



## RHESTR O WELLIANNAU WEDI'U DIDOLI MARSHALLED LIST OF AMENDMENTS

### Bil Archwilio Cyhoeddus (Cymru) Public Audit (Wales) Bill

Mae'r gwelliannau â \* ar eu pwys yn rhai newydd neu'n rhai sydd wedi'u haddasu  
Amendments marked \* are new or have been altered

Mae'r testun mewn italig wedi'i ddarparu gan y sawl a gynigiodd y gwelliant perthnasol i  
esbonio ei ddiben ac i gynorthwyo'r darlennydd. Nid yw'r testun yn rhan o eiriad y  
gwelliant.

The text in italics has been provided by the proposer of the relevant amendment to explain  
its purpose and to aid the reader's understanding. The text does not form part of the  
amendment

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Caiff y Bil ei ystyried yn y drefn a ganlyn—  
The Bill will be considered in the following order—

Sections 1 - 37

Adrannau 1 - 37

Schedules 1 - 4

Atodlenni 1 - 4

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#### **Aled Roberts**

37

Section 9, page 5, line 31, leave out subsection (2).

Adran 9, tudalen 5, llinell 33, hepgorer is-adran (2).

#### **Jane Hutt**

1

Section 18, page 9, line 6, leave out 'and approved by the WAO'.

Adran 18, tudalen 9, llinell 6, hepgorer 'a'i gymeradwyo gan SAC'.

**Jane Hutt**

2

Section 18, page 9, line 9, leave out ‘, but any revision must be approved by the WAO’.

Adran 18, tudalen 9, llinell 10, hepgorer ‘ond rhaid i unrhyw ddiwygiad gael ei gymeradwyo gan SAC’.

**Jane Hutt**

3

Section 18, page 9, after line 10, insert –

‘() In preparing or revising a scheme the Auditor General must consult the WAO.’.

Adran 18, tudalen 9, ar ôl llinell 11, mewnosoder –

‘() Wrth baratoi neu ddiwygio cynllun rhaid i’r Archwilydd Cyffredinol ymgynghori â SAC.’.

**Jane Hutt**

4

Section 19, page 9, after line 33, insert –

‘() But the WAO must consult the Auditor General before entering into arrangements of the type mentioned in subsection (1)(b), (c)(iii) or (d).’.

Adran 19, tudalen 9, ar ôl llinell 38, mewnosoder –

‘() Ond rhaid i SAC ymgynghori â’r Archwilydd Cyffredinol cyn ymrwymo i drefniadau o’r math a grybwyllir yn is-adran (1)(b), (c)(iii) neu (d).’.

**WITHDRAWN/TYNNWYD YN ÔL**

**Aled Roberts**

38

Section 19, page 9, after line 33, insert –

‘() The Auditor General must consent to any arrangements made under this section.’.

Adran 19, tudalen 9, ar ôl llinell 38, mewnosoder –

‘() Rhaid i’r Archwilydd Cyffredinol gydsynio i unrhyw drefniadau a wneir o dan yr adran hon.’.

**Aled Roberts**

44

Section 19, page 9, after line 33, insert –

‘() The WAO must not enter into an arrangement under this section if the Auditor General is of the opinion that to do so has the potential to prevent the Auditor General from complying with section 8(3)(b).’.

Adran 19, tudalen 9, ar ôl llinell 38, mewnosoder –

‘() Rhaid i SAC beidio ag ymrwymo i drefniant o dan yr adran hon os yw’r Archwilydd Cyffredinol o’r farn y byddai gwneud hynny o bosibl yn atal yr Archwilydd Cyffredinol rhag cydymffurfio ag Adran 8(3)(b).’.

**Jane Hutt** 5

Section 19, page 10, after line 13, insert –

‘() But the WAO must consult the Auditor General before entering into arrangements of the type mentioned in subsection 3(b).’.

Adran 19, tudalen 10, ar ôl llinell 14, mewnosoder –

‘() Ond rhaid i SAC ymgynghori â'r Archwilydd Cyffredinol cyn ymrwymo i drefniadau o'r math a grybwyllir yn is-adran (3)(b).’.

**Jane Hutt** 6

Section 25, page 13, line 16, leave out ‘agree upon’ and insert ‘jointly prepare’.

Adran 25, tudalen 13, llinell 15, hepgorer ‘gytuno ar gynllun blynyddol’ a mewnosoder ‘baratoi cynllun blynyddol ar y cyd’.

**Jane Hutt** 7

Page 13, line 33, leave out section 26.

Tudalen 13, llinell 34, hepgorer adran 26.

**Jane Hutt** 8

Section 33, page 16, leave out lines 17 to 19.

Adran 33, tudalen 16, hepgorer llinellau 19 hyd at 21.

**Mohammad Asghar** 9A

As an amendment to amendment 9, line 1, leave out ‘8’ and insert ‘9’.

Fel gwelliant i welliant 9, llinell 1, hepgorer ‘8’ a mewnosoder ‘9’.

**Jane Hutt** 9

Schedule 1, page 18, line 7, leave out ‘7’ and insert ‘8’.

Atodlen 1, tudalen 18, llinell 7, hepgorer ‘7’ a mewnosoder ‘8’.

**Mohammad Asghar** 10A

As an amendment to amendment 10, line 1, leave out ‘2’ and insert ‘3’.

Fel gwelliant i welliant 10, llinell 1, hepgorer ‘2’ a mewnosoder ‘3’.

**Jane Hutt** 10

Schedule 1, page 18, line 12, leave out ‘one employee’ and insert ‘2 employees’.

Atodlen 1, tudalen 18, llinell 12, hepgorer ‘un cyflogai’ a mewnosoder ‘2 gyflogai’.

**Jane Hutt**

**11**

Schedule 1, page 18, line 12, leave out 'member' and insert 'members'.

Atodlen 1, tudalen 18, llinell 12, hepgorer 'aelod sy'n gyflogai' a mewnosoder 'yr aelodau sy'n gyflogeion'.

**Jane Hutt**

**12**

Schedule 1, page 21, line 32, leave out paragraph 14 and insert –

- '( ) The employee members are to comprise –
- (a) a person appointed in accordance with paragraph ( ) ("employee member A"), and
  - (b) a person appointed in accordance with paragraph ( ) ("employee member B").

*Employee member A*

- ( ) (1) The Auditor General must recommend a person to the non-executive members for appointment as employee member A.
- (2) The non-executive members must –
  - (a) appoint that person, or
  - (b) appoint another person of their choosing.

*Employee member B*

- ( ) (1) The WAO must conduct a ballot of its staff for the purpose of appointing a person as employee member B.
- (2) The non-executive members must appoint the person who receives the majority of votes cast.
- (3) The appointment of a person in accordance with this paragraph is an appointment on merit for the purpose of paragraph 2(2). '

Atodlen 1, tudalen 21, llinell 33, hepgorer paragraff 14 a mewnosoder –

- '( ) Mae'r aelodau sy'n gyflogeion i gynnwys—
- (a) person a benodir yn unol â pharagraff ( ) ("aelod sy'n gyflogai A"), a
  - (b) person a benodir yn unol â pharagraff ( ) ("aelod sy'n gyflogai B").

*Aelod sy'n gyflogai A*

- ( ) (1) Rhaid i'r Archwilydd Cyffredinol argymhell person i'r aelodau anweithredol ar gyfer ei benodi'n aelod sy'n gyflogai A.
- (2) Rhaid i'r aelodau anweithredol –
  - (a) penodi'r person hwnnw, neu
  - (b) penodi person arall o'u dewis hwy.

*Aelod sy'n gyflogai B*

- ( ) (1) Rhaid i SAC gynnal pleidlais o'i staff at ddiben penodi person yn aelod sy'n gyflogai B.
- (2) Rhaid i'r aelodau anweithredol benodi'r person sy'n cael y mwyafrif o'r pleidleisiau a gaiff eu bwrw.
- (3) Penodir y person a benodir yn unol â'r paragraff hwn ar sail teilyngdod at ddiben paragraff 2(2).'

WITHDRAWN/TYNNWYD YN ÔL

\* **Mohammad Asghar**

39

Schedule 1, page 21, line 32, leave out paragraph 14 and insert –

- '( ) The employee members are to comprise –
- (a) 2 persons appointed in accordance with paragraph ( ) (“employee members A”), and
  - (b) a person appointed in accordance with paragraph ( ) (“employee member B”).

*Employee members A*

- ( ) (1) If there is a vacancy, the Auditor General must recommend a person to the non-executive members for appointment.
- (2) The non-executive members must –
  - (a) appoint that person, or
  - (b) require the Auditor General to recommend another person (in which event this sub-paragraph applies again and so on until someone is appointed).

*Employee member B*

- ( ) (1) The WAO must conduct a ballot of its staff for the purpose of appointing a person as employee member B.
- (2) The non-executive members must appoint the person who receives the majority of votes cast.
- (3) The appointment of a person in accordance with this paragraph is an appointment on merit for the purpose of paragraph 2(2).

Atodlen 1, tudalen 21, llinell 33, hepgorer paragraff 14 a mewnosoder –

- '( ) Mae'r aelodau sy'n gyflogeion i gynnwys –
- (a) 2 berson a benodir yn unol â pharagraff ( ) (“aelodau sy'n gyflogeion A”), a
  - (b) person a benodir yn unol â pharagraff ( ) (“aelod sy'n gyflogai B”).

*Aelodau sy'n gyflogeion A*

- ( ) (1) Os oes swydd wag, rhaid i'r Archwilydd Cyffredinol argymhell person i'r aelodau anweithredol ar gyfer ei benodi'n aelod.
- (2) Rhaid i'r aelodau anweithredol –

- (a) penodi'r person hwnnw, neu
- (b) ei gwneud yn ofynnol i'r Archwilydd Cyffredinol argymhell person arall (os felly bydd yr is-baragraff hwn yn gymwys dro ar ôl tro hyd nes bod rhywun wedi ei benodi'n aelod).

*Aelod sy'n gyflogai B*

- ( ) (1) Rhaid i SAC gynnal pleidlais o'i staff at ddiben penodi person yn aelod sy'n gyflogai B.
- (2) Rhaid i'r aelodau anweithredol benodi'r person sy'n cael y mwyafrif o'r pleidleisiau a gaiff eu bwrw.
- (3) Penodir y person a benodir yn unol â'r paragraff hwn ar sail teilyngdod at ddiben paragraff 2(2).'

**\* Mohammad Asghar**

46

Schedule 1, page 21, line 32, leave out paragraph 14 and insert –

- '( ) The employee members are to comprise –
- (a) a person appointed in accordance with paragraph ( ) (“employee member A”), and
  - (b) 2 persons appointed in accordance with paragraph ( ) (“employee members B”).

*Employee member A*

- ( ) (1) If there is a vacancy, the Auditor General must recommend a person to the non-executive members for appointment.
- (2) The non-executive members must –
  - (a) appoint that person, or
  - (b) require the Auditor General to recommend another person (in which event this sub-paragraph applies again and so on until someone is appointed).

*Employee members B*

- ( ) (1) The WAO must conduct a ballot of its staff for the purpose of appointing persons as employee members B.
- (2) The non-executive members must appoint the persons who receive the majority of votes cast.
- (3) The appointment of persons in accordance with this paragraph is an appointment on merit for the purpose of paragraph 2(2).'

Atodlen 1, tudalen 21, llinell 33, hepgorer paragraff 14 a mewnosoder –

- '( ) Mae'r aelodau sy'n gyflogeion i gynnwys—
- (a) person a benodir yn unol â pharagraff ( ) (“aelod sy'n gyflogai A”), a
  - (b) dau berson a benodir yn unol â pharagraff ( ) (“aelodau sy'n gyflogeion B”).

*Aelod sy'n gyflogai A*

- ( ) (1) Os oes swydd wag, rhaid i'r Archwilydd Cyffredinol argymhell person i'r aelodau anweithredol ar gyfer ei benodi'n aelod.
- (2) Rhaid i'r aelodau anweithredol—
- (a) penodi'r person hwnnw, neu
  - (b) ei gwneud yn ofynnol i'r Archwilydd Cyffredinol argymhell person arall (os felly bydd yr is-baragraff hwn yn gymwys dro ar ôl tro hyd nes bod rhywun wedi ei benodi'n aelod).

*Aelodau sy'n gyflogeion B*

- ( ) (1) Rhaid i SAC gynnal pleidlais o'i staff at ddiben penodi personau yn aelodau sy'n gyflogeion B.
- (2) Rhaid i'r aelodau anweithredol benodi'r personau sy'n cael y mwyafrif o'r pleidleisiau a gaiff eu bwrw.
- (3) Penodir y personau a benodir yn unol â'r paragraff hwn ar sail teilyngdod at ddiben paragraff 2(2). '.

**Jane Hutt** **13**

Schedule 1, page 22, line 15, leave out 'the' at the first place where it appears and insert 'an'.  
Atodlen 1, tudalen 22, llinell 14, hepgorer 'yw'r' a mewnosoder 'yw'.

**Jane Hutt** **14**

Schedule 1, page 22, line 17, leave out 'the' and insert 'an'.  
Nid oes angen diwygio'r fersiwn Cymraeg. There is no need to amend the Welsh version

**Jane Hutt** **15**

Schedule 1, page 22, line 32, leave out 'the' and insert 'an'.  
Nid oes angen diwygio'r fersiwn Cymraeg. There is no need to amend the Welsh version

**Jane Hutt** **16**

Schedule 1, page 22, line 36, leave out 'the' at the second place where it appears and insert 'an'.  
Atodlen 1, tudalen 22, llinell 37, hepgorer 'yr'.

**Jane Hutt** **17**

Schedule 1, page 23, line 2, leave out 'The' at the first place it appears and insert 'An'.  
Nid oes angen diwygio'r fersiwn Cymraeg. There is no need to amend the Welsh version

**Jane Hutt** 18

Schedule 1, page 23, line 6, leave out 'the' at the third place where it appears and insert 'an'.  
Atodlen 1, tudalen 23, llinell 6, hepgorer 'yr' yn yr ail le y mae'n ymddangos.

**Jane Hutt** 19

Schedule 1, page 23, leave out lines 31 to 36.  
Atodlen 1, tudalen 23, hepgorer llinellau 29 hyd at 34.

**Jane Hutt** 20

Schedule 1, page 25, line 17, leave out 'the' at the second place where it appears and insert 'an'.  
Nid oes angen diwygio'r fersiwn Cymraeg. There is no need to amend the Welsh version

**Jane Hutt** 21

Schedule 1, page 25, after line 21, insert –

*'Ballots*

( ) The rules must include provision about the conduct of ballots for the purpose of appointing employee member B (see paragraph ( )).'.

Atodlen 1, tudalen 25, ar ôl llinell 22, mewnosoder –

*'Cynnal pleidleisiau*

( ) Rhaid i'r rheolau gynnwys darpariaeth ynghylch cynnal pleidleisiau at ddiben penodi aelod sy'n gyflogai B (gweler paragraff ( )).'.

**Jane Hutt** 22

Schedule 1, page 25, line 26, leave out 'member' and insert 'members'.  
Atodlen 1, tudalen 25, llinell 27, hepgorer 'aelod sy'n gyflogai' a mewnosoder 'yr aelodau sy'n gyflogeion'.

**Jane Hutt** 23

Schedule 1, page 27, line 5, leave out 'Assembly's Public Accounts Committee' and insert 'Assembly'.  
Atodlen 1, tudalen 27, llinell 5, hepgorer 'Bwyllgor Cyfrifon Cyhoeddus'.



**Jane Hutt** **24**

Schedule 1, page 27, line 14, leave out ‘, as that person considers appropriate,’.

Atodlen 1, tudalen 27, llinell 15, hepgorer ‘, fel y gwêl y person hwnnw yn dda,’.

**Jane Hutt** **25**

Schedule 2, page 29, after line 3 insert –

‘PART 1

CODE OF PRACTICE

*Preparation and approval etc*

- ( ) (1) The WAO and the Auditor General must jointly prepare a code of practice dealing with the relationship between the WAO and the Auditor General.
- (2) In doing so, they must seek to reflect the principle set out in section 8(1) and (2).
- (3) The WAO and the Auditor General must jointly review the code regularly and revise it as appropriate.
- (4) The code (including any revision) must be approved by the National Assembly.
- (5) For this purpose, the chair of the WAO and the Auditor General must lay the code (or revision) before the National Assembly.
- (6) The WAO and the Auditor General must each comply with a code approved by the National Assembly.
- (7) The WAO and the Auditor General must arrange for an approved code to be published.

*Content*

- ( ) (1) The code must include –
- (a) provision about how the WAO is to monitor the Auditor General's functions for the purposes of section 17(1);
  - (b) provision about how advice is to be given by the WAO to the Auditor General for the purposes of section 17(2) (including the nature of the advice to be given);
  - (c) provision about standards for corporate governance.
- (2) The code may include provision about any other matter relevant to the relationship between the WAO and the Auditor General.’.

Atodlen 2, tudalen 29, ar ôl llinell 3, mewnosoder –

‘RHAN 1  
COD YMARFER

*Paratoi a chymeradwyo etc*

- ( ) (1) Rhaid i SAC a’r Archwilydd Cyffredinol baratoi cod ymarfer ar y cyd sy’n ymdrin â’r berthynas rhwng SAC a’r Archwilydd Cyffredinol.
- (2) Wrth wneud hynny, rhaid iddynt geisio adlewyrchu’r egwyddor a nodir yn adran 8(1) a (2).
- (3) Rhaid i SAC a’r Archwilydd Cyffredinol adolygu’r cod ar y cyd yn rheolaidd a’i ddiwygio fel y bo’n briodol.
- (4) Rhaid i’r cod (gan gynnwys unrhyw ddiwygiad) gael ei gymeradwyo gan y Cynulliad Cenedlaethol.
- (5) At y diben hwn, rhaid i gadeirydd SAC a’r Archwilydd Cyffredinol osod y cod (neu’r diwygiad) gerbron y Cynulliad Cenedlaethol.
- (6) Rhaid i SAC a’r Archwilydd Cyffredinol ill dau gydymffurfio â chod sydd wedi ei gymeradwyo gan y Cynulliad Cenedlaethol.
- (7) Rhaid i SAC a’r Archwilydd Cyffredinol drefnu i god a gymeradwywyd gael ei gyhoeddi.

*Cynnwys*

- ( ) (1) Rhaid i’r cod gynnwys—
- (a) darpariaeth ynghylch sut y mae SAC i fonitro swyddogaethau’r Archwilydd Cyffredinol at ddibenion adran 17(1);
- (b) darpariaeth ynghylch sut y mae cyngor i gael ei roi gan SAC i’r Archwilydd Cyffredinol at ddibenion adran 17(2) (gan gynnwys natur y cyngor sydd i’w roi);
- (c) darpariaeth ynghylch safonau ar gyfer llywodraethu corfforaethol.
- (2) Caniateir i’r cod gynnwys darpariaeth ynghylch unrhyw fater arall sy’n berthnasol i’r berthynas rhwng SAC a’r Archwilydd Cyffredinol.’.

**Jocelyn Davies**

40

Schedule 2, page 29, leave out lines 15 to 22.

Atodlen 2, tudalen 29, hepgorer llinellau 14 hyd at 21.

**Jocelyn Davies**

41

Schedule 2, page 29, leave out lines 26 to 27.

Atodlen 2, tudalen 29, hepgorer llinellau 25 hyd at 26.

**Jocelyn Davies**

42

Schedule 3, page 33, leave out lines 26 to 29 and insert –

- '( ) This paragraph applies in relation to any matter to be decided by the WAO for the purpose of preparing or making those rules or for the purposes of preparing a code of practice dealing with the relationship between the WAO and the Auditor General.
- ( ) The matter is to be decided –
  - (a) at a meeting of the WAO at which the person who chairs the WAO and at least five other members are present, and
  - (b) by the majority of votes of the members present and voting on the matter.
- ( ) But the matter may not be decided unless a majority of the members voting on the matter are non-executive members.
- ( ) If the votes are tied, the person who chairs the WAO is to have the casting vote, whether or not that person has already voted on the matter.
- ( ) It is for the person who chairs the WAO to call a meeting of the WAO by giving written notice to the other members of the date, time and venue of the meeting.'

*Removes the proposal that initial procedural rules should be set by the Chair of the WAO alone .*

Atodlen 3, tudalen 33, hepgorer llinellau 29 hyd at 32 a mewnosoder –

- '( ) Mae'n gymwys mewn cysylltiad ag unrhyw fater sydd i'w benderfynu gan SAC at ddiben paratoi neu wneud y rheolau hynny neu at ddibenion paratoi cod ymarfer sy'n ymdrin â'r berthynas rhwng SAC a'r Archwilydd Cyffredinol.
- ( ) Mae'r mater i'w benderfynu –
  - (a) yn un o gyfarfodydd SAC y mae'r person sy'n gadeirydd ar SAC ac o leiaf bum aelod arall yn bresennol, a
  - (b) gan fwyafrif pleidleisiau'r aelodau sy'n bresennol ac yn pleidleisio ar y mater.
- ( ) Ond ni chaniateir penderfynu ar y mater oni bai fod mwyafrif yr aelodau sy'n pleidleisio ar y mater yn aelodau anweithredol.
- ( ) Os yw'r pleidleisiau yn gyfartal, y person sy'n gadeirydd ar SAC sydd â'r bleidlais fwrw, p'un a yw'r person hwnnw eisoes wedi pleidleisio ar y mater ai peidio.
- ( ) Y person sy'n gadeirydd ar SAC sydd i alw cyfarfod SAC drwy roi hysbysiad ysgrifenedig i'r aelodau eraill o ddyddiad, amser a lleoliad y cyfarfod.'

*Yn dileu'r cynnig y dylai rheolau gweithdrefnol cychwynnol gael eu pennu gan Gadeirydd SAC ar ei ben ei hun.*

**Jocelyn Davies**

35

Schedule 3, page 34, after line 25, insert –

- '( ) In respect of a contract of employment that is, or will be, transferred by sub-paragraph (1), any purported variation of the contract shall be void if the sole or principal reason for the variation is –

- (a) the transfer itself; or
  - (b) a reason connected with the transfer that is not an economic, technical or organisational reason entailing changes in the workforce.
- ( ) Sub-paragraph ( ) shall not prevent the Auditor General and a member of staff whose contract of employment will be transferred by sub-paragraph (1) from agreeing a variation of that contract if the sole or principal reason for the variation is—
- (a) a reason connected with the transfer that is an economic, technical or organisational reason entailing changes in the workforce; or
  - (b) a reason unconnected with the transfer.
- ( ) Sub-paragraph ( ) shall not prevent the WAO and member of staff whose contract of employment is transferred by sub-paragraph (1) from agreeing a variation of that contract if the sole or principal reason for the variation is—
- (a) a reason connected with the transfer that is an economic, technical or organisational reason entailing changes in the workforce; or
  - (b) a reason unconnected with the transfer.’.

*To ensure adequate TUPE protection for transferring staff.*

Atodlen 3, tudalen 34, ar ôl llinell 24, mewnosoder—

- ( ) O ran contract cyflogaeth a gaiff ei drosglwyddo gan is-baragraff (1), neu a fydd yn cael ei drosglwyddo gan is-baragraff (1), bydd unrhyw amrywiad honedig yn ddi-rym os mai’r unig reswm neu’r prif reswm dros yr amrywiad yw—
- (a) y trosglwyddiad ei hun; neu
  - (b) rheswm sy’n gysylltiedig â’r trosglwyddiad nad yw’n rheswm economaidd, technegol na sefydliadol sy’n golygu newidiadau i’r gweithlu.
- ( ) Ni fydd is-baragraff ( ) yn atal yr Archwilydd Cyffredinol ac aelod o staff y bydd ei gontract cyflogaeth yn cael ei drosglwyddo gan is-baragraff (1) rhag cytuno ar amrywiad o’r contract hwnnw os mai’r unig reswm neu’r prif reswm dros yr amrywiad yw—
- (a) rheswm sy’n gysylltiedig â’r trosglwyddiad sy’n rheswm economaidd, technegol neu sefydliadol sy’n golygu newidiadau i’r gweithlu; neu
  - (b) rheswm nad yw’n gysylltiedig â’r trosglwyddiad.
- ( ) Ni fydd is-baragraff ( ) yn atal SAC ac aelod o staff y mae ei gontract cyflogaeth yn cael ei drosglwyddo gan is-baragraff (1) rhag cytuno ar amrywiad o’r contract os mai’r unig reswm neu’r prif reswm dros yr amrywiad yw—
- (a) rheswm sy’n gysylltiedig â’r trosglwyddiad sy’n rheswm economaidd, technegol neu sefydliadol sy’n golygu newidiadau i’r gweithlu; neu
  - (b) rheswm nad yw’n gysylltiedig â’r trosglwyddiad.’.

*Sicrhau bod dioglewch TUPE digonol i staff sy’n trosglwyddo.*

**Jane Hutt**

**45**

Schedule 3, page 34, after line 39, insert –

*‘Dismissal in relation to transfer*

- ( ) (1) Sub-paragraphs (2) and (3) apply –
- (a) to an employee of the Auditor General;
  - (b) to an employee of the WAO whose employment transferred under paragraph 5.
- (2) If an employee to whom this sub-paragraph applies is dismissed, that employee is to be treated as unfairly dismissed for the purposes of Part X of the Employment Rights Act 1996 if the sole or principal reason for the dismissal is –
- (a) the transfer mentioned in paragraph 5(1); or
  - (b) a reason connected with the transfer that is not an economic, technical or organisational reason entailing changes in the workforce.
- (3) If an employee to whom this sub-paragraph applies is dismissed, the reason for that dismissal is to be treated for the purposes of sections 98(1) and 135 of the Employment Rights Act 1996 (reason for dismissal) as having been for redundancy if the sole or principal reason for the dismissal is a reason connected with the transfer mentioned in paragraph 5(1) that is an economic, technical or organisational reason entailing changes in the workforce.
- (4) But sub-paragraph (2) does not apply if the application of section 94 of the Employment Rights 1996 Act (right not to be unfairly dismissed) to the dismissal is excluded by or under any provision of that Act, the Employment Tribunals Act 1996 or the Trade Union and Labour Relations (Consolidation) Act 1992.’

Atodlen 3, tudalen 34, ar ôl llinell 38, mewnosoder –

*‘Diswyddo mewn perthynas â throsglwyddo*

- ( ) (1) Mae is-baragraffau (2) a (3) yn gymwys –
- (a) i gyflogai i’r Archwilydd Cyffredinol;
  - (b) i gyflogai i SAC y trosglwyddir ei gyflogaeth o dan baragraff 5.
- (2) Os diswyddir cyflogai y mae’r is-baragraff hwn yn gymwys iddo, mae’r cyflogai hwnnw i’w drin fel petai wedi cael ei ddiswyddo’n annheg at ddibenion Rhan X o Ddeddf Hawliau Cyflogaeth 1996 os yr unig reswm neu’r prif reswm dros y diswyddiad yw –
- (a) y trosglwyddiad a grybwyllir ym mharagraff 5(1); neu
  - (b) rheswm sy’n gysylltiedig â’r trosglwyddiad nad yw’n rheswm economaidd, technegol neu sefydliadol sy’n peri newidiadau yn y gweithlu.
- (3) Os diswyddir cyflogai y mae’r is-baragraff hwn yn gymwys iddo, mae’r rheswm dros y diswyddiad hwnnw i’w drin at ddibenion adrannau 98(1) a 135 o Ddeddf Hawliau Cyflogaeth 1996 (rheswm dros ddiswyddo) fel petai wedi bod am fod y swydd wedi ei dileu os yr unig reswm neu’r prif reswm dros y diswyddiad yw rheswm sy’n gysylltiedig â’r trosglwyddiad a grybwyllir ym mharagraff 5(1) sy’n rheswm economaidd, technegol neu sefydliadol sy’n peri newidiadau yn y gweithlu.

- (4) Ond nid yw is-baragraff (2) yn gymwys os yw cymhwyso adran 94 o Ddeddf Hawliau Cyflogaeth 1996 (yr hawl i beidio â cael eich diswyddo'n annheg) i'r diswyddiad wedi ei eithrio gan neu o dan unrhyw un neu ragor o'r darpariaethau yn y Ddeddf honno, Deddf Tribiwnlysoedd Cyflogaeth 1996 neu Ddeddf Undebau Llafur a Chysylltiadau Llafur (Cydgrynhoi) 1992.'

**Jocelyn Davies**

36

Schedule 3, page 34, after line 39, insert –

*'Dismissal because of transfer of contract of employment*

- ( ) (1) Where any employee of the Auditor General or the WAO is dismissed by the Auditor General or by the WAO (as the case may be), the employee shall be treated for the purpose of Part X of the Employment Rights Act 1996 (unfair dismissal) as unfairly dismissed if the sole or principal reason for the employee's dismissal is –
- (a) the transfer itself; or
  - (b) a reason connected with the transfer that is not an economic, technical or organisational reason entailing changes in the workforce.
- (2) This sub-paragraph applies where the sole or principal reason for the dismissal is a reason connected with the transfer that is an economic, technical or organisational reason entailing changes in the workforce of either the Auditor General or the WAO (as the case may be) before or after the transfer of the employee's contract of employment under paragraph 5(1).
- (3) Where sub-paragraph (2) applies –
- (a) sub-paragraph (1) shall not apply;
  - (b) without prejudice to the application of section 98(4) of the Employment Rights Act 1996 (test for fair dismissal), the dismissal shall, for the purposes of sections 98(1) and 135 of that Act (reason for dismissal), be regarded as having been for redundancy where section 98(2)(c) of that Act applies, or otherwise for a substantial reason of a kind such as to justify dismissal of an employee holding the position that the employee held.
- (4) Sub-paragraph (1) shall not apply in relation to a dismissal of an employee if the application of section 94 of the Employment Rights Act 1996 to the dismissal of the employee is excluded by or under any provision of that Act, the 1996 Tribunals Act or the Trade Union and Labour Relations (Consolidation) Act 1992.

*Effect of transfer of contract of employment on collective agreements*

- ( ) Where at the time of the transfer of a transferred contract there exists a collective agreement made by or on behalf of the Auditor General with a trade union recognised by the Auditor General in respect of an employee whose contract of employment is preserved by paragraph 5(2), then without prejudice to sections 179 and 180 of the Trade Union and Labour Relations (Consolidation) Act 1992 (collective agreements presumed to be unenforceable in specified circumstances) that agreement, in its application in relation to that employee, shall, after the transfer, have effect as if made by or on behalf of the WAO with that trade union, and accordingly anything done under or in connection with it, in its application in relation to that employee, by or in relation to the Auditor General before the transfer, shall, after the transfer, be deemed to have been done by or in relation to the WAO.

*Effect of transfer of contract of employment on trade union recognition*

- ( ) Where before the transfer an independent trade union is recognised to any extent by the Auditor General in respect of any employees whose contract of employment transfers under paragraph 5(1), then, after the transfer –
- (a) the trade union shall be deemed to have been recognised by the WAO to the same extent in respect of those employees; and
  - (b) any agreement for recognition may be varied or rescinded accordingly.’.

*To ensure adequate TUPE protection for transferring staff.*

Atodlen 3, tudalen 34, ar ôl llinell 38, mewnosoder –

*Diswyddo oherwydd trosglwyddo contract cyflogaeth*

- ( ) (1) Os caiff unrhyw gyflogai i’r Archwilydd Cyffredinol neu SAC ei ddiswyddo gan yr Archwilydd Cyffredinol neu SAC (yn ôl y digwydd), caiff ei drin at ddiben Rhan X o Ddeddf Hawliau Cyflogaeth 1996 (diswyddo annheg) fel un sydd wedi’i ddiswyddo’n annheg os mai’r unig reswm neu’r prif reswm dros ddiswyddo’r cyflogai yw –
- (a) y trosglwyddiad ei hun; neu
  - (b) rheswm sy’n gysylltiedig â’r trosglwyddiad nad yw’n rheswm economaidd, technegol na sefydliadol sy’n golygu newidiadau i’r gweithlu.
- (2) Mae’r is-baragraff hwn yn gymwys pan fo’r unig reswm neu’r prif reswm dros ddiswyddo’r cyflogai yn rheswm sy’n gysylltiedig â’r trosglwyddiad sy’n rheswm economaidd, technegol neu sefydliadol sy’n golygu newidiadau i weithlu’r Archwilydd Cyffredinol neu SAC (yn ôl y digwydd) cyn neu ar ôl trosglwyddo contract cyflogaeth y cyflogai o dan baragraff 5(1).
- (3) Pan fo is-baragraff (2) yn gymwys –
- (a) ni fydd is-baragraff (1) yn gymwys;

- (b) heb ragfarnu cymhwysiad adran 98(4) o Ddeddf Hawliau Cyflogaeth 1996 (prawf ar gyfer diswyddiad teg), rhaid ystyried y diswyddiad, at ddibenion adrannau 98(1) a 135 o'r Ddeddf honno (rheswm dros ddiswyddo), yn achos o ddileu swydd pan fydd adran 98(2)(c) o'r Ddeddf honno yn gymwys, neu fel arall am reswm sylweddol o'r math a fyddai'n cyfiawnhau diswyddo cyflogai sy'n dal y swydd yr oedd y cyflogai yn ei dal.
- (4) Ni fydd is-baragraff (1) yn gymwys mewn perthynas â diswyddo cyflogai os caiff cymhwysiad adran 94 o Ddeddf Hawliau Cyflogaeth 1996 i ddiswyddo'r cyflogai ei eithrio gan neu o dan unrhyw ddarpariaeth o'r Ddeddf honno, Deddf Tribiwnlysoedd 1996 neu Ddeddf Undebau Llafur a Chysylltiadau Llafur (Cydgrynhoi) 1992.

*Effaith trosglwyddo contract cyflogaeth ar gytundebau ar y cyd*

- ( ) Ar adeg trosglwyddo contract a drosglwyddir, os oes cytundeb ar y cyd yn bodoli a wnaed gan neu ar ran yr Archwilydd Cyffredinol gydag undeb llafur a gydnabyddir gan yr Archwilydd Cyffredinol o ran cyflogai y mae ei contract cyflogaeth wedi'i gadw gan baragraff 5(2), yna heb ragfarnu adrannau 179 a 180 o Ddeddf Undebau Llafur a Chysylltiadau Llafur (Cydgrynhoi) 1992 (cytundebau ar y cyd y tybir eu bod yn anorfodadwy mewn amgylchiadau penodol) rhaid i'r cytundeb hwnnw, wrth ei gymhwyso mewn perthynas â'r cyflogai, ar ôl y trosglwyddo, gael effaith fel pe bai wedi'i wneud gan neu ar ran SAC gyda'r undeb llafur hwnnw, ac yn unol â hynny, rhaid barnu bod unrhyw beth a wneir odano neu mewn cysylltiad ag ef, wrth ei gymhwyso mewn perthynas â'r cyflogai hwnnw, gan neu mewn cysylltiad â'r Archwilydd Cyffredinol cyn y trosglwyddo, wedi'i wneud gan neu mewn perthynas â SAC, ar ôl y trosglwyddo.

*Effaith trosglwyddo contract cyflogaeth ar gydnabyddiaeth undeb llafur*

- ( ) Os caiff undeb llafur annibynnol ei gydnabod i unrhyw raddau gan yr Archwilydd Cyffredinol o ran unrhyw gyflogeion y mae eu contract cyflogaeth yn trosglwyddo o dan baragraff 5(1) cyn y trosglwyddiad, yna, ar ôl y trosglwyddiad –
- (a) rhaid barnu bod yr undeb llafur wedi'i gydnabod gan SAC i'r un graddau o ran y cyflogeion hynny; a
- (b) caiff unrhyw gytundeb cydnabod ei amrywio neu ei ddad-wneud yn unol â hynny.'.

*Sicrhau bod dioglewch TUPE digonol i staff sy'n trosglwyddo.*

**Jane Hutt**

**26**

Schedule 4, page 39, leave out line 1 and insert –

'( ) After subsection (9), insert –

“(10) In this section, a reference to a person acting on behalf of the Auditor General for Wales is a reference to a person acting on the Auditor's behalf by virtue of a delegation made under section 18 of the Public Audit (Wales) Act 2013.”'.

Atodlen 4, tudalen 39, hepgorer llinell 1 a mewnosoder –



'() Ar ôl is-adran (9), mewnosoder –

“(10) In this section, a reference to a person acting on behalf of the Auditor General for Wales is a reference to a person acting on the Auditor's behalf by virtue of a delegation made under section 18 of the Public Audit (Wales) Act 2013.”.

**Jocelyn Davies**

43

Schedule 4, page 40, leave out lines 12 to 13.

*The provision of the Bill that this amendment would remove is a change in the identity of the “qualified person” for the Auditor General for Wales and Wales Audit Office. Currently, the “qualified person” is the Auditor General for Wales. Para 15(3)(b), which this amendment would remove, would change this to the Wales Audit Office Board.*

Atodlen 4, tudalen 40, hepgorer llinellau 12 hyd at 13.

*Y ddarpariaeth yn y Bil y byddai'r gwelliant hwn yn ei ddileu fyddai newid hunaniaeth y “person cymwysedig” ar gyfer Archwilydd Cyffredinol Cymru a Swyddfa Archwilio Cymru. Ar hyn o bryd, y “person cymwysedig” yw Archwilydd Cyffredinol Cymru. Byddai paragraff 15(3)(b), sef y ddarpariaeth y byddai'r gwelliant hwn yn ei ddileu, yn newid hynny i Fwrdd Swyddfa Archwilio Cymru.*

**Jane Hutt**

27

Schedule 4, page 45, line 26, leave out ‘omit’ and insert ‘for’.

Atodlen 4, tudalen 45, llinell 26, hepgorer ‘hepgorer’ a mewnosoder ‘yn lle’.

**Jane Hutt**

28

Schedule 4, page 45, line 27, after ‘auditor’’, insert ‘substitute “or a person acting on behalf of the Auditor General for Wales by virtue of a delegation made under section 18 of the Public Audit (Wales) Act 2013”’.

Atodlen 4, tudalen 45, llinell 27, ar ôl ‘auditor’’, mewnosoder ‘rhodder “or a person acting on behalf of the Auditor General for Wales by virtue of a delegation made under section 18 of the Public Audit (Wales) Act 2013”’.

**Jane Hutt**

29

Schedule 4, page 46, line 18, leave out ‘omit’ –

- (a) “or a person acting on his behalf”, and
- (b) “or that person”.

and insert –

’, after “or a person acting on his behalf” insert “by virtue of a delegation made under section 18 of the Public Audit (Wales) Act 2013”.’.

Atodlen 4, tudalen 46, llinell 18, hepgorer ‘hepgorer’ –

- (a) “or a person acting on his behalf”, and
- (b) “or that person”.

a mewnsoder –

‘, ar ôl “or a person acting on his behalf” mewnsoder “by virtue of a delegation made under section 18 of the Public Audit (Wales) Act 2013”.’.

**Jane Hutt** 30

Schedule 4, page 46, line 24, leave out ‘omit “or a person acting on his behalf”’ and insert ‘after “a person acting on his behalf” insert “by virtue of a delegation made under section 18 of the Public Audit (Wales) Act 2013”’.

Atodlen 4, tudalen 46, llinell 24, hepgorer ‘hepgorer “or a person acting on his behalf”’ a mewnsoder ‘ar ôl “a person acting on his behalf” mewnsoder “by virtue of a delegation made under section 18 of the Public Audit (Wales) Act 2013”’.

**Jane Hutt** 31

Schedule 4, page 46, leave out line 27.

Atodlen 4, tudalen 46, hepgorer llinell 27.

**Jane Hutt** 32

Schedule 4, page 46, leave out line 29.

Atodlen 4, tudalen 46, hepgorer llinell 29.

**Jane Hutt** 33

Schedule 4, page 46, after line 30, insert –

‘(4) In subsection (6)(b), for sub-paragraph (iv) substitute –

“(iv) a health and social care body mentioned in paragraphs (a) to (e) of section 1(5) of the Health and Social Care (Reform) Act (Northern Ireland) 2009.”’.

Atodlen 4, tudalen 46, ar ôl llinell 30, mewnsoder –

‘(4) Yn is-adran (6)(b), yn lle is-baragraff (iv) rhodder –

“(iv) a health and social care body mentioned in paragraphs (a) to (e) of section 1(5) of the Health and Social Care (Reform) Act (Northern Ireland) 2009.”’.

**Jane Hutt** 34

Schedule 4, page 47, line 35, leave out ‘in paragraph (b) for “paragraph 14 of Schedule 8” substitute “paragraph 32 of Schedule 1 to the Public Audit (Wales) Act 2013”’ and insert ‘omit paragraph (b)’.

Atodlen 4, tudalen 47, llinell 34, hepgorer ‘ym mharagraff (b) yn lle “paragraph 14 of Schedule 8” rhodder “paragraph 32 of Schedule 1 to the Public Audit (Wales) Act 2013”’ a mewnsoder ‘hepgorer paragraff (b)’.