

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



Cynulliad National
Cenedlaethol Assembly for
Cymru Wales
Bae Caerdydd / Cardiff Bay
Caerdydd / Cardiff
CF99 1NA

Rosemary Butler AM
Chair, Legislation Committee No.1
The National Assembly for Wales
Cardiff Bay
Cardiff
CF99 1NA

5 November 2009

Dear Rosemary

Proposed National Assembly for Wales (Remuneration) Measure

At the Committee meeting held on 4 November 2009, in accordance with its remit under SO 15.6 (ii), the Subordinate Legislation Committee considered the Proposed National Assembly for Wales (Remuneration) Measure

“...Subject to 15.7, the Committee may ... consider and report on:

- (ii) the appropriateness of provisions in proposed Assembly Measures and in Bills for Acts of the United Kingdom Parliament that grant powers to make subordinate legislation to the Welsh Ministers, the First Minister or the Counsel General...”

In scrutinising the proposed Measure the Committee received the legal advisers’ report (attached for information). The Committee was advised that the proposed Measure did not contain any powers for the Government to make subordinate legislation. As there are no such provisions in the proposed Measure, the Committee has no comments to make.

I am copying this letter to the Presiding Officer, Lord Dafydd Elis Thomas AM, for information.

Yours sincerely,

Janet Ryder AM
Chair
Subordinate Legislation Committee

cc. Lord Dafydd Elis Thomas AM, Presiding Officer

Subordinate Legislation Committee

SLC(3) 25-09 (p8)

Date: 4 November 2009
Time: 9.30am
Venue: Ty Hywel, Committee Room 4

PROPOSED NATIONAL ASSEMBLY FOR WALES (REMUNERATION) MEASURE

Paper to the Subordinate Legislation Committee in relation to delegated powers – for consideration by the Committee pursuant to Standing Order 15.6(ii)

1. Purpose

Under Standing Order 15.6(ii) the Committee may consider the appropriateness of provisions in proposed Assembly Measures that grant powers to make subordinate legislation to the Welsh Ministers. This paper outlines the subordinate legislation provisions in the proposed National Assembly for Wales (Remuneration)(Wales) Measure for the Committee's consideration.

2. Background

2.1 The proposed National Assembly for Wales (Remuneration) Measure was introduced on 15 October 2009, and is a Commission proposed Measure. The Member in charge is Lord Elis-Thomas. The Explanatory Memorandum has been prepared by the Assembly Commission and was laid before the National Assembly for Wales on 15 October 2009.

2.2 In August 2008, the Assembly Commission set up the Independent Review Panel in order to look at all aspects of financial support available to Assembly Members; including salaries and allowances for travel, pensions, accommodation, constituency offices and support staff. The Panel's report, "Getting it Right for Wales", was published in July 2009 and contained 23 principal recommendations and 85 supporting recommendations in full and the Presiding Officer made a statement in plenary on 8 July 2009. One of the Panel's recommendations was that the Assembly Commission should prepare and bring forward an Assembly Measure to establish a Statutory Independent Review Body to make decisions in respect of all aspects of financial support for Assembly Members

2.3 In supporting the need for an independent remuneration board the Assembly Commission has had regard to the extensive evidence gathering undertaken by the Panel in the course of its review. Given that the need for this Measure has arisen from the Panel's report, it was not considered necessary to carry out a separate consultation exercise.

2.4 In carrying out its review, the Panel gathered evidence by a range of means. The Panel agreed at its meeting to seek evidence from all AM's, the party groups represented in the Assembly, Members' support staff, other UK legislatures and relevant organisations. A general call for evidence from the public was also made. 74 responses were received; 10 from Members or their support staff; 36 from local councils (including community councils), 7 from other organisations and 21 from individuals.

2.5 The Legislative Committee intends to consider its approach to scrutiny of the proposed Measure on 26 November, and is expected to report by early March next year.

3. Legislative Competence

3. The provisions of the Proposed National Assembly for Wales (Remuneration) Measure fall within the terms of section 94(4) of the Government of Wales Act 2006 and are within the legislative competence of the Assembly in that they :-

(a) relate to Matter 13.3 of field 13 (national Assembly for Wales) of Part 1 of Schedule 5 to the Government of Wales Act 2006 which provides as follows :

“Matter 13.3:

Provision for and in connection with the payment of salaries, allowances, pensions and gratuities to or in respect of Assembly members, the First Minister, any Welsh Minister appointed under section 48, the Counsel General and any Deputy Welsh Minister”; and .

(b) apply in relation to Wales.

4. Policy Background

The policy background to the proposed Measure is summarised in the Explanatory Memorandum as follows -

“3.3 The purpose of the proposed Measure is to establish an independent National Assembly for Wales Remuneration Board (“the Board”), to transfer to the Board the functions of making determinations in relation to remuneration of Assembly Members, the First Minister, Welsh Ministers, the Counsel General and Deputy Welsh Ministers, and for connected purposes. These functions include the setting and reviewing of Assembly Members’ salaries, allowances and pensions. This would remove the responsibility for these functions from the National Assembly for Wales and which are currently conferred on the Assembly Commission”.

5. Subordinate Legislation Powers

No powers to make subordinate legislation are included in the proposed Measure.

Action for the Committee

The Committee is invited to consider whether, and if so how, it wishes to give consideration to whether the proposed Measure should contain powers granted to Welsh Ministers to make subordinate legislation.

Legal Services
National Assembly for Wales
October 2009

Y Pwyllgor Is-ddeddfwriaeth

SLC(3) 25-09 (p8)

Dyddiad: Tachwedd 2009
Amser: 9.30
Lleoliad: Ty Hywel, Ystafell Bwyllgora 4

MESUR ARFAETHEDIG CYNULLIAD CENEDLAETHOL CYMRU (TALIADAU)

Papur i'r Pwyllgor Is-ddeddfwriaeth mewn perthynas â phwerau dirprwyedig - i'w ystyried gan y Pwyllgor yn unol â Rheol Sefydlog 15.6(ii).

1. Diben

O dan Reol Sefydlog 15.6(ii), caiff y Pwyllgor ystyried pa mor briodol yw darpariaethau mewn Mesurau Cynulliad arfaethedig sy'n rhoi pwerau i wneud is-ddeddfwriaeth i Weinidogion Cymru. Mae'r papur hwn yn trafod y darpariaethau ym Mesur Arfaethedig Cynulliad Cenedlaethol Cymru (Taliadau) sy'n ymwneud ag is-ddeddfwriaeth, er mwyn i'r Pwyllgor eu hystyried.

2. Cefndir

2.1 Cyflwynwyd Mesur Arfaethedig Cynulliad Cenedlaethol Cymru (Taliadau) ar 15 Hydref 2009, ac mae'n Fesur arfaethedig gan y Comisiwn. Yr Aelod sy'n gyfrifol am y Mesur yw'r Arglwydd Elis-Thomas. Mae'r Memorandwm Esboniadol wedi cael ei baratoi gan Gomisiwn y Cynulliad ac fe'i gosodwyd gerbron Cynulliad Cenedlaethol Cymru ar 15 Hydref 2009.

2.2 Ym mis Awst 2008, sefydlwyd y Panel Adolygu Annibynnol gan Gomisiwn y Cynulliad er mwyn edrych ar yr holl agweddau ar y cymorth ariannol sydd ar gael i Aelodau'r Cynulliad, gan gynnwys cyflogau, lwfansau teithio, pensiynau, costau llety, costau swyddfeydd etholaeth a chostau staff cymorth. Cyhoeddwyd adroddiad y Panel, "Yn Gywir i Gymru", ym mis Gorffennaf 2009 ac roedd ynddo 23 o brif argymhellion a 85 o argymhellion eraill. Bu i'r Cynulliad dderbyn yr holl argymhellion yn llawn, a gwnaeth y Llywydd ddatganiad yn y Cyfarfod Llawn ar 8 Gorffennaf 2009. Un o argymhellion y Panel oedd y dylai Comisiwn y Cynulliad sefydlu Corff Adolygu Annibynnol Statudol i wneud yr holl benderfyniadau ar faterion sy'n ymwneud â rhoi cymorth ariannol i Aelodau'r Cynulliad

2.3 Wrth gydnabod bod angen bwrdd taliadau annibynnol, mae Comisiwn y Cynulliad wedi ystyried y dystiolaeth helaeth a gasglwyd gan y Panel wrth iddo gynnal ei adolygiad. Gan fod y Mesur hwn wedi deillio o adroddiad y Panel, penderfynwyd nad oedd angen cynnal ymgynghoriad ar wahân.

2.4 Wrth gynnal ei adolygiad, casglodd y Panel dystiolaeth mewn sawl ffordd. Cytunodd y Panel y byddai'n gofyn am dystiolaeth gan holl Aelodau'r Cynulliad, grwpiau'r pleidiau a gynrychiolir yn y Cynulliad, staff cymorth yr Aelodau, deddfwrfeydd eraill y DU a sefydliadau perthnasol. Rhoddwyd galwad gyffredinol am dystiolaeth gan y cyhoedd hefyd. Cafwyd 74 o ymatebion: 10 gan yr Aelodau neu eu staff cymorth; 36 gan gynghorau lleol (gan gynnwys cynghorau cymuned), 7 gan sefydliadau eraill a 21 gan unigolion.

2.5 Mae'r Pwyllgor Deddfwriaeth yn bwriadu trafod sut y bydd yn craffu ar y Mesur arfaethedig ar 26 Tachwedd, a disgwylir ei adroddiad yn gynnar fis Mawrth y flwyddyn nesaf.

3. Cymhwysedd Deddfwriaethol

3. Mae darpariaethau Mesur Arfaethedig Cynulliad Cenedlaethol Cymru (Taliadau) wedi eu gwneud o dan adran 94(4) o Ddeddf Llywodraeth Cymru 2006 ac maent o fewn cymhwysedd deddfwriaethol y Cynulliad gan eu bod :-

(a) yn berthnasol i Fater 13.3 o Faes 13 (Cynulliad Cenedlaethol Cymru) yn Rhan 1 o Atodlen 5 i Ddeddf Llywodraeth Cymru 2006, sy'n darparu fel a ganlyn:

"Mater 13.3:

Darparu ar gyfer ac mewn cysylltiad â thalu cyflogau, lwfansau, pensiynau ac arian rhodd i neu o ran aelodau Cynulliad, y Prif Weinidog, unrhyw un o Weinidogion Cymru a benodwyd o dan adran 48, y Cwnsler Cyffredinol ac unrhyw un o Ddirprwy Weinidogion Cymru";

(b) yn gymwys mewn perthynas â Chymru.

4. Y cefndir polisi

Ceir crynodeb o gefndir polisi'r Mesur arfaethedig yn y Memorandwm Esboniadol sy'n nodi fel a ganlyn -

"3.3 Diben y Mesur arfaethedig, felly, yw sefydlu Bwrdd Taliadau annibynnol ar gyfer Cynulliad Cenedlaethol Cymru ("y Bwrdd"), trosglwyddo i'r Bwrdd swyddogaethau penderfynu ar daliadau Aelodau'r Cynulliad, Prif Weinidog Cymru, Gweinidogion Cymru, y Cwnsler Cyffredinol a Dirprwy Weinidogion Cymru, a dibenion sy'n gysylltiedig â hynny. Mae'r swyddogaethau hyn yn cynnwys pennu ac adolygu cyflogau Aelodau'r Cynulliad, eu lwfansau a'u pensiynau. Byddai hyn yn mynd â'r cyfrifoldeb dros y swyddogaethau hyn oddi ar Gynulliad Cenedlaethol Cymru, sef swyddogaethau sydd wedi'u rhoi ar hyn o bryd i Gomisiwn y Cynulliad".

5. Pwerau i wneud is-ddeddfwriaeth

Nid yw'r Mesur arfaethedig yn cynnwys unrhyw bwerau i wneud is-ddeddfwriaeth.

Camau i'r Pwyllgor eu cymryd

Gwahoddir y Pwyllgor i benderfynu a yw'n dymuno ystyried a ddylai'r Mesur arfaethedig gynnwys pwerau i Weinidogion Cymru wneud is-ddeddfwriaeth, ac os hynny, sut y mae'n dymuno ystyried hynny.

Y Gwasanaethau Cyfreithiol
Cynulliad Cenedlaethol Cymru
Hydref 2009