefydlog 25.29 newydd yn nodi'r maen prawf bod yn rhaid i gynnig gael cefnogaeth o leiaf ddeg o Aelodau sy'n perthyn i dair plaid wahanol o leiaf, gan gynnwys o leiaf un Aelod o grŵp â rôl weithredol, cyn bod yn rhaid i'r Pwyllgor Busnes gyfeirio'r cynnig at bwyllgor er mwyn iddo ei ystyried yn fanwl. Gellir mynegi'r gefnogaeth honno naill ai wrth gyflwyno'r cynnig, neu drwy Aelodau'n ychwanegu eu henwau at y cynnig ar ôl iddo gael ei gyflwyno.

Mwyafrif o ddwy ran o dair

14. Er mwyn i bleidlais ar gynnig sy'n galw ar Lywodraeth Cymru i gyflwyno Gorchymyn adran 109 gael ei phasio, cytunodd y Pwyllgor Busnes y dylai o leiaf ddwy ran o dair o'r Aelodau sy'n pleidleisio fod o blaid.

Rheol Sefydlog 26: Hawl i gyflwyno Bil

15. Bydd Rheol Sefydlog 26.86, sy'n rhoi'r hawl i Aelodau a gyflwynodd gynnig ar gyfer Gorchymyn Cymhwysedd Deddfwriaethol - a ddaeth yn Orchymyn yn y Cyfrin Gyngor ar ôl hynny - gyflwyno deddfwriaeth sy'n ymwneud â'r Gorchymyn hwnnw, yn cael ei dileu.

16. Yn wahanol i Orchymynion Cymhwysedd Deddfwriaethol arfaethedig Aelod yn ystod y Trydydd Cynulliad, Llywodraeth Cymru fydd yn symud y Gorchymyn ymlaen yn yr achos hwn. Mae'n bosibl y bydd y Gorchymyn terfynol yn wahanol iawn i'r un a fwriadwyd yn wreiddiol gan yr Aelod. Mae'n bosibl y bydd pynciau wedi'u hychwanegu neu eu dileu o'r Gorchymyn, a gallai ystyr 'ynghylch' fod yn anodd ei ddiffinio.

17. At hynny, bydd natur Gorchmynion adran 109 yn wahanol i Orchmynion Cymhwysedd Deddfwriaethol, a oedd wedi'u drafftio gyda'r bwriad o gyflwyno Mesur penodol ac a oedd felly yn tueddu i fod yn eithaf cul neu benodol eu cwmpas, yn arbennig felly y rhai a gynigwyd gan Aelodau.

Rheol Sefydlog 24: Newidiadau canlyniadol

18. O ganlyniad i'r gwelliannau hyn, bydd angen gwneud newidiadau canlyniadol i Reol Sefydlog 24 er mwyn adlewyrchu'r ffaith mai Biliau fydd yr unig fath o ddeddfwriaeth a gyflwynir gan Aelodau.

Penderfyniad

19. Cytunodd y Pwyllgor Busnes ar y newidiadau i'r Rheolau Sefydlog ar 8 Tachwedd 2011, a gwahoddir y Cynulliad i gymeradwyo'r cynnig fel yn Atodiad B.

STANDING ORDER 25 – Orders in Council to be made under section 109 of the Act	
<p>Member Proposed and Draft Orders <u>Proposals for an Order by a Member, other than a member of the Government</u></p>	<p>Amend these Standing Orders</p> <p>Standing Orders 25.26 – 25.34 provided procedures for Members of the Third Assembly to propose Legislative Competence Orders under Part 3 of the Government of Wales Act 2006.</p> <p>Given that the Assembly is now able to legislate within the 20 subject areas listed in schedule 7 to the Act, it is anticipated that the need to bring forward Orders in Council to amend Schedule 7 is likely to be reduced in comparison with the level of Legislative Competence Orders brought forward during the Third Assembly to amend schedule 5.</p> <p>The new draft SOs provide a mechanism for Members other than Members of the Government to table a motion proposing that the Welsh Government should bring forward a proposed Order.</p>
<p>25.26 Standing Orders 25.27 to 25.34 apply only to Member proposed and draft Orders</p>	<p>Delete this Standing Order</p> <p>This Standing Order is no longer necessary</p>
<p>25.27 The Presiding Officer must from time to time hold a ballot to determine the name of a Member, other than a member of the government, who may seek agreement to lay a Member proposed Order under Standing Order 25.30.</p> <p><u>Any Member, other than a member of the government, may table a motion calling on the government to introduce a proposed Order under Section 109 of the Act.</u></p>	<p>Replace this Standing Order</p>

<p>25.28 The Presiding Officer must include in the ballot the names of all those Members who have applied to be included and who have applied to be included and who have provided an outline proposed Order and an Explanatory Memorandum.</p> <p><u>At the same time that a Member tables a motion under 25.27, he or she must also table an explanatory memorandum which must provide the following information:</u></p> <p><u>i) the impact the proposal for an Order would have on the Assembly's legislative competence;</u></p> <p><u>ii) an explanation of why the Member considers the Order to be necessary;</u></p> <p><u>iii) details of any support received for the proposal, including details of any consultation carried out.</u></p>	<p>Replace this Standing Order</p> <p>Any Member tabling a motion under SO 25.27 will need to provide an explanatory memorandum including information similar to that which needs to be provided before entering the ballot for a Member proposed Bill.</p> <p>This both prevents spurious motions being tabled, and ensures that sufficient information is made available so that other Members can come to an informed decision about whether to support the motion or not.</p>
<p><u>25.29 No Member who has previously had agreement to lay a proposed Order in that Assembly may apply to be included in the ballot.</u></p> <p><u>If a motion tabled under Standing Order 25.27 has the support of at least ten Members who together belong to at least three different political groups, including at least one Member from a group with an executive role, the Business Committee must</u></p>	<p>Replace this Standing Order</p> <p>It is proposed that a motion must achieve a certain level of support, both in terms of absolute number of Members and cross-party support, before Business Committee has to refer the motion to a committee or committees for detailed consideration.</p> <p>That support could either be made clear at the time of tabling, or could result from Members adding their names to the motion after it has been tabled.</p>

<p><u>refer the motion and explanatory memorandum to a committee or committees for consideration.</u></p>	<p>The new Standing Order sets the threshold as ten members representing at least three different political groups, including at least one member from a group with an executive role.</p>
<p>25.30 A Member who is successful in a ballot may, within 25 working days of the date of the ballot, table a motion that the Assembly agrees that the Member may lay a proposed Order, to give effect to the outline proposed Order to which it relates, and an Explanatory Memorandum.</p> <p><u>Where a motion under Standing Order 25.27 is referred to a committee or committees for consideration in accordance with Standing Order 25.29, the Business Committee must establish and publish a timetable for the committee or committees to consider and report on it.</u></p>	<p>Replace this Standing Order</p> <p>This Standing Order ensures that the proposal is reported on within a reasonable timeframe, and is given appropriate priority by the committee or committees in question.</p>

<p>25.30A <u>Time must be made available for a motion referred to a committee or committees under Standing Order 25.29 to be debated, and such a motion cannot be moved until either:</u></p> <ul style="list-style-type: none"> (i) <u>the committee or committees have reported in accordance with Standing Order 22.59; or</u> (ii) <u>the deadline by which the committee or committees are required to report in accordance with Standing Order 25.29 has been reached.</u> 	<p>Introduce New Standing Order</p> <p>This Standing Order ensures that the proposal for an Order can be properly considered and scrutinised by the committee(s) in question before the motion calling on the Government to lay a proposed Order is debated.</p> <p>The Committee's report will inform Members' consideration of the motion.</p>
<p>25.31—A motion under Standing Order 25.27 is not amendable</p> <p><u>No amendment to a motion under Standing Order 25.27 may be tabled if it would not be clear from a resolution of the Assembly approving the motion as amended by such an amendment how the Assembly wished to see its legislative competence altered.</u></p>	<p>Replace this Standing Order</p> <p>The new Standing Order ensures as much clarity as possible in the motion passed, while allowing the motion to be amended in light of the committee's report.</p> <p>The new Standing Order gives the Presiding Officer discretion in the selection of amendments, and mirrors a similar provision which was in place during the Third Assembly for draft Orders.</p>

<p>25.31A <u>No motion under Standing Order 25.27 can be passed unless (if the motion is passed on a vote) at least two-thirds of the Members voting support it.</u></p>	<p>Insert new Standing Order</p> <p>The new Standing Order sets a threshold of two-thirds of members voting in favour before a motion calling on the Government to bring forward a section 109 Order is passed.</p>
<p>25.32 Time must be made available for a motion tabled under Standing Order 25.30 to be debated within 35 working days of the date of the ballot (not counting working days in a non-sitting week).</p>	<p>Delete this Standing Order</p>
<p>25.33 Unless a motion under Standing Order 25.30 is agreed to, no further proceedings are to be taken on the proposed Order.</p>	<p>Delete this Standing Order</p>
<p>25.34 If a motion under Standing Order 25.3027 is disagreed to, then no Member may <u>table a motion under enter any ballot held under Standing Order 25.27</u> for a period of six months after the motion has been disagreed to if, in the opinion of the Presiding Officer, the proposed Order which he or she is</p>	<p>Amend this Standing Order</p> <p>The new Standing Order provides for the continuation of the previous provision which prevented substantially the same proposal being made again within a six month period of being rejected by the Assembly.</p>

intending to lay motion seeks to confer the same, or substantially the same, legislative competence as the proposed Order referred to in the motion which has been disagreed to.	

STANDING ORDER 26 - Acts of the Assembly	
<p>26.86 Where a Member was the Member in charge of a Member proposed Order which became an Order in Council made by Her Majesty under section 95 of the Act, that Member may introduce one Member proposed Measure relating to that Order within nine months of the Order being made. This does not affect a Member's right to enter a ballot held under Standing Order 26.87.</p>	<p>Delete this Standing Order</p> <p>Members of the Third Assembly were able to propose Legislative Competence Orders under Part 3 of the Government of Wales Act 2006. This Standing Order provided that any Member who successfully steered a Legislative Competence Order to Royal Approval would automatically be able to introduce a proposed Measure which related to his or her original Legislative Competence Order.</p> <p>Unlike Member proposed LCOs during the Third Assembly, the Order in this case will in fact be taken forward by the Welsh Government. It is possible that the final Order will be very different to the one originally intended by the individual Member. Subjects could have been added to or removed from the Order, the meaning of 'related to' could be difficult to define.</p> <p>In addition, section 109 Orders will by their nature be different to Legislative Competence Orders, which were drafted with a view to introducing a specific Measure and could be quite narrow or specific in scope, in particular Member proposed LCOs.</p>

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STANDING ORDER 24 – Definition of Member in Charge of Legislation	
Member Legislation Bills	Amend Sub-heading Replace “Legislation” with “Bills”
24.14 Legislation Bills , which is <u>are</u> neither government legislation Bills , committee legislation Bills nor Commission legislation Bills , is <u>are</u> referred to as “Member <u>Bills</u> legislation ”.	Amend this Standing Order Replace “legislation” with “Bills” Replace “is” with “are”
24.15 The Member in charge of an item of a Member <u>Bill</u> legislation is: <ul style="list-style-type: none"> (i) the Member who laid or introduced the legislation, or who has had agreement to introduce or lay the legislation a Bill under Standing Orders 25.30 or 26.91 (or, in the case of a draft Order, the Member who introduced the proposed Order to which the draft Order relates); (ii) another Member authorised by the Member under Standing Order 24.15(i), by means of a statement 	Amend this Standing Order As Members will no longer be able to introduce proposed or draft Orders, this Standing Order required amending to reflect the fact that Bills will now be the only type of Member Legislation.

<p>to that effect laid by that Member; or</p> <p>(iii) if no such authorisation is made, any Member authorised by the Assembly.</p>	
<p>24.16 A Member may transfer an item of Member legislation <u>a Bill</u> to a member of the government authorised by the First Minister, by means of a statement to that effect laid by that Member.</p>	<p>Amend this Standing Order</p> <p>Replace “an item of Member legislation” with “a Bill”</p>
<p>24.17 When a Member transfers an item of Member legislation <u>a Bill</u> to a member of the government (in accordance with Standing Order 24.16), that item of legislation <u>Bill</u> is to be regarded, from then on, as an item of <u>a government Bill</u> legislation.</p>	<p>Amend this Standing Order</p> <p>Replace “an item of Member legislation” with “a Bill”</p> <p>Replace “item of legislation” with “Bill”</p> <p>Replace “an item of government legislation” with “a government Bill”</p>

ATODIAD B – Rheolau Sefydlog wedi eu diwygio sy'n adlewyrchu'r newidiadau a gynigir**RHEOL SEFYDLOG 25 – Gorchmynion yn y Cyfrin Gyngor i'w gwneud o dan adran 109 o'r Ddeddf****Cynigion am Orchymyn gan Aelod heblaw aelod o'r Llywodraeth**

- 25.26 Caiff unrhyw Aelod, heblaw aelod o'r Llywodraeth, gyflwyno cynnig sy'n galw ar y Llywodraeth i gyflwyno Gorchymyn arfaethedig o dan adran 109 o'r Ddeddf.
- 25.27 Ar yr un pryd ag y bydd Aelod yn cyflwyno cynnig o dan Reol Sefydlog 25.26, rhaid iddo hefyd gyflwyno memorandwm esboniadol a rhaid i'r memorandwm hwnnw gynnwys y wybodaeth a ganlyn:
- (i) yr effaith fyddai cynnig am Orchymyn yn ei chael ar gymhwysedd deddfwriaethol y Cynulliad;
 - (ii) esboniad o pam, ym marn yr Aelod, mae'r Gorchymyn yn angenrheidiol;
 - (iii) manylion unrhyw gefnogaeth a gafwyd i'r cynnig, gan gynnwys manylion unrhyw ymgynghori a wnaed.
- 25.28 Os bydd o leiaf ddeg Aelod, sy'n perthyn i dri grŵp gwleidyddol gwahanol neu fwy, gan gynnwys o leiaf un Aelod o grŵp sydd â rôl weithredol, yn cefnogi'r cynnig a gyflwynwyd o dan Reol Sefydlog 25.26, rhaid i'r Pwyllgor Busnes gyfeirio'r cynnig a'r memorandwm esboniadol at bwyllgor neu bwyllgorau i'w hystyried.
- 25.29 Os bydd cynnig o dan Reol Sefydlog 25.26 yn cael ei gyfeirio at bwyllgor neu bwyllgorau i'w ystyried yn unol â Rheol Sefydlog 25.28, rhaid i'r Pwyllgor Busnes sefydlu a chyhoeddi amserlen i'r pwyllgor neu'r pwyllgorau ystyried y cynnig a chyflwyno adroddiad arno.
- 25.30 Rhaid trefnu bod amser ar gael i drafod cynnig a gyfeiriwyd at bwyllgor neu bwyllgorau o dan Reol Sefydlog 25.28, ac ni chaniateir gwneud cynnig o'r fath naill ai:
- (i) nes bod y pwyllgor neu'r pwyllgorau wedi cyflwyno adroddiad yn unol â Rheol Sefydlog 22.59; neu
 - (ii) nes y dyddiad cau erbyn pryd y mae'n ofynnol i'r pwyllgor neu'r pwyllgorau gyflwyno adroddiad arno yn unol â Rheol Sefydlog 25.29.

- 25.31 Ni chaniateir cyflwyno gwelliant i gynnig o dan Reol Sefydlog 25.26 os na fyddai'n glir, yn sgil penderfyniad gan y Cynulliad i gymeradwyo'r cynnig fel y'i diwygiwyd gan welliant o'r fath, sut y byddai'r Cynulliad am weld ei gymhwysedd deddfwriaethol yn cael ei addasu.
- 25.32 Ni chaniateir pasio cynnig o dan Reol Sefydlog 25.26 (os caiff y cynnig ei basio drwy bleidlais) oni bai fod o leiaf ddwy ran o dair o'r Aelodau sy'n pleidleisio yn ei gefnogi.
- 25.33 Os gwrthodir cynnig o dan Reol Sefydlog 25.26, ni chaiff Aelod gyflwyno cynnig o dan Reol Sefydlog 25.26 am gyfnod o chwe mis ar ôl gwrthod y cynnig os yw'r cynnig, ym marn y Llywydd, yn ceisio rhoi yr un cymhwysedd deddfwriaethol, neu yr un cymhwysedd deddfwriaethol i raddau helaeth.

RHEOL SEFYDLOG 24 – Diffiniad o Aelod sy'n Gyfrifol am Ddeddfwriaeth

Biliau Aelod

- 24.14 Cyfeirir at Filiau nad ydynt naill ai'n Filiau llywodraeth, yn Filiau pwyllgor nac yn Filiau'r Comisiwn, fel "Biliau Aelod".
- 24.15 Yr Aelod sy'n gyfrifol am Fil Aelod yw:
- (i) yr Aelod a gafodd gytundeb i gyflwyno Bil o dan Reol Sefydlog 26.91;
 - (ii) Aelod arall sydd wedi'i awdurdodi gan yr Aelod o dan Reol Sefydlog 24.15(i), drwy gyfrwng datganiad i'r perwyl hwnnw a osodwyd gan yr Aelod hwnnw; neu
 - (iii) os na wneir awdurdodiad o'r fath, unrhyw Aelod sydd wedi'i awdurdodi gan y Cynulliad.
- 24.16 Caiff Aelod drosglwyddo Bil i aelod o'r llywodraeth sydd wedi'i awdurdodi gan Brif Weinidog Cymru, drwy gyfrwng datganiad i'r perwyl hwnnw a osodwyd gan yr Aelod hwnnw.
- 24.17 Pan fydd Aelod yn trosglwyddo Bil i aelod o'r llywodraeth (yn unol â Rheol Sefydlog 24.16), mae'r Bil hwnnw i'w gyfrif, o hynny allan, fel Bil llywodraeth.

RHEOL SEFYDLOG 26 – Deddfau'r Cynulliad

- 26.86 [*Dilëwyd y Rheol Sefydlog hon drwy benderfyniad y Cynulliad ar (dyddiad)*]