

Cynulliad  
Cenedlaethol  
Cymru  
National  
Assembly for  
Wales



## HYSBYSIAD YNGHYLCH GWELLIANNAU NOTICE OF AMENDMENTS

Cyflwynwyd ar 26 Tachwedd 2010  
Tabled on 26 November 2010

Mesur Arfaethedig y Gymraeg (Cymru)  
Proposed Welsh Language (Wales) Measure

**Alun Ffred Jones**

**1**

Section 26, page 28, line 30, leave out 'Regulations under section 25(2) may, amongst other things, make provision about' and insert 'Standards specified under section 25(1), or regulations under section 25(2), may, among other things, deal with'.

Adran 26, tudalen 28, llinell 33, gadewch allan 'Caiff rheoliadau o dan adran 25(2) ddarparu, ymhlith pethau eraill, ar gyfer' a rhowch yn ei le 'Caiff safonau a bennir o dan adran 25(1), neu reoliadau o dan adran 25(2), ymdrin, ymhlith pethau eraill, ag'.

**Alun Ffred Jones**

**2**

Section 28, page 30, line 1, leave out 'working towards ensuring that the Welsh language is treated' and insert 'treating the Welsh language'.

Adran 28, tudalen 30, llinell 1, gadewch allan 'weithio tuag at sicrhau nad yw'r Gymraeg yn cael ei thrin' a rhowch yn ei le 'beidio â thrin y Gymraeg'.

**Alun Ffred Jones**

**3**

Section 28, page 30, line 7, leave out 'working towards ensuring that the Welsh language is treated' and insert 'treating the Welsh language'.

Adran 28, tudalen 30, llinell 7, gadewch allan 'weithio tuag at sicrhau nad yw'r Gymraeg yn cael ei thrin' a rhowch yn ei le 'beidio â thrin y Gymraeg'.

**Alun Ffred Jones**

**4**

Section 28, page 30, line 13, leave out 'working towards ensuring that the Welsh language is treated' and insert 'treating the Welsh language'.

Adran 28, tudalen 30, llinell 13, gadewch allan 'weithio tuag at sicrhau nad yw'r Gymraeg yn cael ei thrin' a rhowch yn ei le 'beidio â thrin y Gymraeg'.

**Alun Ffred Jones**

**5**

Section 57A, page 44, after line 29, insert –

'(8) This section is subject to Tribunal Rules.'

Adran 57A, tudalen 44, ar ôl llinell 33, ychwanegwch –

'(8) Mae'r adran hon yn ddarostyngedig i Reolau'r Tribiwnlys.'

**Alun Ffred Jones**

**6**

Page 50, line 21, leave out section 68.

Tudalen 50, llinell 22, gadewch allan adran 68.

**Alun Ffred Jones**

7

Section 75, page 53, after line 26, insert –

- ( ) If the investigation that led to the determination follows a complaint under section 94, the relevant decision notice must inform the person who made the complaint of the right to appeal under section [ ].’.

Adran 75, tudalen 53, ar ôl llinell 27, ychwanegwch –

- ( ) Os yw’r ymchwiliad a arweiniodd at y dyfarniad yn dilyn cwyn a wnaed o dan adran 94, rhaid i’r hysbysiad penderfynu perthnasol roi gwybod i’r person a wnaeth y gŵyn am yr hawl i apelio o dan adran [ ].’.

**Alun Ffred Jones**

8

Section 75, page 53, after line 27, insert –

- ( ) In this section, “relevant decision notice” means the decision notice which the Commissioner is required by section 72 to give to the person who made the complaint under section 94.’.

Adran 75, tudalen 53, ar ôl llinell 28, ychwanegwch –

- ( ) Yn yr adran hon ystyr “hysbysiad penderfynu perthnasol” yw’r hysbysiad penderfynu y mae adran 72 yn ei gwneud yn ofynnol i’r Comisiynydd ei roi i’r person a wnaeth y gŵyn o dan adran 94.’.

**Alun Ffred Jones**

9

To insert a new Section –

**[ ] Consultation before final determination following an appeal**

- (1) This section applies if the Commissioner is directed, following an appeal under section [ ] or [ ], or following any further appeal, to determine under section 72 that D has failed to comply with a standard (the “new determination”).
- (2) Before finally deciding what, if any further action to take based upon the new determination, the Commissioner must give each interested person –

- (a) notice of whether or not the Commissioner is proposing to take further action, and a statement of the Commissioner's reasons for proposing to do so;
  - (b) if the Commissioner is proposing to take further action, notice of that proposed action, and a statement of the Commissioner's reasons for proposing to take that action; and
  - (c) copies of the draft of the decision notice which the Commissioner is proposing to give.
- (3) Before settling the investigation report, the Commissioner must give each interested person a draft of the proposed report.
- (4) The Commissioner must—
- (a) give D an opportunity to make representations about the proposals referred to in subsections (2) and (3), and
  - (b) give any other interested person an opportunity to make representations about the proposals referred to in subsection (3).
- (5) The Commissioner must have due regard to any representations made by D or any other interested person under subsection (4).
- (6) The Commissioner is to determine the period within which a person may make representations in accordance with subsection (4); but the period must not be less than 28 days.'

I ychwanegu Adran newydd—

**[ ] Ymgynghori cyn dyfarnu'n derfynol yn dilyn apêl**

- (1) Mae'r adran hon yn gymwys os cyfarwyddir y Comisiynydd, yn dilyn apêl o dan adran [ ] neu [ ], neu'n dilyn unrhyw apêl bellach, i ddyfarnu o dan adran 72 bod D wedi methu â chydymffurfio â safon (y "dyfarniad newydd").
- (2) Cyn penderfynu'n derfynol pa weithredu pellach i'w wneud, os o gwbl, ar sail y dyfarniad newydd, rhaid i'r Comisiynydd roi i bob person a chanddo fuddiant—
  - (a) hysbysiad yn nodi a yw'r Comisiynydd yn bwriadu gweithredu ymhellach ai peidio, a datganiad am resymau'r Comisiynydd dros fwriadu gwneud hynny;
  - (b) os yw'r Comisiynydd yn bwriadu gweithredu ymhellach, hysbysiad yn nodi'r camau y mae'n bwriadu eu cymryd, a datganiad am resymau'r Comisiynydd dros fwriadu gweithredu felly; ac
  - (c) copïau drafft o'r hysbysiad penderfynu y mae'r Comisiynydd yn bwriadu ei roi.
- (3) Cyn setlo adroddiad yr ymchwiliad, rhaid i'r Comisiynydd roi drafft o'r adroddiad arfaethedig i bob person a chanddo fuddiant.
- (4) Rhaid i'r Comisiynydd—
  - (a) rhoi cyfle i D i wneud sylwadau ynghylch y cynigion y cyfeirir atynt yn is-adrannau (2) a (3), a

- (b) rhoi cyfle i unrhyw berson arall a chanddo fuddiant i wneud sylwadau ynghylch y cynigion y cyfeirir atynt yn is-adran (3).
- (5) Rhaid i'r Comisiynydd roi sylw dyladwy i unrhyw sylwadau a wneir gan D neu gan unrhyw berson arall a chanddo fuddiant o dan is-adran (4).
- (6) Y Comisiynydd sydd i bennu'r cyfnod a ganiateir i berson ar gyfer gwneud sylwadau yn unol ag is-adran (4); ond rhaid i'r cyfnod beidio â bod yn llai na 28 o ddiwrnodau.'

**Alun Ffred Jones**

**10**

Section 85, page 59, line 35, leave out 'an investigation under section 70' and insert 'a determination under section 72'.

Adran 85, tudalen 59, llinell 35, gadewch allan 'ag ymchwiliad o dan adran 70' a rhowch yn ei le 'â dyfarniad o dan adran 72'.

**Alun Ffred Jones**

**11**

Section 91, page 62, after line 8, insert –

- '() But D may not appeal to the Tribunal under subsection (2) if the Commissioner has been directed, following an appeal under section [ ] or [ ], or any further appeal, to determine that D did fail to comply with the relevant requirement.'

Adran 91, tudalen 62, ar ôl llinell 8, ychwanegwch –

- '() Ond ni chaiff D apelio i'r Tribiwnlys o dan is-adran (2) os yw'r Comisiynydd wedi ei gyfarwyddo, yn dilyn apêl o dan adran [ ] neu [ ], neu unrhyw apêl bellach, i ddyfarnu bod D wedi methu â chydymffurfio â'r gofyniad perthnasol.'

**Alun Ffred Jones**

**12**

Section 93, page 63, line 29, leave out 'P' and insert 'D'.

Adran 93, tudalen 63, llinell 33, gadewch allan 'P' a rhowch yn ei le 'D'.

**Alun Ffred Jones**

**13**

Section 93, page 63, after line 34, insert –

‘(8) This section is subject to Tribunal Rules.’.

Adran 93, tudalen 63, ar ôl llinell 38, ychwanegwch –

‘(8) Mae’r adran hon yn ddarostyngedig i Reolau’r Tribiwnlys.’.

**Alun Ffred Jones**

**14**

Section 93A, page 64, line 6, after ‘investigation’, insert ‘, and

(c) P is not a party to those proceedings’.

Adran 93A, tudalen 64, llinell 6, ar ôl ‘ymchwiliad’, ychwanegwch ‘, ac

(c) os nad yw P yn barti yn yr achos hwnnw’.

**Alun Ffred Jones**

**15**

Section 93A, page 64, leave out lines 8 to 9.

Adran 93A, tudalen 64, gadewch allan linellau 8 hyd at 9.

**Alun Ffred Jones**

**16**

Section 93A, page 64, line 10, leave out ‘the appeal’ and insert ‘an appeal under section 91’.

Adran 93A, tudalen 64, llinell 10, gadewch allan ‘yr apêl’ a rhowch yn ei le ‘apêl o dan adran 91’.

**Alun Ffred Jones**

**17**

Section 93A, page 64, after line 11, insert –

- ( ) as soon as reasonably practicable after being informed of an appeal under section 93 or any further appeal, give the person who made the complaint notice that the appeal has been made, and
- ( ) as soon as reasonably practicable after being informed of the outcome of an appeal under section 93 or of the outcome of a further appeal, give the person who made the complaint notice of the outcome.’.

Adran 93A, tudalen 64, ar ôl llinell 11, ychwanegwch –

- ( ) cyn gynted ag y bo’n rhesymol ymarferol ar ôl cael ei hysbysu o apêl o dan adran 93, neu unrhyw apêl bellach, roi i’r person a wnaeth y gŵyn hysbysiad yn nodi bod yr apêl wedi ei gwneud, ac
- ( ) cyn gynted ag y bo’n rhesymol ymarferol ar ôl cael ei hysbysu o ganlyniad apêl o dan adran 93 neu o ganlyniad apêl bellach, roi i’r person a wnaeth y gŵyn hysbysiad yn nodi’r canlyniad.’.

**Alun Ffred Jones**

**18**

To insert a new Section –

## **‘CHAPTER [ ]**

### **APPEALS BY THE COMPLAINANT**

*Appeals against a determination that D has not failed to comply with a standard*

#### **[ ] Right of appeal by P**

- (1) This section applies if –
  - (a) a person (P) makes a complaint under section 94,
  - (b) the Commissioner undertakes an investigation under section 70 following the complaint, and
  - (c) the Commissioner determines that D has not failed to comply with a standard.
- (2) P may appeal to the Tribunal on the grounds that D did fail to comply with the standard.
- (3) An appeal under this section must be made before the end of the relevant 28 day period.

- (4) But the Tribunal may, on a written application by P, allow an appeal to be made after the end of that period if the Tribunal is satisfied that there is a good reason –
  - (a) for the failure to appeal before the end of that period, and
  - (b) if there has been any delay in applying for permission to appeal out of time, for that delay.
- (5) An application under subsection (4) may be made before or after the end of the relevant 28 day period.
- (6) The Tribunal must notify P and the Commissioner of its decision on an appeal made under this section.
- (7) This section is subject to Tribunal Rules (which may, amongst other things, make provision about the manner in which appeals under this section may be brought).
- (8) In this Chapter “relevant 28 day period” means the period of 28 days beginning with the day on which the Commissioner gives P the decision notice in relation to the investigation.’.

I ychwanegu Adran newydd –

#### ‘PENNOD [ ]

##### APELAU GAN YR ACHWYNYDD

*Apelau yn erbyn dyfarniad nad yw D wedi methu â chydymffurfio â safon*

#### [ ] **Hawl P i apelio**

- (1) Mae’r adran hon yn gymwys –
  - (a) os yw person (P) yn gwneud cwyn o dan adran 94,
  - (b) os yw’r Comisiynydd yn cynnal ymchwiliad o dan adran 70 yn dilyn y gŵyn, ac
  - (c) os yw’r Comisiynydd yn dyfarnu nad yw D wedi methu â chydymffurfio â safon.
- (2) Caiff P apelio i’r Tribiwnlys ar y sail bod D wedi methu â chydymffurfio â’r safon.
- (3) Rhaid i apêl o dan yr adran hon gael ei gwneud cyn diwedd y cyfnod perthnasol o 28 o ddiwrnodau.
- (4) Ond caiff y Tribiwnlys, pan wneir cais ysgrifenedig gan P, ganiatáu i apêl gael ei gwneud ar ôl diwedd y cyfnod hwnnw os yw’r Tribiwnlys wedi ei fodloni bod rheswm da –
  - (a) dros y methiant i apelio cyn diwedd y cyfnod hwnnw, a
  - (b) os oes unrhyw oedi wedi bod cyn gwneud cais am ganiatâd i apelio ar ôl yr amser priodol, dros yr oedi hwnnw.



- (5) Caniateir i gais o dan is-adran (4) gael ei wneud cyn diwedd neu ar ôl diwedd y cyfnod perthnasol o 28 o ddiwrnodau.
- (6) Rhaid i'r Tribiwnlys hysbysu P a'r Comisiynydd o'i benderfyniad ar apel o dan yr adran hon.
- (7) Mae'r adran hon yn ddarostyngedig i Reolau'r Tribiwnlys (sy'n cael gwneud, ymysg pethau eraill, ddarpariaeth ynghylch y modd y ceir dwyn apelau o dan yr adran hon).
- (8) Yn y Bennod hon ystyr "cyfnod perthnasol o 28 o ddiwrnodau" yw'r cyfnod o 28 o ddiwrnodau sy'n dechrau ar y diwrnod y mae'r Comisiynydd yn rhoi'r hysbysiad penderfynu i P mewn perthynas â'r ymchwiliad.'

**Alun Ffred Jones**

**19**

To insert a new Section –

**[ ] Powers of Tribunal on appeal by P**

- (1) On an appeal under section [ ], the Tribunal may –
  - (a) affirm the Commissioner's determination, or
  - (b) annul the Commissioner's determination.
- (2) If the Tribunal annuls the Commissioner's determination (the "original determination"), the Tribunal must direct the Commissioner to determine under section 72 that D has failed to comply with the standard (the "new determination").
- (3) If the Tribunal gives the Commissioner a direction under subsection (2), the Commissioner must revoke the decision notice and investigation report given under section 72 in relation to the original determination.
- (4) Section 72(3) and (4), and the other provisions of this Measure, apply to the new determination as they apply to any other determination under section 72.
- (5) The investigation report given under section 72(3) in relation to the new determination must include a statement that the Commissioner has made the new determination in compliance with a direction by the Tribunal.
- (6) In their application in relation to the new determination, sections 76, 77, 78, 81 and 83 are subject to section [ ] but not to section 84.'

I ychwanegu Adran newydd –

**[ ] Pwerau'r Tribiwnlys pan wneir apêl gan P**

- (1) Pan wneir apêl o dan adran [ ], caiff y Tribiwnlys –
  - (a) cadarnhau dyfarniad y Comisiynydd, neu
  - (b) diddymu dyfarniad y Comisiynydd.
- (2) Os yw'r Tribiwnlys yn diddymu dyfarniad y Comisiynydd (y “dyfarniad gwreiddiol”), rhaid i'r Tribiwnlys gyfarwyddo'r Comisiynydd i ddyfarnu o dan adran 72 fod D wedi methu â chydymffurfio â'r safon (y “dyfarniad newydd”).
- (3) Os yw'r Tribiwnlys yn cyfarwyddo'r Comisiynydd o dan is-adran (2), rhaid i'r Comisiynydd ddirymu'r hysbysiad penderfynu a'r adroddiad ar ymchwiliad a roddwyd o dan adran 72 mewn perthynas â'r dyfarniad gwreiddiol.
- (4) Mae adran 72(3) a (4), a darpariaethau eraill y Mesur hwn, yn gymwys i'r dyfarniad newydd fel y maent yn gymwys i unrhyw ddyfarniad arall o dan adran 72.
- (5) Rhaid i'r adroddiad ar ymchwiliad a roddir o dan adran 72(3) mewn perthynas â'r dyfarniad newydd gynnwys datganiad bod y Comisiynydd wedi gwneud y dyfarniad newydd i gydymffurfio â chyfarwyddyd gan y Tribiwnlys.
- (6) I'r graddau y mae adrannau 76, 77, 78, 81 ac 83 yn gymwys i'r dyfarniad newydd, maent yn ddarostyngedig i adran [ ] ond nid i adran 84.'.

**Alun Ffred Jones**

**20**

To insert a new Section –

**[ ] Appeals from Tribunal**

- (1) This section applies if the Tribunal has decided an appeal under section [ ].
- (2) The Commissioner or P may, with the permission of the Tribunal or High Court, appeal to the High Court on a question of law arising out of the decision.
- (3) If the High Court finds that the Tribunal has made an error on a point of law, the High Court –
  - (a) may set aside the decision of the Tribunal, and
  - (b) if it sets the decision aside, must either –
    - (i) remit the case to the Tribunal with directions for its reconsideration, or
    - (ii) re-make the decision.
- (4) The directions that the High Court may give under subsection (3)(b)(i) include, but are not limited to, either or both of the following –
  - (a) a direction that the persons who are to reconsider the case must not be the persons who made the decision that has been set aside,

- (b) procedural directions in connection with the reconsideration of the case.
- (5) In re-making the decision in accordance with subsection (3)(b)(ii), the High Court –
  - (a) may make any decision which the Tribunal could make if the Tribunal were making the decision, and
  - (b) may make such findings of fact as the High Court thinks appropriate.
- (6) An application for permission to appeal must be made to the Tribunal or High Court within the period of 28 days beginning with the day when the Tribunal notified the person making the application of its decision on the appeal under section [ ].
- (7) But the Tribunal or High Court may, on a written application by the Commissioner or P, allow an appeal to be made after the end of that period if the Tribunal or High Court is satisfied that there is a good reason –
  - (a) for the failure to apply for permission to appeal before the end of that period, and
  - (b) if there has been any delay in applying for permission to appeal out of time, for that delay.
- (8) This section is subject to Tribunal Rules.’.

I ychwanegu Adran newydd –

**[ ] Apellau o’r Tribiwnlys**

- (1) Mae’r adran hon yn gymwys os yw’r Tribiwnlys wedi penderfynu apêl o dan adran [ ].
- (2) Caiff y Comisiynydd neu P, gyda chaniatâd y Tribiwnlys neu’r Uchel Lys, apelio i’r Uchel Lys ar bwynt cyfreithiol sy’n deillio o’r penderfyniad.
- (3) Os yw’r Uchel Lys yn dyfarnu bod y Tribiwnlys wedi gwneud camgymeriad ar bwynt cyfreithiol –
  - (a) caiff yr Uchel Lys osod penderfyniad y Tribiwnlys o’r naill du, a
  - (b) os bydd yr Uchel Lys yn gosod y penderfyniad o’r naill du, rhaid iddo naill ai –
    - (i) anfon yr achos yn ôl i’r Tribiwnlys gyda chyfarwyddyd ar gyfer ei ailystyried, neu
    - (ii) ail-wneud y penderfyniad.
- (4) Mae’r cyfarwyddiadau y caniateir i’r Uchel Lys eu rhoi o dan is-adran (3)(b)(i) yn cynnwys y naill neu’r llall neu’r naill a’r llall o’r canlynol, ond nid ydynt wedi eu cyfyngu iddynt –
  - (a) cyfarwyddyd na all y personau sydd i ailystyried yr achos fod yr un rhai â’r personau a wnaeth y penderfyniad sydd wedi ei roi o’r naill du,
  - (b) cyfarwyddiadau gweithredu mewn cysylltiad ag ailystyried yr achos.
- (5) Wrth ail-wneud y penderfyniad yn unol ag is-adran (3)(b)(ii), caniateir i’r Uchel Lys –

- (a) gwneud unrhyw benderfyniad y gallai'r Tribiwnlys ei wneud pe bai'r Tribiwnlys yn gwneud y penderfyniad, a
  - (b) gwneud y canfyddiadau ffeithiol sy'n briodol yn nhyb yr Uchel Lys.
- (6) Rhaid i gais am ganiatâd i apelio gael ei wneud i'r Tribiwnlys neu i'r Uchel Lys o fewn y cyfnod o 28 o ddiwrnodau sy'n dechrau ar y diwrnod yr hysbysodd y Tribiwnlys y person sy'n gwneud y cais o'i benderfyniad ar yr apêl o dan adran [ ].
- (7) Ond caiff y Tribiwnlys neu'r Uchel Lys, ar gais ysgrifenedig gan y Comisiynydd neu P, ganiatáu i apêl gael ei gwneud ar ôl diwedd y cyfnod hwnnw os yw'r Tribiwnlys neu'r Uchel Lys wedi ei fodloni bod rheswm da –
- (a) dros y methiant i wneud cais am ganiatâd i apelio cyn diwedd y cyfnod hwnnw, a
  - (b) os oes unrhyw oedi wedi bod cyn gwneud cais am ganiatâd i apelio ar ôl yr amser priodol, dros yr oedi hwnnw.
- (8) Mae'r adran hon yn ddarostyngedig i Reolau'r Tribiwnlys.'

Alun Ffred Jones

21

To insert a new Section –

**'[ ] Commissioner's duty on an appeal by P**

- (1) This section applies if –
- (a) the Commissioner has carried out an investigation under section 70 following a complaint under section 94,
  - (b) an appeal under section [ ] or [ ], or any further appeal, is made in relation to the investigation, and
  - (c) D is not a party to those proceedings.
- (2) The Commissioner must –
- (a) as soon as reasonably practicable after being informed of the outcome of an appeal under section [ ], give D notice of the outcome,
  - (b) as soon as reasonably practicable after being informed of an appeal under section [ ] or any further appeal, give D notice that the appeal has been made, and
  - (c) as soon as reasonably practicable after being informed of the outcome of an appeal under section [ ] or of the outcome of a further appeal, give D notice of the outcome.'

I ychwanegu Adran newydd –

**[ ] Dyletswydd y Comisiynydd pan wneir apêl gan P**

- (1) Mae'r adran hon yn gymwys –
  - (a) os yw'r Comisiynydd wedi cynnal ymchwiliad o dan adran 70 yn dilyn cwyn o dan adran 94,
  - (b) os gwneir apêl o dan adran [ ] neu [ ], neu os gwneir unrhyw apêl bellach, mewn perthynas â'r ymchwiliad, ac
  - (c) os nad yw D yn barti yn yr achos hwnnw.
- (2) Rhaid i'r Comisiynydd –
  - (a) cyn gynted ag y bo'n rhesymol ymarferol ar ôl cael ei hysbysu o ganlyniad apêl o dan adran [ ], roi hysbysiad i D yn nodi'r canlyniad,
  - (b) cyn gynted ag y bo'n rhesymol ymarferol ar ôl cael ei hysbysu o apêl o dan adran [ ], neu unrhyw apêl bellach, roi hysbysiad i D yn nodi bod yr apêl wedi ei gwneud, ac
  - (c) cyn gynted ag y bo'n rhesymol ymarferol ar ôl cael ei hysbysu o ganlyniad apêl o dan adran [ ] neu o ganlyniad apêl bellach, roi hysbysiad i D yn nodi'r canlyniad.'.

**Alun Ffred Jones**

**22**

To insert a new Section –

**'CHAPTER [ ]**

**REVIEW BY THE COMPLAINANT**

*Review of Commissioner's failure to investigate a complaint*

**[ ] P's right of review**

- (1) This section applies if P makes a complaint to the Commissioner under section 94 about D's conduct ("the alleged conduct"), whether or not that complaint is a valid complaint under that section.
- (2) P may, with the permission of the Tribunal, apply to the Tribunal to review the decision of the Commissioner in any of the cases specified in this section.
- (3) The Tribunal must, subject to section [ ], deal with an application for such a review as if it were an application for judicial review made to the High Court.
- (4) The Tribunal must give permission to apply where the Tribunal considers that –
  - (a) the application would have a reasonable prospect of success, or

- (b) there is some other compelling reason why the application should be heard.
- (5) The first case referred to in subsection (2) is where –
  - (a) the duty under section 94 to consider whether to carry out an investigation of the alleged conduct applies, and
  - (b) the Commissioner decides not to carry out an investigation.
- (6) The second case is where –
  - (a) section 94(7) applies in relation to a complaint, and
  - (b) the Commissioner decides not to consider whether to carry out an investigation of the alleged conduct.
- (7) The third case is where the Commissioner decides that the duty under section 94 to consider whether to carry out an investigation of the alleged conduct does not apply.
- (8) The fourth case is where –
  - (a) the duty under section 94 to consider whether to carry out an investigation of the alleged conduct does not apply, and
  - (b) the Commissioner decides not to consider whether to carry out an investigation of the alleged conduct under section 94(8) or, having considered whether to carry out an investigation under that section, decides not to carry out the investigation.
- (9) The fifth case is where –
  - (a) the Commissioner decides to carry out an investigation, and
  - (b) the Commissioner then decides to discontinue the investigation.
- (10) An application under subsection (2) must be made before the end of the relevant 28 day period.
- (11) But the Tribunal may, on a written application by P, allow an application under subsection (2) to be made after the end of that period if the Tribunal is satisfied that there is a good reason –
  - (a) for the failure to apply before the end of that period, and
  - (b) if there has been any delay in applying for permission to apply out of time, for that delay.
- (12) An application under subsection (11) may be made before or after the end of the relevant 28 day period.
- (13) The Tribunal must notify P and the Commissioner of its decision of an application made under subsection (2).
- (14) This section is subject to Tribunal Rules (which may, amongst other things, make provision about the manner in which applications under this section may be brought).
- (15) In this Chapter “relevant 28 day period” means the period of 28 days beginning with the day on which the Commissioner gave P notice of his or her decision under section 95.’

I ychwanegu Adran newydd –

**'PENNOD [ ]**

**ADOLYGIAD GAN YR ACHWYNYDD**

*Adolygu methiant y Comisiynydd i ymchwilio i gŵyn*

**[ ] Hawl P i gael adolygiad**

- (1) Mae'r adran hon yn gymwys os yw P yn gwneud cwyn i'r Comisiynydd o dan adran 94 ynglŷn ag ymddygiad D ("yr ymddygiad honedig"), p'un a yw'r gŵyn honno yn gŵyn ddilys o dan yr adran honno ai peidio.
- (2) Caiff P, gyda chaniatâd y Tribiwnlys, wneud cais i'r Tribiwnlys i adolygu penderfyniad y Comisiynydd mewn unrhyw un neu ragor o'r achosion sydd wedi eu nodi yn yr adran hon.
- (3) Rhaid i'r Tribiwnlys, yn ddarostyngedig i adran [ ], ymdrin â chais am adolygiad o'r fath fel pe bai'n gais i'r Uchel Lys am adolygiad barnwrol.
- (4) Rhaid i'r Tribiwnlys roi caniatâd i wneud cais pan fo'r Tribiwnlys o'r farn –
  - (a) bod disgwyliad rhesymol y byddai'r cais yn llwyddo, neu
  - (b) bod rhyw reswm cryf arall pam y dylai'r cais gael ei glywed.
- (5) Yr achos cyntaf y cyfeirir ato yn is-adran (2) yw –
  - (a) pan fo'r ddyletswydd o dan adran 94 i ystyried ai i gynnal ymchwiliad i'r ymddygiad honedig ai peidio yn gymwys, a
  - (b) pan fo'r Comisiynydd yn penderfynu peidio â chynnal ymchwiliad.
- (6) Yr ail achos yw –
  - (a) pan fo adran 94(7) yn gymwys o ran cwyn, a
  - (b) pan fo'r Comisiynydd yn penderfynu peidio ag ystyried ai i gynnal ymchwiliad i'r ymddygiad honedig ai peidio.
- (7) Y trydydd achos yw pan fo'r Comisiynydd yn penderfynu nad yw'r ddyletswydd o dan adran 94 i ystyried ai i gynnal ymchwiliad i'r ymddygiad honedig ai peidio yn gymwys.
- (8) Y pedwerydd achos yw –
  - (a) pan nad yw'r ddyletswydd o dan adran 94 i ystyried ai i gynnal ymchwiliad i'r ymddygiad honedig ai peidio yn gymwys, a
  - (b) pan fo'r Comisiynydd yn penderfynu peidio ag ystyried ai i gynnal ymchwiliad i'r ymddygiad honedig ai peidio o dan adran 94(8) neu, ar ôl ystyried ai i gynnal ymchwiliad o dan yr adran honno, yn penderfynu peidio â chynnal yr ymchwiliad.
- (9) Y pumed achos yw –
  - (a) pan fo'r Comisiynydd yn penderfynu cynnal ymchwiliad, a
  - (b) pan fo'r Comisiynydd wedyn yn penderfynu terfynu'r ymchwiliad.

- (10) Rhaid i gais o dan is-adran (2) gael ei wneud cyn diwedd y cyfnod perthnasol o 28 o ddiwrnodau.
- (11) Ond caiff y Tribiwnlys, pan wneir cais ysgrifenedig gan P, ganiatáu i gais o dan is-adran (2) gael ei wneud ar ôl diwedd y cyfnod hwnnw os yw'r Tribiwnlys wedi ei fodloni bod rheswm da –
  - (a) dros y methiant i wneud cais cyn diwedd y cyfnod hwnnw, a
  - (b) os oes unrhyw oedi wedi bod cyn gwneud cais am ganiatâd i wneud cais ar ôl yr amser priodol, dros yr oedi hwnnw.
- (12) Caniateir i gais o dan is-adran (11) gael ei wneud cyn diwedd neu ar ôl diwedd y cyfnod perthnasol o 28 o ddiwrnodau.
- (13) Rhaid i'r Tribiwnlys hysbysu P a'r Comisiynydd o'i benderfyniad ar gais o dan is-adran (2).
- (14) Mae'r adran hon yn ddarostyngedig i Reolau'r Tribiwnlys (sy'n cael gwneud, ymysg pethau eraill, ddarpariaeth ynghylch y modd y ceir gwneud ceisiadau o dan yr adran hon).
- (15) Yn y Bennod hon ystyr "cyfnod perthnasol o 28 o ddiwrnodau" yw'r cyfnod o 28 o ddiwrnodau sy'n dechrau ar y diwrnod y bu i'r Comisiynydd hysbysu P o'i benderfyniad o dan adran 95.'.

**Alun Ffred Jones**

**23**

To insert a new Section –

**[ ] Powers of Tribunal on review**

- (1) On an application under section [ ], the Tribunal may –
  - (a) affirm the Commissioner's determination, or
  - (b) annul the Commissioner's determination.
- (2) If the Tribunal annuls the Commissioner's determination, the Tribunal must remit the case to the Commissioner with directions for its reconsideration.'.

I ychwanegu Adran newydd –

**[ ] Pwerau'r Tribiwnlys ar adolygiad**

- (1) Pan wneir cais o dan adran [ ], caiff y Tribiwnlys –
  - (a) cadarnhau dyfarniad y Comisiynydd, neu
  - (b) diddymu dyfarniad y Comisiynydd.
- (2) Os yw'r Tribiwnlys yn diddymu dyfarniad y Comisiynydd, rhaid i'r Tribiwnlys anfon yr achos yn ôl at y Comisiynydd gyda chyfarwyddyd ar gyfer ei ailystyried.'.



Alun Ffred Jones

24

To insert a new Section –

**[ ] Appeals from Tribunal**

- (1) This section applies if the Tribunal has decided an application under section [ ](2).
- (2) The Commissioner or P may, with the permission of the Tribunal or High Court, appeal to the High Court on a question of law arising out of the decision.
- (3) If the High Court finds that the Tribunal has made an error on a point of law, the High Court –
  - (a) may set aside the decision of the Tribunal, and
  - (b) if it sets the decision aside, must either –
    - (i) remit the case to the Tribunal with directions for its reconsideration, or
    - (ii) re-make the decision.
- (4) The directions that the High Court may give under subsection (3)(b)(i) include, but are not limited to, either or both of the following –
  - (a) a direction that the persons who are to reconsider the case must not be the persons who made the decision that has been set aside,
  - (b) procedural directions in connection with the reconsideration of the case.
- (5) In re-making the decision in accordance with subsection (3)(b)(ii), the High Court –
  - (a) may make any decision which the Tribunal could make if the Tribunal were making the decision, and
  - (b) may make such findings of fact as the High Court thinks appropriate.
- (6) An application for permission to appeal must be made to the Tribunal or High Court within the period of 28 days beginning with the day when the Tribunal notified the person making the application under this section of its decision on the application under section [ ].
- (7) But the Tribunal or High Court may, on a written application by the Commissioner or P, allow an appeal to be made after the end of that period if the Tribunal or High Court is satisfied that there is a good reason –
  - (a) for the failure to apply for permission to appeal before the end of that period, and
  - (b) if there has been any delay in applying for permission to appeal out of time, for that delay.
- (8) This section is subject to Tribunal Rules.’.

I ychwanegu Adran newydd –

**[1] Apelau o'r Tribiwnlys**

- (1) Mae'r adran hon yn gymwys os yw'r Tribiwnlys wedi penderfynu cais o dan adran [ (2)].
- (2) Caiff y Comisiynydd neu P, gyda chaniatâd y Tribiwnlys neu'r Uchel Lys, apelio i'r Uchel Lys ar bwynt cyfreithiol sy'n deillio o'r penderfyniad.
- (3) Os yw'r Uchel Lys yn dyfarnu bod y Tribiwnlys wedi gwneud camgymeriad ar bwynt cyfreithiol –
  - (a) caiff yr Uchel Lys osod penderfyniad y Tribiwnlys o'r naill du, a
  - (b) os bydd yr Uchel Lys yn gosod y penderfyniad o'r naill du, rhaid iddo naill ai –
    - (i) anfon yr achos yn ôl i'r Tribiwnlys gyda chyfarwyddyd ar gyfer ei ailystyried, neu
    - (ii) ail-wneud y penderfyniad.
- (4) Mae'r cyfarwyddiadau y caniateir i'r Uchel Lys eu rhoi o dan is-adran (3)(b)(i) yn cynnwys y naill neu'r llall neu'r naill a'r llall o'r canlynol, ond nid ydynt wedi eu cyfyngu iddynt –
  - (a) cyfarwyddyd na all y personau sydd i ailystyried yr achos fod yr un rhai â'r personau a wnaeth y penderfyniad sydd wedi ei roi o'r naill du,
  - (b) cyfarwyddiadau gweithredu mewn cysylltiad ag ailystyried yr achos.
- (5) Wrth ail-wneud y penderfyniad yn unol ag is-adran (3)(b)(ii), caniateir i'r Uchel Lys –
  - (a) gwneud unrhyw benderfyniad y gallai'r Tribiwnlys ei wneud pe bai'r Tribiwnlys yn gwneud y penderfyniad, a
  - (b) gwneud y canfyddiadau ffeithiol sy'n briodol yn nhyb yr Uchel Lys.
- (6) Rhaid i gais am ganiatâd i apelio gael ei wneud i'r Tribiwnlys neu i'r Uchel Lys o fewn cyfnod o 28 o ddiwrnodau gan ddechrau ar y diwrnod yr hysbysodd y Tribiwnlys y person sy'n gwneud y cais o dan yr adran hon o'i benderfyniad ar y cais o dan adran [ ].
- (7) Ond caiff y Tribiwnlys neu'r Uchel Lys, ar gais ysgrifenedig gan y Comisiynydd neu P, ganiatáu i apêl gael ei gwneud ar ôl diwedd y cyfnod hwnnw os yw'r Tribiwnlys neu'r Uchel Lys wedi ei fodloni bod rheswm da –
  - (a) dros y methiant i wneud cais am ganiatâd i apelio cyn diwedd y cyfnod hwnnw, a
  - (b) os oes unrhyw oedi wedi bod cyn gwneud y cais am ganiatâd i apelio ar ôl yr amser priodol, dros y oedi hwnnw.
- (8) Mae'r adran hon yn ddarostyngedig i Reolau'r Tribiwnlys.'.

Alun Ffred Jones

25

To insert a new Section –

**‘CHAPTER [ ]**

**ADDING A PARTY TO PROCEEDINGS**

**[ ] Right to apply to be added as a party to proceedings**

- (1) This section applies if –
  - (a) an appeal is made to the Tribunal under section 91(2) or section [ ], and
  - (b) the appeal is made in relation to a determination made after an investigation that follows a complaint made under section 94.
- (2) In the case of an appeal made under section 91(2) –
  - (a) the Tribunal must notify the person who made the complaint (P) that the appeal has been made, and
  - (b) P may apply to the Tribunal to be added as a party to the proceedings.
- (3) In such a case, if P is added as a party to the proceedings –
  - (a) the Tribunal must notify P of its decision on the appeal, and
  - (b) P may, with the permission of the Tribunal or High Court, appeal to the High Court under section 93 on a question of law arising out of that decision.
- (4) In the case of an appeal made under section [ ] –
  - (a) the Tribunal must notify D that the appeal has been made, and
  - (b) D may apply to the Tribunal to be added as a party to the proceedings.
- (5) If D is added as a party to proceedings –
  - (a) the Tribunal must notify D of its decision on the appeal, and
  - (b) D may, with the permission of the Tribunal or High Court, appeal to the High Court under section [ ] on a question of law arising out of that decision.
- (6) This section is subject to Tribunal Rules (which may, among other things, make provision about the manner in which and the time within which an application under this section to be added as a party to proceedings may be made).
- (7) This section does not prevent Tribunal Rules from making provision about other persons who may be added as a party to proceedings.’.

I ychwanegu Adran newydd –

**'PENNOD [ ]**

**YCHWANEGU PARTI MEWN ACHOS**

**[ ] Hawl i wneud cais i berson gael ei ychwanegu'n barti mewn achos**

- (1) Mae'r adran hon yn gymwys –
  - (a) os gwneir apêl i'r Tribiwnlys o dan adran 91(2) neu adran [ ], a
  - (b) os gwneir yr apêl honno mewn perthynas â dyfarniad a wnaed ar ôl ymchwiliad sy'n dilyn cwyn a wneir o dan adran 94,
- (2) Yn achos apêl o dan adran 91(2) –
  - (a) rhaid i'r Tribiwnlys hysbysu'r person a wnaeth y gwyn (P) fod yr apêl wedi ei gwneud, a
  - (b) caiff P wneud cais i'r Tribiwnlys i gael ei ychwanegu'n barti yn yr achos.
- (3) Mewn achos o'r fath, os ychwanegir P yn barti yn yr achos –
  - (a) rhaid i'r Tribiwnlys hysbysu P o'i benderfyniad ar yr apêl, a
  - (b) caiff P, gyda chaniatâd y Tribiwnlys neu'r Uchel Lys, apelio i'r Uchel Lys o dan adran 93 ar bwynt cyfreithiol sy'n deillio o'r penderfyniad hwnnw.
- (4) Yn achos apêl a wneir o dan adran [ ] –
  - (a) rhaid i'r Tribiwnlys hysbysu D fod yr apêl wedi ei gwneud, a
  - (b) caiff D wneud cais i'r Tribiwnlys i gael ei ychwanegu'n barti yn yr achos.
- (5) Os ychwanegir D yn barti yn yr achos –
  - (a) rhaid i'r Tribiwnlys hysbysu D o'i benderfyniad ar yr apêl, a
  - (b) caiff D, gyda chaniatâd y Tribiwnlys neu'r Uchel Lys, apelio i'r Uchel Lys o dan adran [ ] ar bwynt cyfreithiol sy'n deillio o'r penderfyniad hwnnw.
- (6) Mae'r adran hon yn ddarostyngedig i Reolau'r Tribiwnlys (sy'n cael gwneud, ymysg pethau eraill, ddarpariaeth ynghylch y modd y caniateir gwneud cais o dan yr adran hon i berson gael ei ychwanegu'n barti mewn achos a'r amser a ganiateir ar gyfer gwneud cais o'r fath).
- (7) Nid yw'r adran hon yn atal Rheolau'r Tribiwnlys rhag gwneud darpariaeth ynghylch personau eraill y caniateir eu hychwanegu'n barti mewn achos.'.

**Alun Ffred Jones**

**26**

Move Section 94 and insert after Section 90.

Symudwch Adran 94 a'i rhoi ar ôl Adran 90.

**Alun Ffred Jones**

**27**

Section 94, page 65, after line 9, insert –

- ‘( ) If a complaint is made under this section by a person acting on behalf of another person, in the provisions of this Measure which relate to appeals or further appeals connected with the complaint, a reference to the person who made the complaint (including a case where that person is referred to as “P”) is to be read as a reference to the other person (and not as a reference to the person who made the complaint).’

Adran 94, tudalen 65, ar ôl llinell 9, ychwanegwch –

- ‘( ) Os gwneir cwyn o dan yr adran hon gan berson sy’n gweithredu ar ran person arall, yn narpariaethau’r Mesur hwn sy’n ymwneud ag apelau neu apelau pellach sy’n gysylltiedig â’r gŵyn, mae cyfeiriad at y person a wnaeth y gŵyn (gan gynnwys achos pan gyfeirir at y person hwnnw fel “P”) i’w ddarllen fel cyfeiriad at y person arall (ac nid fel cyfeiriad at y person a wnaeth y gŵyn).’

**Alun Ffred Jones**

**28**

Move Section 95 and insert after Section 90.

Symudwch Adran 95 a’i rhoi ar ôl Adran 90.

**Alun Ffred Jones**

**29**

Section 95, page 65, after line 21, insert –

- ‘( ) The third case is where the Commissioner decides that the duty under section 94 to consider whether to carry out an investigation of the alleged conduct does not apply.
- ( ) The fourth case is where –
- (a) the duty under section 94 to consider whether to carry out an investigation of the alleged conduct does not apply, and
  - (b) the Commissioner decides not to consider whether to carry out an investigation of the alleged conduct under section 94(8) or, having considered whether to carry out an investigation under that section, decides not to carry out the investigation.’

Adran 95, tudalen 65, ar ôl llinell 21, ychwanegwch –

- ‘( ) Y trydydd achos yw pan fo’r Comisiynydd yn penderfynu nad yw’r ddyletswydd o dan adran 94 i ystyried ai i gynnal ymchwiliad i’r ymddygiad honedig ai peidio yn gymwys.
- ( ) Y pedwerydd achos yw –
  - (a) pan nad yw’r ddyletswydd o dan adran 94 i ystyried ai i gynnal ymchwiliad i’r ymddygiad honedig ai peidio yn gymwys, a
  - (b) pan fo’r Comisiynydd yn penderfynu peidio ag ystyried ai i gynnal ymchwiliad i’r ymddygiad honedig ai peidio o dan adran 94(8) neu, ar ôl ystyried ai i gynnal ymchwiliad o dan yr adran honno, yn penderfynu peidio â chynnal yr ymchwiliad.’.

**Alun Ffred Jones**

**30**

Section 95, page 65, line 22, leave out ‘third’ and insert ‘fifth’.

Adran 95, tudalen 65, llinell 22, gadewch allan ‘trydydd’ a rhowch yn ei le ‘pumed’.

**Alun Ffred Jones**

**31**

Section 95, page 65, leave out lines 23 to 24.

Adran 95, tudalen 65, gadewch allan linellau 23 hyd at 24.

**Alun Ffred Jones**

**32**

Section 95, page 65, line 28, after ‘(3)(b)’, insert ‘, ( ), ( ) (b)’.

Adran 95, tudalen 65, llinell 28, ar ôl ‘(3)(b)’, ychwanegwch ‘, ( ), ( ) (b)’.

**Alun Ffred Jones**

**33**

Section 95, page 65, line 29, after 'decision', insert ', and

- (c) the right of review under section [ ]'.

Adran 95, tudalen 65, llinell 29, ar ôl 'hwnnw', ychwanegwch ', ac

- (c) o'r hawl i gael adolygiad o dan adran [ ]'.

**Alun Ffred Jones**

**34**

Section 112, page 74, after line 34, insert –

- '(j) the date upon which a notice is deemed to have been given by the Tribunal.'

Adran 112, tudalen 74, ar ôl llinell 35, ychwanegwch –

- '(j) y dyddiad y bernir bod hysbysiad wedi ei roi gan y Tribiwnlys.'

**Alun Ffred Jones**

**35**

Section 135, page 82, line 28, leave out 'public body if and when that public body' and insert 'person if and when that person'.

Adran 135, tudalen 82, llinell 29, gadewch allan 'gorff cyhoeddus os daw'r corff cyhoeddus hwnnw, a phan ddaw'r corff cyhoeddus hwnnw' a rhwch yn ei le 'berson os daw'r person hwnnw, a phan ddaw'r person hwnnw'.

**Alun Ffred Jones**

**36**

Section 141, page 87, after line 20, insert –

- '(9) A requirement for the Commissioner to give a notice or other document to a person does not apply if the Commissioner thinks that it is not practicable to give that notice or document to that person in accordance with subsection (4).
- (10) The Welsh Ministers may by order make provision about the date upon which a notice or document is deemed to have been given.'

Adran 141, tudalen 87, ar ôl llinell 24, ychwanegwch –

- ‘(9) Nid yw gofyniad am i’r Comisiynydd roi hysbysiad neu ddogfen arall i berson yn gymwys os yw’r Comisiynydd o’r farn nad yw’n ymarferol rhoi’r hysbysiad hwnnw neu’r ddogfen honno i’r person hwnnw yn unol ag is-adran (4).
- (10) Caiff Gweinidogion Cymru, drwy orchymyn, wneud darpariaeth ynghylch y dyddiad y bernir bod hysbysiad wedi ei roi neu ddogfen wedi ei rhoi.’

**Alun Ffred Jones**

**37**

Section 145, page 88, leave out lines 20 to 30.

Adran 145, tudalen 88, gadewch allan linellau 21 hyd at 31.

**Alun Ffred Jones**

**38**

Schedule 6, page 114, after line 12, column 1, insert ‘The National Assembly for Wales Commission (“*Comisiwn Cynulliad Cenedlaethol Cymru*”)’.

Atodlen 6, tudalen 110, ar ôl llinell 44, colofn 1, ychwanegwch ‘Comisiwn Cynulliad Cenedlaethol Cymru (“*The National Assembly for Wales Commission*”)’.

**Alun Ffred Jones**

**39**

Schedule 6, page 114, after line 12, column 2, insert –

‘Service delivery standards  
Policy making standards  
Operational standards  
Record keeping standards’.



Atodlen 6, tudalen 110, ar ôl llinell 44, colofn 2, ychwanegwch –

‘Safonau cyflenwi gwasanaethau

Safonau llunio polisi

Safonau gweithredu

Safonau cadw cofnodion’.

**Alun Ffred Jones**

**40**

Schedule 11, page 137, leave out lines 31 to 33.

Atodlen 11, tudalen 137, gadewch allan linellau 31 hyd at 33.

**Alun Ffred Jones**

**41**

Schedule 12, page 141, leave out line 8, and insert –

‘(b) the Welsh Assembly Government.

(2) The contract of employment of a person transferred by virtue of this paragraph –

(a) is not terminated by the transfer, and

(b) has effect from the date of the transfer as if originally made between the transferred person and the transferee.

(3) Without prejudice to sub-paragraph (2) –

(a) where a person is transferred to the employment of the Commissioner –

(i) all the rights, powers, duties and liabilities of the Board under or in connection with the person’s contract of employment are transferred to the Commissioner on the date of the transfer, and

(ii) anything done before that date by or in relation to the Board in respect of the person or the contract is to be treated from that date as having been done by or in relation to the Commissioner,

(b) where a person is transferred to the employment of the Welsh Assembly Government –

- (i) all the rights, powers, duties and liabilities of the Board under or in connection with the person's contract of employment are transferred to the Welsh Ministers on the date of the transfer, and
  - (ii) anything done before that date by or in relation to the Board in respect of the person or the contract is to be treated from that date as having been done by or in relation to the Welsh Ministers.
- (4) Where a person is transferred by virtue of this paragraph, that person's period of employment with the Board immediately before the transfer date –
- (a) counts as a period of employment as a member of the staff of the transferee, and
  - (b) is to be treated as continuous employment as a member of the staff of the transferee for the purposes of section 218(3) of the Employment Rights Act 1996.
- (5) A contract of employment (or the rights, powers, duties and liabilities under or in connection with it) is not transferred under this paragraph if the employee objects to the transfer and informs the Board or the transferee of that objection.
- (6) If the employee informs the Board or the transferee of an objection under sub-paragraph (5) –
- (a) the contract of employment is terminated immediately before the date the transfer would occur, but
  - (b) the employee is not treated, for any purpose, as having been dismissed by the Board.
- (7) Nothing in this paragraph affects any right of a person transferred to terminate his or her contract of employment if (apart from the change of employer) a substantial change is made to the person's detriment in his or her working conditions.
- (8) Provision may be made under sub-paragraph (1) in respect of all persons employed by the Board, any class or description of person, or any individual person.
- (9) In this paragraph "transferee" refers to the employer to whom the person is or would be transferred under this paragraph.'

Atodlen 12, tudalen 141, gadewch allan linell 8, a rhowch yn ei lle –

- '(b) i Lywodraeth Cynulliad Cymru.
- (2) O ran contract cyflogaeth person a drosglwyddir yn rhinwedd y paragraff hwn –
- (a) nid yw'n cael ei derfynu gan y trosglwyddo, a
  - (b) mae'n cael effaith o'r dyddiad trosglwyddo fel pe byddai wedi ei wneud yn wreiddiol rhwng y person a drosglwyddir a'r trosglwyddai.
- (3) Heb ragfarnu is-baragraff (2) –
- (a) os trosglwyddir person i'w gyflogi gan y Comisiynydd –
    - (i) trosglwyddir holl hawliau, pwerau, dyletswyddau a rhwymedigaethau'r Bwrdd o dan gontract cyflogaeth y person ac

- mewn cysylltiad â'i gontract i'r Comisiynydd ar y dyddiad trosglwyddo, a
- (ii) mae unrhyw beth a wnaed cyn y dyddiad hwnnw gan y Bwrdd neu mewn perthynas ag ef mewn cysylltiad â'r person neu â'r contract i'w drin o'r dyddiad hwnnw ymlaen fel pe byddai wedi ei wneud gan y Comisiynydd neu mewn perthynas ag ef,
- (b) os trosglwyddir person i'w gyflogi gan Lywodraeth Cynulliad Cymru –
- (i) trosglwyddir holl hawliau, pwerau, dyletswyddau a rhwymedigaethau'r Bwrdd o dan gontract cyflogaeth y person ac mewn cysylltiad â'i gontract i Weinidogion Cymru ar y dyddiad trosglwyddo, a
  - (ii) mae unrhyw beth a wnaed cyn y dyddiad hwnnw gan y Bwrdd neu mewn perthynas ag ef mewn cysylltiad â'r person neu â'r contract i'w drin o'r dyddiad hwnnw ymlaen fel pe byddai wedi ei wneud gan Weinidogion Cymru neu mewn perthynas â hwy.
- (4) Os trosglwyddir person yn rhinwedd y paragraff hwn, mae cyfnod cyflogaeth y person hwnnw gyda'r Bwrdd yn union cyn y dyddiad trosglwyddo –
- (a) yn cyfrif fel cyfnod o gyflogaeth fel aelod o staff y trosglwyddai, a
  - (b) i'w drin fel cyflogaeth ddi-dor fel aelod o staff y trosglwyddai at ddibenion adran 218(3) o Ddeddf Hawliau Cyflogaeth 1996.
- (5) Ni throsglwyddir contract cyflogaeth (neu'r hawliau, pwerau, dyletswyddau a'r rhwymedigaethau oddi tano neu mewn cysylltiad ag ef) o dan y paragraff hwn os yw'r cyflogai'n gwrthwynebu trosglwyddo ac yn hysbysu'r Bwrdd neu'r trosglwyddai ei fod yn gwrthwynebu.
- (6) Os yw'r cyflogai'n hysbysu'r Bwrdd neu'r trosglwyddai ei fod yn gwrthwynebu o dan is-baragraff (5) –
- (a) terfynir y contract cyflogaeth yn union cyn y dyddiad pryd y byddai'r trosglwyddo'n digwydd, ond
  - (b) nid yw'r cyflogai'n cael ei drin, at unrhyw bwrpas, fel pe bai wedi ei ddiswyddo gan y Bwrdd.
- (7) Nid oes dim yn y paragraff hwn yn effeithio ar unrhyw hawl sydd gan berson a drosglwyddir i derfynu ei gontract cyflogaeth os gwneir newid sylweddol (ac eithrio newid cyflogwr) sy'n niweidiol i'r person o ran ei amodau gwaith.
- (8) Caniateir gwneud darpariaeth o dan is-baragraff (1) mewn cysylltiad â phob person a gyflogir gan y Bwrdd, unrhyw ddsbarth o berson neu berson o unrhyw ddisgrifiad, neu unrhyw berson unigol.
- (9) Yn y paragraff hwn mae "trosglwyddai" yn cyfeirio at y cyflogwr y trosglwyddir neu y trosglwyddid y person o dan y paragraff hwn i'w gyflogi ganddo.'.

**Alun Ffred Jones**

**42**

Schedule 12, page 141, at the beginning of line 10, insert 'Without prejudice to paragraph 1,'.

Atodlen 12, tudalen 141, ar ddechrau llinell 10, ychwanegwch 'Heb ragfarnu paragraff 1,'.

**Alun Ffred Jones**

**43**

Long title, page 12, line 5, leave out 'working towards ensuring that the Welsh language is treated' and insert 'treating the Welsh language'.

Teitl hir, tudalen 12, llinell 5, gadewch allan 'gweithio tuag at sicrhau nad yw'r Gymraeg yn cael ei thrin', a rhowch yn ei le 'pheidio â thrin y Gymraeg'.