



Cynulliad Cenedlaethol Cymru **The National Assembly for Wales**

Pwyllgor o'r Cynulliad Cyfan **The Committee of the Whole Assembly**

Dydd Mawrth, 16 Gorffennaf 2013
Tuesday, 16 July 2013

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The proceedings are recorded in the language in which they were spoken in the committee. In addition, a transcription of the simultaneous interpretation is included.

Dechreuodd y cyfarfod am 1.30 p.m. gyda'r Llywydd (Rosemary Butler) yn y Gadair.

The meeting began at 1.30 p.m. with the Presiding Officer (Rosemary Butler) in the Chair.

[1] **The Presiding Officer:** Good afternoon and welcome to the Committee of the Whole Assembly.

**Bil Sector Amaethyddol (Cymru)—Cyfnod 2: Ystyried Gwelliannau
Agriculture Sector (Wales) Bill—Stage 2: Consideration of Amendments**

**Grŵp 1: Sefydlu'r Panel (Gwelliannau 75, 76, 43, 1, 44, 15, 25, 26, 16, 27, 45, 53 a 29)
Group 1: Establishment of the Panel (Amendments 75, 76, 43, 1, 44, 15, 25, 26, 16, 27,
45, 53 and 29)**

[2] **The Presiding Officer:** The lead amendment in the group is amendment 75. I call on Antoinette Sandbach to move amendment 75 and to speak to it and the other amendments in the group.

[3] **Antoinette Sandbach:** I move amendment 75 in my name.

[4] At the outset, I would like to give a short explanation as to how we find ourselves in this situation and I will then go on to explain the effects and consequences of my amendments. Prior to the introduction of—

[5] **The Presiding Officer:** Order. This is to talk about amendments, so, if you can stick to the amendments, that would be helpful.

[6] **Antoinette Sandbach:** It relates to why these amendments have been tabled. Prior to the introduction of this Bill, the Assembly has had only a single short debate on the future of the Agricultural Wages Board for England and Wales and its functions, in October 2012. As you are aware, under the Assembly rules, the short debate has limited opportunities for opposition Members to contribute—*[Interruption.]*

[7] **The Presiding Officer:** Order. We have been going one minute. We have a long afternoon ahead of us, so can we please try to listen to speakers.

[8] **Antoinette Sandbach:** Those contributions are limited to one minute, but that debate was months ago and there has been no opportunity to scrutinise or properly debate the implications of the Welsh Government's proposals. No committee was able to scrutinise the legislative consent motion relating to the abolition of the Agricultural Wages Board in the Enterprise and Regulatory Reform Bill. Neither the Constitutional and Legislative Affairs Committee nor the Environment and Sustainability Committee had the opportunity to seek legal advice, and neither were given an opportunity to prepare a report for this Assembly. This required a departure from the Standing Orders of the Assembly. Now we are facing emergency legislation on the back of a ruling by the Presiding Officer that can be described as very finely balanced.

[9] When the Minister announced a consultation—

[10] **The Presiding Officer:** I am sorry to stop you, but you need to address the amendments. We do not want a history lesson; we all know why we are here and we have a long list of amendments. So, please start addressing the amendments.

[11] **Antoinette Sandbach:** I am. Are you Chair, or Presiding Officer?

[12] **The Presiding Officer:** I am in charge, whatever it is. *[Laughter.]*

[13] **Antoinette Sandbach:** I am not certain how to address you.

[14] **The Presiding Officer:** Just speak to the amendments and you will not have to address me.

[15] **Antoinette Sandbach:** The Minister announced a consultation on the future of the board and its functions in Wales on 30 April and rejected a suggestion that this would simply be a box-ticking exercise. He said that he wanted to listen to what people have to say and come to a reasoned decision at the end of that consultation. Yet, this Bill was brought before the Assembly before the consultation had even closed—

[16] **The Presiding Officer:** I am sorry, Antoinette Sandbach, but you really need to speak to the amendments. Please stop what you are saying and move on to the amendments. Can you now speak to amendment 75?

[17] **Antoinette Sandbach:** Amendment 75 and the subsequent amendments effectively state on the face of the Bill that the agricultural panel created as a result of this Bill is not simply advisory in nature. It ensures that the panel does not merely advise the Welsh Ministers, but acts as a body in its own right. Amendment 76 creates a panel that is to have more than merely advisory powers. The amendment creates the panel on the face of the Bill, rather than Welsh Ministers being given the power to create it. Effectively, when the Minister came to the Assembly to ask for emergency powers to undertake this legislation, he stated that he wished to preserve the existing functions of the Agricultural Wages Board, which is, effectively, the Agricultural Wages Board of 1948. The Schedule details the construction of the panel, and, if the Minister's wishes were correctly drafted in the way that the Bill was drafted, then that needs to be reflected in the Schedule to the Bill. It is important, because the functions and the responsibilities of the Agricultural Wages Committee in Wales and the Agricultural Dwelling House Advisory Committee in Wales have been devolved since 2007. The Minister himself has confirmed to me, in answers to written Assembly questions WAQ61894 and WAQ61895, that neither of those committees has met since the Orders came into effect in 2007.

[18] Therefore, what this amendment does is detail the constitution and the proceedings of the panel. The Schedule is based on Schedule 1 to the Agricultural Wages Act 1948, and it provides details of the membership, the procedure for appointments, the procedures for Orders, panel resources and committees or sub-committees of the panel. It ensures that the panel has the resources to undertake its functions, which, under our amendment, are no longer simply advisory in nature. In other words, this Schedule would require the panel to conduct the Orders, rather than the Minister. The Minister stated in his evidence to the Constitutional and Legislative Affairs Committee that he felt that

[19] 'the least disruptive approach would be to legislate to maintain the status quo'.

[20] Surely, this Schedule, which is based on the Schedule to the Agricultural Wages Act 1948, ensures that continuity, and allows for the panel to have similar resources and procedures to those of the old Agricultural Wages Board. That is important, because we do not have the regulatory impact assessment that is required under the Government of Wales Act 2006 and the Government of Wales procedures, because the Minister has said that, as it is emergency legislation, he is not able to bring that forward.

[21] We know from the Minister's evidence to the Environment and Sustainability Committee, back in November, that he said that he would be gathering evidence on the impact in Wales. However, that evidence has not been disclosed to the Assembly, it has not been acted on, and it has certainly not been published. There have been no opportunities for businesses to look at how the proposals, as put forward by the Minister, would impact, basically because the Bill, as it is currently drafted, gives hugely wide-ranging powers to the Minister, with very little opportunity for scrutiny, particularly by permitting him to make Orders. Bearing in mind the procedures that we have here, that, effectively, relies on subordinate legislation. I would therefore urge this committee to look at the Schedule, which

does what the Minister stated he wanted to do when he argued for emergency legislation, which was to preserve the existing powers and functions of the Agricultural Wages Board.

[22] **Llyr Huws Gruffydd:** Byddwch yn gweld bod Plaid Cymru wedi cyflwyno gwelliannau 25, 26 a 27. Ein nod wrth wneud hynny oedd sicrhau mwy o eglurder am swyddogaethau'r panel hwn, hynny yw, bod yn fwy penodol am natur a chwmpas y swyddogaethau. Er enghraifft, mae gwelliant 27 yn sôn am fewnosod:

Llyr Huws Gruffydd: You will see that Plaid Cymru has tabled amendments 25, 26 and 27. Our aim in doing so was to ensure greater clarity on the functions of this panel, and to be more specific about the nature and range of the functions. For example, amendment 27 refers to inserting:

[23] 'Y swyddogaethau y cyfeirir atynt yn is-adran (1) yw—',

'The functions referred to in subsection (1) are—',

[24] Yn hytrach nag efallai eiriad mwy anelwig fel sydd yna yn awr, sy'n dweud:

Rather than a perhaps more vague wording such as that there now, which states:

[25] 'Caiff swyddogaethau o'r fath gynnwys'.

'Such functions may, in particular, include'.

[26] Rydym wedi edrych gwelliannau 15 ac 16 y Llywodraeth, ac rwyf yn hapus i beidio â chynnig gwelliannau 25, 26 a 27. Fodd bynnag, byddai gwelliant 29 yn dal i sefyll, oherwydd ei fod yn sôn am adran (2)3 yn benodol. Am yr un rhesymau ag ar gyfer rhai o'r gwelliannau eraill yn y grŵp hwn, credaf y dylai sefyll, ac felly, yn hytrach na dweud, 'caiff Gweinidogion', dylai hynny gael ei gryfhau i 'rhaid i Weinidogion', oherwydd, heb hynny, gallai Gweinidogion ddewis peidio â chreu'r darpariaethau sy'n cael eu rhestru. Mewn Bil brys o'r math hwn, credaf ei bod yn bwysig ein bod yn cyfyngu gymaint ag y gallwn ar amwysedd.

We have looked at Government amendments 15 and 16, and I am happy not to move amendments 25, 26 and 27. However, amendment 29 would still stand, because it mentions section (2)3 specifically. For the same reasons as for some of the other amendments in the group, I think it should stand, and therefore, instead of saying, 'Ministers may', that should be strengthened to 'Ministers must' because, otherwise, Ministers could choose not to make the provisions listed. In an emergency Bill of this kind, I think that it is important that we should limit any ambiguity as much as possible.

[27] **William Powell:** Conscious of the pressures on time, I will move straight to speak to amendment 1, which is tabled in my name.

[28] When the initial draft of this Bill came before us, it came as no little surprise that there was in fact nothing in its wording that mandated the Minister to establish the panel, especially given the central role that this panel has in the very purpose of this emergency legislation. To that end, and in line with the recommendation of the Constitutional and Legislative Affairs Committee, I have tabled amendment 1, which simply replaces 'may' with 'must' in section 2 of the Bill.

[29] Naturally, there are several ways in which this change could be achieved. I believe that there is a general desire in this Chamber that this should be done in order to protect the panel from undue disruption from future incumbents of the Ministry of Natural Resources and Food. As such, I am not overly precious about the way that we achieve this transition, as long as it is clear, simple and effective. So, I would urge Members to support amendment 1.

[30] I am keen to see the role of the panel strengthened as much as possible. To that end, I will be supporting the majority of amendments in this group and what they seek to achieve. I

have some reservations about what impact amendment 75 would have in terms of the legislative competence of the Assembly and keeping the Bill within the Assembly's powers, given the removal of the specified advisory component. However, given my support for a stronger board in principle, I am happy at this stage to support the amendments within the context of today's deliberations. I also very strongly welcome the additional clarity that is offered by Llyr Huws Gruffydd's amendments and will be supporting all those in this group.

[31] **Suzy Davies:** I speak first to amendment 33, whose purpose was also reflected in William Powell's amendment, and the observations of the Constitutional and Legislative Affairs Committee in its report. The basic question is: what is the point of rushing through this Bill on the basis that it protects workers' rights if there is no obligation on the Welsh Government to introduce the very body with which it intends to replace the Agricultural Wages Board? On the basis of it being unclear as to whether the Minister seeks a discretionary power, or whether he seeks to be obligated to create a panel, line 14 needs to be removed from this Bill.

[32] I will speak to my other amendments in this group collectively, because together they remove discretionary powers for Welsh Ministers to set up the panel and impose duties on it. We have no indication, of course, as to what those duties might be. Its design, constitution and those duties are unknown. This Assembly should not be giving Order-making powers to Welsh Ministers without understanding their likely effect when time to scrutinise the Minister's specific intentions has not been available. We cannot examine those intentions without detail on the face of the Bill or, at the very least, an indication of what those Orders might look like.

[33] Once again, I find myself standing up in this Chamber being asked to vote on a Bill whose possible impact has not been assessed. Ministerial reassurance is no substitute for scrutiny, especially where there is still a question mark over competence. Framework legislation—and this part of the Bill fits that description, Presiding Officer—should not come to this Chamber without at least a sketch of what the secondary legislation might look like. By deferring so much to secondary legislation, Minister, you lose the argument on the need for urgent delivery.

[34] The panel, whatever shape it takes, to have any meaningful role, must be properly at arm's length and that is the purpose of one of my amendments. Otherwise, it is just an expensive piece of fancy window dressing, with the actual power residing with Welsh Ministers, and we have enough of those already.

[35] **Paul Davies:** I rise in support of the amendments in this group tabled by my colleagues, Antoinette Sandbach and Suzy Davies. At the very heart of the Welsh Conservative amendments in this group is the need to ensure the independence of this panel in relation to Welsh Government Ministers. Our intention is clear. This panel should not be merely advisory in its nature, it should be more than advisory and it should be independent of Government. While I am not for one minute suggesting that the current Minister would abuse his power in relation to the agricultural sector panel for Wales, it is crucial that there is no scope for any such activity from future Governments. It is absolutely essential that this panel is open, transparent and independent of Welsh Government Ministers, and, indeed, the Government of the day.

1.45 p.m.

[36] As a Member for a largely rural constituency, I cannot emphasise too strongly the importance of the agricultural sector in Wales. This panel should be a strong and independent body that can protect and promote the industry's interests without political interference. It is absolutely crucial that the panel is not just an advisory panel, but that it has real teeth to deal

with issues affecting agricultural workers. Therefore, the powers and duties of the panel must be secured by the Act and not by Welsh Ministers. Specifically, amendment 76, tabled by my colleague Antoinette Sandbach, clearly sets out the role of the panel and details how the Schedule, which is based on Schedule 1 to the Agricultural Wages Act 1948, would be similar in relation to issues such as details of membership, procedure for appointments and procedures for Orders, for example. Our amendment ensures that the panel is not just simply an advisory panel; it also ensures that the panel is sufficiently resourced to be able to undertake its functions effectively.

[37] I accept that the Welsh Government ran a consultation on the Agricultural Wages Board. However, given the poor response to that consultation, more should have been done to engage with the agricultural industry on the specifics of the new panel's functions and roles. Giving sufficient time to scrutinise the Bill surely would have resulted in sufficient time being given to consult with key stakeholders within the agricultural industry. In light of this, I urge Members to support the amendments tabled by my colleagues Antoinette Sandbach and Suzy Davies.

[38] **The Presiding Officer:** I call on the Minister to speak.

[39] **Alun Davies:** I understand and appreciate the strength of feeling that lies behind the remarks made by the Member for Preseli Pembrokeshire. I would say to him that if he feels that he can contribute any further amendments that will achieve some of the objectives that he has outlined in his speech, I would be more than happy to meet him to discuss those amendments at the conclusion of the committee this afternoon. I would be quite happy to bring forward further Government amendments to achieve some of the objectives that he has outlined.

[40] He finished his contribution with a request, I think, or certainly an observation that further consultation with the industry is required. I will give him an undertaking that this is a process that will not be completed today or tomorrow, but a process that we will continue to pursue in relation to Order making and establishing the panel, and we will consult at all those stages and at all those points. If the Member or other Members have further points to make on the issue of consultation, I am more than happy to listen to what they have to say and to bring forward further amendments if they are required.

[41] During our debate on this matter last week, I said that I would be listening actively and positively to contributions on all sides of the Chamber and looking towards bringing forward amendments today and tomorrow that will reflect that active listening. I hope that Members, in reading the amendments that the Government has laid today, will accept that that listening has taken place. I appeared before the Constitutional and Legislative Affairs Committee last week, I think, and I have brought forward amendments that I hope reflect most, if not all, of the major concerns that that committee raised with me. The Government will be supporting amendment 1, which has been laid in William Powell's name. In fact, we laid an amendment of our own to achieve that exact objective, but, on this occasion, Bill, you beat us to it and we will certainly support that amendment.

[42] To speak more widely on other amendments in this group, I listened carefully to what was said by the Conservative Member for North Wales, who set out the purpose of amendment 76 and 116. Before I turn to the substance of some of those amendments, I will focus for a moment on the proposed change of name to 'the Panel'. The panel carries out functions in relation to the agricultural sector, but is not a panel of that sector: rather, the panel advises Welsh Ministers in relation to the agricultural sector in the way in which the Member for Preseli Pembrokeshire outlined. The term 'advisory' in the title demonstrates its primary function. The substance of Antoinette's amendment 76 seeks to move away from Welsh Ministers constituting a panel by way of Order and, instead, using the Bill to achieve

that. The Conservative Member for South Wales West seeks to do something similar with amendments 43, 44, 45 and 53.

[43] The primary aim of this Bill—and this is where the Conservatives seem to be somewhat confused—is to preserve the effect of the Agricultural Wages (England and Wales) Order 2012, thereby protecting the terms and conditions of agricultural workers in Wales. The primary aim is not simply to resurrect the Agricultural Wages Board, nor is it to create a new bureaucracy. I will say to Members on the Conservative benches who have raised this matter that the regulatory impact assessment has been made and has been tabled. One of the ways in which we wish to strengthen the sector is to take a reasoned and careful consideration of what future agricultural wages Orders may need to contain. The Bill allows Welsh Ministers to establish an advisory panel to provide them with the necessary information and support to achieve the right outcome for the whole sector and the industry.

[44] In terms of the amendments that the Government is making—and I recognise the contribution from the Plaid Cymru spokesperson on these matters—amendments 15 and 16 in my name will strengthen the position by ensuring that those functions of the panel are set out on the face of the Bill at section 2(2) and will be contained in the Order establishing the panel. I am pleased to be able to bring forward these amendments. Once again, they reflect the discussions that we had last week. I recognise, once again, that Plaid Cymru, in withdrawing its amendments, agrees that this provides the strengthening and the safeguards that were required, in discussions with Plaid Cymru, and also in the Constitutional and Legislative Affairs Committee and on the floor of the Chamber last week.

[45] While I appreciate the principle that is behind amendment 29, to ensure that Orders under section 2(3) are comprehensive and always cover the constitution and proceedings and general powers and other matters, I believe that in operation, and on simply a practical level and not in terms of principle, the amendment may cause some difficulties. If accepted, it would mean that every Order we make would have to make provisions on all of these different matters, many of which might be unnecessary when minor amendments are required once the panel has been established. The Orders are subject to the affirmative procedure, so this committee can be satisfied that appropriate scrutiny will be brought to the Order establishing the panel and any subsequent changes to that. So, I ask the committee, on this occasion, to support amendment 1 and amendments 15 and 16. I am grateful to Plaid Cymru for withdrawing its amendments in the name of Llyr Huws Gruffydd.

[46] **The Presiding Officer:** I call on Antoinette Sandbach to reply to the debate.

[47] **Antoinette Sandbach:** I was interested to hear the Minister's comments on further consultation with the industry. Of course, the industry might be feeling battered, having replied to the consultation where the provisions of this Bill were not outlined in the consultation paper. Indeed, the consultation had not even closed when this emergency legislation came through. It may feel that the Minister's reassurance rings rather hollow in the face of that, given that he provided assurances to the Chamber when launching that consultation that it was not a box-ticking exercise. In fact, what we have seen is that very thing.

[48] In terms of the name of the panel, the whole point of the Conservative amendments is to ensure that the panel does not advise Welsh Ministers, but that it has a separate function. That is why we have tabled amendments 75 and 76. I hear what the Minister says about the primary aim being to preserve the current agricultural wages Order, but, in fact, the legislation in Westminster does that. There is no need for the Assembly to preserve the current agricultural wages Order, because it was quite clear, when the Enterprise and Regulatory Reform Bill dealt with these issues, that those on current contracts, terms and conditions would be subject to the terms of the agricultural wages Order as it is currently drafted. So

that, Minister, is the factual position.

[49] In terms of the regulatory impact assessment, yes, one has been tabled, but the tabled regulatory impact assessment states that it is not able to assess the impact on small businesses or cross-border businesses. So, while the form has been complied with, the substance has not. The regulatory impact assessment has no equality impact assessment in it and there is no evidence or information before this committee that would allow us to have any idea what impact this will have on farming businesses up and down Wales. There is no evidence on that. As the Minister himself said, the impact assessment of the UK Government—that of the Department for Environment, Food and Rural Affairs—did not distinguish between Wales and England in terms of its figures. So, it has not been possible to disaggregate figures from within the DEFRA impact assessment. Saying that you have tabled an impact assessment without undertaking what is required within it is rather hollow.

[50] I urge Assembly Members to support amendments that help create a panel, and which take the functions away from Welsh Ministers and into the hands of the panel. If the intention or the reason for bringing forward this emergency legislation is to preserve the powers that were carried out by the Agricultural Wages Board, we should do that. If the Minister wanted to introduce other legislation that goes beyond that, it should have been introduced separately. It could have been introduced at any point over the two years that we have had so far in this fourth Assembly. It could have gone through the proper scrutiny and the proper processes. Those are my closing arguments.

[51] **The Presiding Officer:** The question is that amendment 75 be agreed to. Does any Member object? There is objection, so we will move to an electronic vote.

[Canlyniad y bleidlais ar welliant 75.](#)
[Result of the vote on amendment 75.](#)

Gwrthodwyd gwelliant 75: O blaid 25, Yn erbyn 26, Ymatal 0.
Amendment 75 not agreed: For 25, Against 26, Abstain 0.

Grŵp 2: Diben y Panel (Gwelliannau 42, 46, 47, 48, 49, 50, 51, 52, 55, 56, 58, 60, 61, 62, 63, 64, 65, 70 a 71)

Group 2: Purpose of the Panel (Amendments 42, 46, 47, 48, 49, 50, 51, 52, 55, 56, 58, 60, 61, 62, 63, 64, 65, 70 and 71)

[52] **The Presiding Officer:** The lead amendment in the group is amendment 42. I call on Suzy Davies to move amendment 42 and to speak to it and the other amendments in the group.

[53] **Suzy Davies:** I move amendment 42 in my name.

[54] As Members will see, there are a number of amendments in this group, so I will address them in clusters, if that is acceptable, although they all arise from one particular concern. All Members will be alive to the reputation of the Assembly, and our deeply held desire to keep our legislation away from the Supreme Court, win or lose. Minister, you will know that some concerns persist about parts of this Bill coming within competence. I am still not persuaded that the employment elements of this Bill are sufficiently secondary to qualify as incidental to the uncontroversial intention of skills development and other policy intentions.

[55] Looking at the Bill as a whole, its clear focus is on issues of employment. Section 1 of the Bill, which I accept is merely introductory, makes no mention of your skills agenda, but draws our attention determinedly to wages and terms and conditions, and the enforceability of

those terms and conditions. The only detailed sections in this Bill relate to wages and terms and conditions, and their enforceability. So, whatever sympathy Members may have with the policy intention of this Bill, I urge you to consider whether the Minister has weighted this Bill so heavily with detail about these apparently incidental matters that he has tipped it comprehensively into the danger zone on the question of competence.

[56] Amendment 42 in this group removes powers from Welsh Ministers to make decisions—direct to the panel—or to introduce secondary legislation on matters that could fail the test of being incidental to the Minister’s alleged wider purposes. It also reduces the possibility of the panel being placed in the unfair position of being asked by Welsh Ministers to advise on matters that go beyond being incidental to matters within competence.

[57] Amendments 48, 49 and 52 make it clear, in the way that the Minister’s own text and amendments completely fail to do, despite his assertion that they are the main purposes of the Bill, that the panel may advise on education, training, housing and other matters within competence.

[58] Most of the remaining amendments delete sections 3, 4 and 5, and sections 9 through to 12, or are consequential to those. These sections are the biggest culprits in tipping the Bill into the competence danger zone. Just look at the prominence and level of detail given to these alleged incidental provisions in such a short Bill, which is woefully thin on either aspect when it comes to its apparent main purposes.

[59] Minister, I am not sure whether all these sections were drawn to your attention at Stage 1 on the issue of whether they were incidental in nature, but I recall that you did not respond to the concerns that I raised on sections 5 and 12, which I particularly raised with you. I hope that you will respond in relation to those now, as well as in relation to the remainder of these amendments.

[60] You told us in the Constitutional and Legislative Affairs Committee that this Bill is the best that it can be. Clearly, it is not if it has prompted so many amendments, including your own. If you cannot get past concerns over the balance between the primary and incidental provisions, then it is still far from being the best it can be. This Assembly should not take a risk on this Bill as currently drafted.

2.00 p.m.

[61] **Antoinette Sandbach:** I rise in support of the amendments that Suzy Davies has tabled. There have been clear issues over competence. The Environment and Sustainability Committee heard evidence about the Welsh Government’s view. Our concerns are that the Welsh Government’s view has not been tested. Clear evidence has come forward in terms of the response to the Welsh Government’s consultation, and it is clear that there is a lot of evidence from the unions saying that it is vital that this body has wage-setting functions. Those wage-setting functions relate to employment terms and conditions. Suzy Davies’s amendments, as she says, rightly focus the purpose of this Bill on the aims that the Minister has stated publicly that he wishes to support, which are the aims of education and training. As Suzy Davies has said, there are very few specifics in this Bill relating to how the Minister would like this panel to support the functions of education and training. Had this Bill been brought forward with details of that, we may well have found it to be a much less controversial Bill and something that might have had wide support around the Chamber. However, this Bill goes far beyond that. It seems to me that, as an Assembly and as a committee, if we want to support the upskilling of the agricultural sector, then the aims and why that was wanted should have been made very clear on the face of the Bill, rather than this concentration, as Suzy Davies has said, on the wage-setting powers.

[62] Some submissions made to the Environment and Sustainability Committee suggested that employment terms and conditions—looking at matters like contracts, for example—was an area that needed to be looked at again and that was not satisfactory under the current Agricultural Wages Board. That is surprising, because—I go back to what I said previously—the Agricultural Wages Committee in Wales did not sit once. Since its functions were devolved to Wales, the agricultural wages committee, since 2007, has not sat a single time in Wales. That would have been an opportunity for those concerns to be expressed and to look at the aspects of education and training. So, I rise in support of what Suzy Davies says.

[63] Also, why use this emergency Bill procedure? Using it means that there is a lack of scrutiny on the fine line, if I can put it that way, that the Welsh Government is seeking to tread. There are grave concerns on this side of the Chamber about the potential impacts.

[64] **The Presiding Officer:** I call on the Minister to speak.

[65] **Alun Davies:** I think that we have heard the true voice of Conservatism here in the last few minutes. These are not amendments seeking to improve the legislation; they are amendments seeking to wreck the legislation. We are scrutinising this legislation today, we will be doing it again tomorrow, we did it last week, and we did in front of a committee last week as well. On every occasion, Members in this place have had far more opportunity to scrutinise legislation than any elected Member in the House of Commons, and no elected Member of the House of Lords. So, when you talk about the use of procedure, think hard about the people that you are supporting in Westminster. In bringing forward this legislation, we are reflecting the overwhelming view of the consultation that took place, which this Government led, and the consultation that DEFRA led and then ignored. So, in terms of the consultation and the scrutiny—first, second and third—there is more scrutiny here and more notice taken of consultation, and there is more notice taken of the proper procedures that we have available to us here than in relation to the way that the AWB was abolished by your Government in London.

[66] The purpose of this legislation is to support the sector and the industry. The Conservatives criticise me for making and accepting amendments to this legislation; they would also have criticised me had I not made amendments and listened to the scrutiny, and had I not listened to the debate or paid attention to the views of the Constitutional and Legislative Affairs Committee and not made those amendments. You criticise every time we take a decision and, in doing so, on this occasion, what you are seeking to do is to undermine and wreck this legislation. The amendments that you have sought to pursue in this group would remove crucial parts of the Bill, altering its whole purpose and intended effect. That is contrary to a vote that was taken in this place last week, where we, meeting as an Assembly, agreed the general principles of the Bill. We are taking that forward today.

[67] In terms of some of the points that have been made on wider issues within agriculture, evidence that I have received from Mr Lionel Walford confirms that there are skills gaps in the agricultural industry, and he states that these relate specifically to operating and maintaining equipment, waste awareness, management of raw materials and environmental awareness and practice. These skills gaps relate to health and safety issues and the importance of agriculture as a key activity in supporting rural communities as well as contributing to the development of a sustainable agriculture industry in Wales. It is clear that the vision that the opposition has regarding this Bill is limited. It is limited in terms of what it wants to achieve and what it wants to see for the future of agriculture. I have referred to Mr Walford's evidence and I will, Presiding Officer, place a copy of his letter in the library to enable all Members to see that evidence and to reflect upon it. He states very clearly:

[68] 'In my view, the Agriculture Sector (Wales) Bill provides the opportunity to build on the work of the AWB in fostering the development of the agriculture industry by facilitating

the opportunities for workers to gain relevant skills and qualifications to respond to the aspirations of those workers and to feed through to a bottom line of business?.

[69] That is what this legislation is about and it is what this Government is about. It is about providing the support to businesses in the agricultural industry that they require in order to be successful and sustainable in the future. I invite all Members on all sides of the Chamber this afternoon to reject this group of Conservative amendments, because they do not seek to improve the Bill; they seek to wreck it.

[70] **Suzy Davies:** Could I reassure the Minister that it is not our intention to wreck this Bill, but to drag you kicking and screaming to the conclusion that there are issues of competence on this Bill, which, in themselves, may end up wrecking this Bill?

[71] It would have been most acceptable, I think, for us to know more about your plans about improving skills and on housing and education. Antoinette Sandbach referred to the opportunities that were missed for making this a far more comprehensive and useful piece of legislation. May I also remind the Minister that, in the first group of amendments put forward today, it was made crystal clear what our vision for an agricultural panel would be? It would be completely at arm's length and as independent as possible, and certainly not just a bag carrier for the Minister. So, I do not intend to comment on your response as regards to scrutiny, because I think that it is clear to everyone in this place that this process has not allowed the level of scrutiny that this Assembly has a duty to provide. Getting the general principles through by just one vote, does not exactly convince those watching us that you have a grip about what this Bill is supposed to achieve, and that you have persuaded this Assembly that it is all a good idea.

[72] **The Presiding Officer:** For the record, I wish Members to be aware that all of the amendments are in order and none of them are wrecking amendments. *[Interruption.]* I do not need a chorus from Monmouthshire. *[Laughter.]* I am asking for trouble now.

[73] The question is that amendment 42 be agreed to. Does any Member object? There is objection, so we will have an electronic vote.

[Canlyniad y bleidlais ar welliant 42.](#)
[Result of the vote on amendment 42.](#)

Gwrthodwyd gwelliant 42: O blaid 12, Yn erbyn 34, Ymatal 5.
Amendment 42 not agreed: For 12, Against 34, Abstain 5.

[74] **The Presiding Officer:** We now move to dispose of the next amendments in the marshalled list. I call on Antoinette Sandbach to move amendment 76. You can just move it; you do not have to stand up.

[75] **Antoinette Sandbach:** I move amendment 76 in my name.

[76] **The Presiding Officer:** If amendment 76 is agreed, amendments 43, 1, 15, 25, 44, 26, 16, 27, 45, 46, 28, 47, 48, 49, 50, 51, 52, 17, 18, 53, 2, 29, 3, 4, 5, 6, 54, 30, 7, 8 and 74 will fall.

[77] The question is that amendment 76 be agreed to. Does any Member object? There is objection, so we will move to an electronic vote.

[Canlyniad y bleidlais ar welliant 76.](#)
[Result of the vote on amendment 76.](#)

*Gwrthodwyd gwelliant 76: O blaid 12, Yn erbyn 39, Ymatal 0.
Amendment 76 not agreed: For 12, Against 39, Abstain 0.*

[78] **The Presiding Officer:** I call on Suzy Davies to move amendment 43.

[79] **Suzy Davies:** I move amendment 43 in my name.

[80] **The Presiding Officer:** The question is that amendment 43 be agreed to. Does any Member object? There is objection, so we will move to an electronic vote.

[Canlyniad y bleidlais ar welliant 43.](#)
[Result of the vote on amendment 43.](#)

*Gwrthodwyd gwelliant 43: O blaid 12, Yn erbyn 39, Ymatal 0.
Amendment 43 not agreed: For 12, Against 39, Abstain 0.*

[81] **The Presiding Officer:** I call on William Powell to move amendment 1.

[82] **William Powell:** I move amendment 1 in my name.

[83] **The Presiding Officer:** Will Members concentrate on the mic or, otherwise, we will be here a long time?

[84] The question is that amendment 1 be agreed to. Does any Member object? There are no objections, so amendment 1 is agreed in accordance with Standing Order No. 17.34.

*Derbyniwyd gwelliant 1.
Amendment 1 agreed.*

[85] **The Presiding Officer:** I call on Suzy Davies to move amendment 44.

[86] **Suzy Davies:** I move amendment 44 in my name.

[87] **The Presiding Officer:** If amendment 44 is agreed, amendments 15, 25 and 26 will fall.

[88] The question is that amendment 44 be agreed to. Does any Member object? There is objection, so we will move to an electronic vote.

[Canlyniad y bleidlais ar welliant 44.](#)
[Result of the vote on amendment 44.](#)

*Gwrthodwyd gwelliant 44: O blaid 12, Yn erbyn 39, Ymatal 0.
Amendment 44 not agreed: For 12, Against 39, Abstain 0.*

[89] **The Presiding Officer:** I call on the Minister to move amendment 15.

[90] **Alun Davies:** I move amendment 15 in my name.

[91] **The Presiding Officer:** If amendment 15 is agreed, amendments 25 and 26 will fall.

[92] The question is that amendment 15 be agreed to. Does any Member object? There are no objections, so amendment 15 is agreed in accordance with Standing Order No. 17.34.

Derbyniwyd gwelliant 15.

Amendment 15 agreed.

*Methodd gwelliannau 25 a 26.
Amendments 25 and 26 fell.*

[93] **Antoinette Sandbach:** I object.

[94] **The Presiding Officer:** I am sorry; you really need to speak up.

[95] We now move to amendment 16. I call on the Minister to move amendment 16.

[96] **Alun Davies:** I move amendment 16 in my name.

[97] **The Presiding Officer:** If amendment 16 is agreed, amendments 27 and 45 will fall.

[98] The question is that amendment 16 be agreed to. Does any Member object? There is objection, so we will move to an electronic vote.

[Canlyniad y bleidlais ar welliant 16.](#)
[Result of the vote on amendment 16.](#)

*Derbyniwyd gwelliant 16: O blaid 39, Yn erbyn 12, Ymatal 0.
Amendment 16 agreed: For 39, Against 12, Abstain 0.*

*Methodd gwelliannau 27 a 45.
Amendments 27 and 45 fell.*

[99] **The Presiding Officer:** I call on Suzy Davies to move amendment 46.

[100] **Suzy Davies:** I move amendment 46 in my name.

[101] **The Presiding Officer:** The question is that amendment 46 be agreed to. Does any Member object? There is objection, so we will move to an electronic vote.

[Canlyniad y bleidlais ar welliant 46.](#)
[Result of the vote on amendment 46.](#)

*Gwrthodwyd gwelliant 46: O blaid 19, Yn erbyn 26, Ymatal 5.
Amendment 46 not agreed: For 19, Against 26, Abstain 5.*

[102] **The Presiding Officer:** I call on Suzy Davies to move amendment 47.

[103] **Suzy Davies:** I move amendment 47 in my name.

[104] **The Presiding Officer:** If amendment 47 is agreed, then amendment 28 will fall.

[105] The question is that amendment 47 be agreed to. Does any Member object? There is objection, so we will move to an electronic vote.

[Canlyniad y bleidlais ar welliant 47.](#)
[Result of the vote on amendment 47.](#)

*Gwrthodwyd gwelliant 47: O blaid 12, Yn erbyn 34, Ymatal 5.
Amendment 47 not agreed: For 12, Against 34, Abstain 5.*

2.15 p.m.

Grŵp 3: Gwneud Gorchymyn Cyflogau Amaethyddol (Gwelliannau 28, 31, 77, 32, 9, 10, 19 a 35)

Group 3: Making an Agricultural Wages Order (Amendments 28, 31, 77, 32, 9, 10, 19 and 35)

[106] **The Presiding Officer:** The lead amendment in this group is amendment 28. I call on Llyr Huws Gruffydd to move amendment 28 and to speak to it and to the other amendments in the group.

[107] **Llyr Huws Gruffydd:** Cynigiaf welliant 28 yn fy enw i. **Llyr Huws Gruffydd:** I move amendment 28 in my name.

[108] Dyma'r grŵp sy'n ceisio sicrhau mai'r panel sy'n gwneud y Gorchymynion cyflogau amaethyddol. Yn ôl y geiriad gwreiddiol, y Gweinidog a fyddai'n gwneud y Gorchymynion, ond rydym wedi clywed yn flaenorol am yr angen i gynnal y *status quo*. Ar hyn o bryd, wrth gwrs, o edrych ar Fwrdd Cyflogau Amaethyddol Cymru a Lloegr, y bwrdd sy'n gwneud y Gorchymynion. Dyna hefyd y sefyllfa yn yr Alban a Gogledd Iwerddon. Felly, byddai'n well gennyf beidio â chanoli'r grym hwnnw gyda'r Gweinidog yng Nghymru. Ar hyn o bryd, mae penderfyniadau ar gyflogaeth yn rhydd o ddylanwad gwleidyddol, ac mae'n bwysig sicrhau bod gennym banel annibynnol cryf, nad ydyw, o reidrwydd, yn ddarostyngedig i Weinidogion a gwleidyddiaeth plaid.

This is the group that endeavours to ensure that it is the panel that makes the agricultural wages Orders. According to the original wording, the Minister would make the Orders, but we have previously heard about the need to maintain the status quo. At the moment, of course, when you look at the Agricultural Wages Board for England and Wales, you will see that it is the board that makes the Orders. The same is true in Scotland and Northern Ireland. Therefore, I would prefer not to centralise that power with the Minister in Wales. At present, decisions on wages are free from political influence and it is important that we ensure that we have a strong independent panel that is not, necessarily, subject to Ministers and party politics.

[109] Rwyf hefyd yn teimlo y byddai'r fath drefniant yn anghydnaws ag agenda Hwyluso'r Drefn, sy'n hyrwyddo'r egwyddor o'r diwydiant amaeth yn cael ei redeg gan y diwydiant amaeth, os liciwch chi, gyda llai o ymyrraeth gan Lywodraeth. Byddai hynny ond yn creu haen arall o fiwrocratiaeth diangen. Rwy'n deall gofid ambell un am y potensial am lai o atebolrwydd a llai o graffu gwleidyddol—mae llawer i'w ddweud dros hynny, wrth gwrs—ond, law yn llaw â rhai o'r elfennau sydd i'w trafod yn nes ymlaen, a fydd yn sicrhau mwy o dryloywder yn y modd y bydd y panel yn gweithredu, rwy'n fodlon bod trefn lle mae'r panel yn gwneud y Gorchymyn, fel sy'n digwydd yng Nghymru a Lloegr ar hyn o bryd ac fel sy'n digwydd yn yr Alban a Gogledd Iwerddon, yn un addas i Gymru.

I also feel that such an arrangement would not be in keeping with the Working Smarter agenda, which promotes the principle of an agricultural industry run by the agriculture industry itself, if you like, with less intervention from Government, which would only create another layer of unnecessary bureaucracy. I understand the concerns of some about the potential for less accountability and less political scrutiny—there is a lot to be said for that, of course—but, along with some of the elements that we will discuss later, which will ensure greater transparency in the way that the panel behaves, I am content that a system whereby the panel makes the Order, as is the case in England and Wales at present, and as happens in Scotland and Northern Ireland, would be appropriate for Wales.

[110] **Antoinette Sandbach:** I would like to support the argument that Llyr Huws Gruffydd has made. We support this amendment, as it places the power of making agricultural wages

Orders on rates of remuneration and terms and conditions firmly with the panel and not with Welsh Ministers. The Minister denied in his evidence to the Constitutional and Legislative Affairs Committee that he wished to politicise the setting of wages in Wales. It seems to me that, if he wants to avoid that politicisation, it is important that the independence of the panel is firmly established and that it goes beyond being advisory, in that it has the powers in its own hands.

[111] It is interesting to know that, where Scotland and Northern Ireland have separate agricultural wages boards, both of which were set up pre-devolution—one in the 1970s, and the other in 1949—it is the boards, not the Government, that set the wage rates. We also had concerns about the powers that the Minister could potentially exercise if these amendments were not taken forward. In particular, a negative procedure would be used. This procedure does not allow for amendments or detailed scrutiny by the Assembly, and it is contradictory to the evidence provided by the Minister to the Constitutional and Legislative Affairs Committee, which emphasised the amount of scrutiny and transparency that will surround this Bill. He stated that:

[112] ‘There will be greater scrutiny as a consequence of this legislation than we have had in the six years that I have been a Member of this place’.

[113] However, the Constitutional and Legislative Affairs Committee recommended that, if the Minister considers it appropriate to have the power to make Orders under section 3 of the Bill, he should table an amendment to apply the affirmative procedure. He has not accepted that recommendation, despite the very limited opportunity that the Constitutional and Legislative Affairs Committee had to look at the provisions of this Bill. He has rejected it, saying that the Orders will be made annually and are technical in nature. They are not technical in nature; they are wage-setting functions that, if the power remains with the Minister, will be politicised. We agree, therefore, with the Plaid amendments that the powers need to reside with the panel. We have concerns that I am sure we will come to about how that panel is constituted, and the appropriate balance for it. That too could affect its politicisation. It is very important that this is done by the panel, and not by the Minister.

[114] Amendment 77—one of my amendments in this group—supports the role of the panel in promoting training and education. In my submission, it balances the needs of employers with those of employees. It provides for 16 hours of paid training per year that could be taken by an agricultural worker. The idea is along the lines of continuing professional development, which we see in other professions—I am sure that many of you could think of examples, such as doctors and people who operate specialist machinery. There is continuing professional development for them. Therefore, amendment 77 would put that on the face of the Bill. The Minister has not done that, and we would like to see it incorporated on the face of the Bill. In our submission, this provides a good balance between the needs of the employer and those of the employee. Those are my submissions.

[115] **William Powell:** As others around the Chamber have already made clear, the present wording gives Welsh Ministers absolute control over the setting of wages for the agricultural sector in Wales. In our view, this continues to be simply unacceptable. This would be a retrograde move—something more akin to Soviet times than our own advanced, young democracy here in Wales. Given this, I have attempted to reduce the potential for a future Minister to overreach these powers by making sure that an agreed consultation takes place in line with the desires of the panel and of the Minister. In connection with amendments proposed in group 11, I believe that this should provide for greater scrutiny and engagement for this Assembly. Other amendments in this group go further on this particular point. As such, I am happy to support them in principle at this stage.

[116] **Simon Thomas:** Rwyf ond am **Simon Thomas:** I only want to support Llyr

gefnogi Llyr Huws Gruffydd yng nghydestun y gwelliant hwn. Mae'r gwelliant hwn yn mynd i'r afael â'r ddadl a gawsom yn rhan gyntaf y drafodaeth hon, sef taro'r cydbwysedd iawn rhwng y Gweinidog a'r panel sy'n cynghori'r Gweinidog, sydd hefyd yn ymgynghori yn ehangach yn y maes, yn gweithio yn y maes hwnnw, a gweithredu gyda ni yma, ar ffurf Gorchymyn, i bennu taliadau a chyflogau yn y sector amaethyddol. Yn fras, mae gennych ddau fodel. Mae'r model a ddefnyddir yn yr Alban yn glir iawn. Mae gennyf gopi yn y fan hon o'r hyn sy'n digwydd yn Alban. Mae'r testun yn datgan yn glir:

[117] 'The Scottish Agricultural Wages Board, having given public notice of its proposed Order and of the manner in which, and the time within which, objections to it might be lodged and having considered objections to it...hereby makes the following Order—'

[118] Mae'n glir mai'r Bwrdd Taliadau Amaethyddol yn yr Alban sy'n gwneud y Gorchymyn. Yng nghydestun yr isafswm cyflog, mae'r sefyllfa ychydig yn wahanol. Mae gennych Gomisiwn Cyflogau Isel, sy'n gwneud argymhellion i'r Llywodraeth, yna Gweinidog yn dod â'r Gorchymyn i Dŷ'r Cyffredin i'w gymeradwyo. Ni allaf gofio enghraifft, ac ni chredaf fod enghraifft yn bodoli, lle nad yw'r Gweinidog wedi gwrandao ar yr hyn sydd gan y Comisiwn Cyflogau Isel i'w ddweud. Byddai'n dipyn o ddadl wleidyddol pe bai unrhyw Weinidog yn anwybyddu hynny. Serch hynny, mae rhywfaint o ryddid yn bodoli—argymhelliad ydyw, a'r Gweinidog sy'n ei wneud.

[119] Felly, i raddau helaeth, nid wyf yn derbyn unrhyw gymhariaeth Sofietaidd. Y cwestiwn yw: beth sy'n briodol i'r Gweinidog ei wneud yn y cyd-destun Cymreig, beth sy'n briodol i ni ei wneud fel deddfwrfa, a beth sy'n briodol i'r panel arfaethedig hwn ei wneud? Credaf fod Llyr, wrth gynnig y gwelliant hwn, wedi taro'r nodyn cywir. Os ydym am gael y panel, dylem ymddiried ynddo i wneud y Gorchymyn. Gwlefa fod gan y Gweinidog welliant ei hun, sy'n sôn am roi sylw i unrhyw gyngor a roddir gan y panel. Hoffwn glywed beth sydd gan y Gweinidog i'w ddweud am y gwelliant hwnnw. Mae'n welliant; yn llythrennol, felly, mae'n gwella'r Bil sydd gennym. Ond, rwyf am wybod pam nad yw 'sylw dyledus' yno—mae *due regard*

Huws Gruffydd in the context of this amendment. This amendment deals with the debate that we had at the beginning of this discussion, on striking the right balance between the Minister and his advisory panel, which also consults more widely in the field, working in that field, and working with us here, in the form of an Order, to set payments and wages in the agricultural sector. Basically, you have two models. The model used in Scotland is very clear. I have a copy here of what happens in Scotland. The text clearly states:

It is clear that it is the Agricultural Wages Board in Scotland that makes the Order. In the context of the minimum wage, the situation is slightly different. You have a Low Pay Commission making recommendations to the Government, then a Minister introducing an Order before the House of Commons for approval. I cannot remember an example, and I do not believe that there is an example, of a Minister not listening to what the Low Pay Commission has said. If any Minister were to ignore that, it would lead to quite a political row. However, there is a degree of flexibility—it is a recommendation, and it is the Minister who makes the Order.

Therefore, to a large degree, I do not accept a Soviet comparison. The question is: what is appropriate for the Minister to do in the Welsh context, what is appropriate for us to do as a legislature, and what is appropriate for this proposed panel to do? I believe that Llyr, in moving this amendment, struck the right note. If we are to have a panel, we should trust it to make the Order. I see that the Minister is proposing his own amendment, which talks of having regard to any advice given by the panel. I would like to hear what the Minister has to say about that amendment. It is an amendment; it literally does amend the Bill before us. However, I want to know why it does not include the words 'due regard'—'due regard' and 'regard' are two different things, and I would

a *regard* yn ddau beth gwahanol, a hoffwn glywed mwy. Nid wyf yn meddwl bod gwelliannau llawysgrif yn cael eu derbyn yn y Siambr arbennig hon, felly ni chynigïaf hynny, ond rwyf am glywed beth sydd gan y Gweinidog i'w ddweud. Yn sicr, mae fy nghyfaill Llyr Huws Gruffydd wedi gosod ffordd ymlaen sy'n decach ac yn fwy cyfiawn, fel ein bod yn gallu ymddiried yn y broses.

like to hear more. I do not think that handwritten amendments are accepted in this particular Chamber, so I will not propose that, but I want to hear what the Minister has to say. My friend Llyr Huws Gruffydd has certainly proposed a way forward that is fairer and more just, so that we can have faith in the process.

[120] **Alun Davies:** I do actually agree with much of what was just said by the Plaid Cymru Member for Mid and West Wales. He and others will be aware that the amendment that has been tabled in my name, amendment 19, is the result of conversations and the debate that took place last week, both on the floor of the Chamber and in the Constitutional and Legislative Affairs Committee. He is right, in his submission, that amendment 19 is an attempt to create that balance. I do not dispute much of the argument that has been made on these amendments, as it happens; it is not the wish of this Government to politicise, as it were, the making of these Orders, nor is it our wish to put a politician in charge of setting these things. That is not the purpose of it. The purpose of the clause in this legislation was to increase transparency in and the scrutiny of the Order-making process—something that I thought was a step forward from the situation that we had.

[121] I will say this to the Liberal Democrats: having clutched firmly that fence for two years, they have now discovered that the whole thing is some sort of neo-Stalinist plot to subvert our democracy. Well, you know, you can have it one way or the other, Bill, but in many ways, I think that you probably need a new speechwriter. However, given where you are, I would invite you, if you wish to have this debate and this discussion with us, to do so on the basis of how we make these Orders.

[122] To the Plaid Cymru spokesperson on this matter, I would say that I do accept the overall premise of his argument. I do accept the points that he has made. My amendment does seek to find a way forward in this matter that ensures that we have both scrutiny and transparency, while at the same time reducing, I believe, the room for ministerial discretion, in essence and in practical terms, to absolute zero. If the Plaid Cymru spokesperson is willing to withdraw his amendment this afternoon, I will give him a commitment that I will talk and seek to find an agreed way forward, and bring further Government amendments to tomorrow's debate. I would give him and other Members that undertaking. If he is prepared to withdraw his amendments, I hope that we can find an agreed way forward in time for the debate tomorrow afternoon.

[123] **The Presiding Officer:** I call Llyr Huws Gruffydd to reply to the debate.

[124] **Llyr Huws Gruffydd:** Rwy'n clywed yr hyn y mae'r Gweinidog yn ei ddweud, ac rwy'n gwerthfawrogi'r cynnig yn fawr iawn, ond, wrth gwrs, rwy'n credu yn yr angen i gael y panel i wneud y penderfyniad. Felly, ni fyddaf yn tynnu'r gwelliant yn ôl, achos rwy'n teimlo ei bod yn bwysig ein bod yn cael cyfle i bleidleisio ar hynny.

Llyr Huws Gruffydd: I hear what the Minister is saying, and I very much appreciate the offer, but, of course, I believe in the need for the panel to make the decision. Therefore, I will not withdraw the amendment, because I feel that it is important that we have an opportunity to vote on it.

[125] Rwy'n cydnabod, er hynny, bod sawl ffordd o gael Wil i'w wely, ac mae cwestiwn ynglŷn â sut yr ydych yn taro'r cydbwysedd

I acknowledge, however, that there are several ways of achieving our aims, and there is a question about how you strike a balance

rhwng yr angen i'r panel wneud y penderfyniad a'r panel yn rhoi cyngor, gyda'r Gweinidog yn rhoi sylw dyledus ac yn y blaen. Mae amgylchiadau lle y byddem yn barod i ystyried rhoi cyfrifoldeb i'r Gweinidog. Er enghraifft, yn y cyfnod trosglwyddo o'r drefn bresennol i'r drefn lle y byddai'r panel yn dod i fodolaeth, oherwydd byddai cyfnod, mae'n debyg, cyn i'r panel ddod i fodolaeth, lle, o bosibl, y byddai angen i'r Gweinidog gael y grym i wneud y penderfyniad.

between the need for the panel to make the decision and the panel giving advice, with the Minister having due regard to that and so on. There are circumstances under which I would be ready to consider giving the Minister that responsibility. For example, in the transition phase from the current system to the panel being established, because there would, I suppose, be a period during which it could be necessary for the Minister to be able to make the decision.

[126] Rwy'n diolch i bawb am gyfrannu i'r rhan hon o'r drafodaeth, ond rwy'n teimlo nad yw gwelliant y Llywodraeth yn mynd yn ddigon pell. Felly, byddwn yn awyddus i gynnig y gwelliant.

I thank all the contributors to this part of the discussion, but I do not feel that the Government amendment goes far enough. Therefore, I would be keen to move the amendment.

[127] **The Presiding Officer:** The question is that amendment 28 be agreed to. Does any Member object? There is objection. Let us move to an electronic vote.

[Canlyniad y bleidlais ar welliant 28.](#)
[Result of the vote on amendment 28.](#)

Gwrthodwyd gwelliant 28: O blaid 25, Yn erbyn 26, Ymatal 0.
Amendment 28 not agreed: For 25, Against 26, Abstain 0.

[128] **The Presiding Officer:** We now move to dispose of the next amendment on the marshalled list. I call on Suzy Davies to move amendment 48.

[129] **Suzy Davies:** I move amendment 48 in my name.

[130] **The Presiding Officer:** The question is that amendment 48 be agreed to. Does any Member objection? There is objection, so we will move to an electronic vote.

[Canlyniad y bleidlais ar welliant 48.](#)
[Result of the vote on amendment 48.](#)

Gwrthodwyd gwelliant 48: O blaid 25, Yn erbyn 26, Ymatal 0.
Amendment 48 not agreed: For 25, Against 26, Abstain 0.

2.30 p.m.

[131] **The Presiding Officer:** I call on Suzy Davies to move amendment 49.

[132] **Suzy Davies:** I move amendment 49 in my name.

[133] **The Presiding Officer:** The question is that amendment 49 be agreed to. Does any Member object? There is objection, so we will move to an electronic vote.

[Canlyniad y bleidlais ar welliant 49.](#)
[Result of the vote on amendment 49.](#)

Gwrthodwyd gwelliant 49: O blaid 20, Yn erbyn 26, Ymatal 5.

Amendment 49 not agreed: For 20, Against 26, Abstain 5.

[134] **The Presiding Officer:** I call on Suzy Davies to move amendment 50.

[135] **Suzy Davies:** I move amendment 50 in my name.

[136] **The Presiding Officer:** The question is that amendment 50 be agreed to. Does any Member object? There is objection, so we will move to an electronic vote.

[Canlyniad y bleidlais ar welliant 50.](#)

[Result of the vote on amendment 50.](#)

Gwrthodwyd gwelliant 50: O blaid 20, Yn erbyn 26, Ymatal 5.

Amendment 50 not agreed: For 20, Against 26, Abstain 5.

[137] **The Presiding Officer:** I call on Suzy Davies to move amendment 51.

[138] **Suzy Davies:** I move amendment 51 in my name.

[139] **The Presiding Officer:** The question is that amendment 51 be agreed to. Does any Member object? There is objection, so we will move to an electronic vote.

[Canlyniad y bleidlais ar welliant 51.](#)

[Result of the vote on amendment 51.](#)

Gwrthodwyd gwelliant 51: O blaid 17, Yn erbyn 34, Ymatal 0.

Amendment 51 not agreed: For 17, Against 34, Abstain 0.

Grŵp 4: Swyddogaethau a Dyletswyddau'r Panel (Gwelliannau 17, 2, 6, 7, 8, 84, 85, 86, 87, 88, 99, 110 a 117)

Group 4: Functions and Duties of the Panel (Amendments 17, 2, 6, 7, 8, 84, 85, 86, 87, 88, 99, 110 and 117)

[140] **The Presiding Officer:** The lead amendment in the group is amendment 17. I call on the Minister to move amendment 17 and to speak to it and the other amendments in the group.

[141] **Alun Davies:** I move amendment 17 in my name.

[142] I will speak to amendment 17 in my name and the other amendments in this group. Again, this is an amendment that I have brought forward having listened carefully to the views of the Constitutional and Legislative Affairs Committee, and the debate that took place here last week. The amendment, coupled with others that I am making to the establishment of the panel, will have the effect of inserting a new provision into section 2, ensuring that the panel can be tasked with, not only the important functions relating to those issues that I have been raising since we started debating the potential abolition of the Agricultural Wages Board, but those additional functions that emerged through the process of consultation around the panel's role.

[143] I regard promoting careers in the agriculture sector as a key function that the panel will be able to fulfil. Skills shortages are a real threat to the future of the industry and if anybody doubts that, I invite them to read not only the work of Lantra, but also the letter from Lionel Walford, which I will place in the Library. Skills shortages are a threat to the future and the possible substitution of experienced workers with unskilled and inexperienced ones has been identified as the most likely long-term implication of the removal of the ABW for agriculture in the Low Pay Commission's report. The Welsh Government is committed to

supporting the agriculture sector in Wales, and I believe that this aspect is an important part of doing so.

[144] The Bill is preserving a system that already supports professional development and growth. It rewards skills and experience by adhering to a career matrix designed specifically for that industry. I believe that the panel will be able to build upon this work and work towards increasing the number of new entrants into the industry, and ensuring the retention and development of skills. I would like to quote, if I may, from the consultation response that we received from Lantra—an organisation committed to improving the profitability and professionalism of agriculture in Wales. Lantra said,

[145] ‘Our research has shown that skilled staff are more productive, more profitable and work more safely.’

[146] These are the key facts—

[147] **Antoinette Sandbach** *rose*—

[148] **Alun Davies:** I am not taking any interventions. Those are the key facts that we need to have in our minds when we are discussing these matters. Skilled staff are more productive and more profitable and work more safely. That is why this Bill is so important to support the future of the agriculture industry and why the clear majority of consultation responses, both here in Wales, and to that run by DEFRA across Wales and England, supported the retention of the Agricultural Wages Board. The majority view in agriculture in Wales is that people want this board retained because they understand the importance of it to the business of agriculture. That is what we are trying to do. Bill Powell, the Liberal Democrat Member for Mid and West Wales, spoke about working smarter; that is exactly what working smarter is about. It is about profitability, productivity and safety in agriculture as we move forward.

[149] Turning to amendments 84 to 88 tabled by Antoinette Sandbach, the Conservative Member for North Wales, we have already debated, as part of group 3, that amendment 77 makes provision for the panel to make an agricultural wages Order. These amendments follow on from this. I assume that the Conservatives will now withdraw these amendments. They relate to the operational arrangements regarding consultation when making agricultural wages Orders. They remove any statutory function from Welsh Ministers in relation to the consultation on future Orders. Having said that we need more consultation, they are now withdrawing the statutory functions for consultation—that took some doing; it took some real thinking from the Conservatives. These functions are undertaken by the panel, which we have already debated and discussed. I can confirm that the Welsh Government has an established procedure for conducting consultations, and, insofar as is possible, this includes a 12-week consultation period as a matter of course.

[150] On amendment 7, I believe that there is considerable value in the annual reports of the panel being submitted to the Assembly, including a review of its work, including a robust accounting mechanism. While it existed, the AWB was obliged to prepare an annual report. Once again, I would like to reiterate that the intention is not simply to replicate what the AWB did, but rather to build a more visionary and more modern panel for our sector here in Wales. Of course we want the panel to function successfully, and reviewing its progress regularly will be essential for measuring its effectiveness. I would strongly advise against stipulating the exact remit of this review process, as specified by amendments 7 and 8. The detailed operational panel has not yet been defined; this will be done following further public consultation, and discussions with key stakeholders and experts. I do not believe that the panel will focus only on remuneration in the sector; if that were the case, I would feel that our panel had not achieved the wider policy aspirations, which include promoting skills development and careers, and advising on how to tackle the most imminent challenges, such

as climate change and potential food security issues. Therefore, I would not support an amendment that restricts the reviewing process—and which, in fact, means the actual functions of the panel—to a few areas that were previously dealt with by the AWB.

[151] I believe that amendments 99, 110 and 117 will present further difficulties. They propose amendments to the Rent (Agriculture) Act 1976. We are currently considering the future of the Agricultural Dwelling House Advisory Committee in Wales, and this was covered by our recent consultation. Decisions regarding this matter will be taken at a later date, and, at that point, we will revisit the issue of farm housing, and the role that the proposed panel may play in that. I therefore will not support that amendment either.

[152] **Antoinette Sandbach:** I will deal first with the Lantra matter. It is important for the Assembly to note that Lantra has a financial interest in these conditions being opposed. It is the body that would benefit financially if these provisions are brought forward, and it is important that that weighting is attached to its evidence.

[153] I would also like to deal with the Minister's response on the consultation. Six of those responses were from Unite; they were not counted as a single consultation response, having come, effectively, from the same organisation, but as six separate responses. Furthermore, four of those responses were from Assembly Members, from the Minister's own backbenches. So, nearly half the consultation responses came from two organisations and the Minister's own backbenches. I think that that ought to be placed on the record, so that the appropriate weight can be attached to what the Minister says in terms of—*[Interruption.]*

[154] Yes, I know, sack the consultation—that is what you like, is it not, Carl Sargeant? It is an effective way, and decide on the outcome before you close the consultation.

[155] **The Presiding Officer:** Antoinette Sandbach, you should know better than to respond to Carl Sargeant when he is sitting. Carl Sargeant, you should know better than to try to goad Antoinette Sandbach.

[156] **Antoinette Sandbach:** Far from trying to limit the consultation, in fact, the amendments that we have put forward are effectively encouraging and setting the framework for consultation by the panel, which is the sector.

[157] In his submissions to the Chamber, the Minister has not explained why the agriculture sector needs any greater protection than, for example, the forestry sector, in terms of health and safety, or work, or, for example, people operating regularly heavy-duty machinery or complex, technical machinery. There is no justification that has been given as to why it is only the agriculture sector that is incapable of looking at skills and training and being able to upskill the workforce. In fact, the evidence from the NFU was quite clear: there are farmers who have to trust very expensive, complex machinery to their workers, and they would not do that if their employees did not have the appropriate amount of skills and training.

[158] What the amendments in this group—*[Interruption.]* Are you trying to interrupt me, Joyce Watson?

[159] **The Presiding Officer:** Excuse me. Joyce Watson has not stood and asked for an intervention. Please carry on. Joyce Watson, hush, or stand up and ask for an intervention.

[160] **Antoinette Sandbach:** I would like to say that William Powell has tabled some sensible amendments about the review and panel accounting, which we will be supporting. I believe that Llyr Huws Gruffydd has also tabled some amendments, possibly later in the Bill, about publishing notices. It is important. What we have done is to expand the consultation requirements of the panel, and to allow sufficient time for those consultation responses to be

considered—unlike the procedure that has been adopted in this place, when legislation was proposed before the consultation even closed. I think that we all know who we can trust more: an independent panel or the Welsh Government Ministers. In my submission, these are important amendments that seek to provide a proper avenue of consultation with stakeholders, and that there is proper accountability and transparency through the review of the evidence.

[161] **William Powell:** I will speak to amendments 2, 6, 7 and 8, tabled in my name. In the attempt to further separate ministerial control over the panel, I have used amendments 2 and 6 alongside amendments within group 5 to separate the panel's initial establishment from its subsequent operation. Once established, I believe that the panel should have much greater autonomy than is presently proposed, and should be able to act in a way that is akin, in this respect, to the outgoing Agricultural Wages Board, with a reduced level of Government influence, and the potential for gerrymandering associated with that, in a future administration. Given the lack of scrutiny that we have currently had in this process, I argue that it is absolutely essential that the panel is subject to a stringent review system that is laid before the Assembly every 12 months. I am grateful for the Minister's support around some of these issues.

[162] This review must, however, encompass full annual accounts so that a comprehensive cost-benefit analysis can be undertaken of the new body. This is especially important given the lack of clarity that we presently have over where the money is actually coming from to fund this body, and what other functions within the wider budget of the natural resources and food directorate will actually be cut in order to facilitate it. We strongly support the consultation process and the issues that are brought forward in Antoinette Sandbach's amendments, and we will be supporting them here today.

[163] **Angela Burns:** Minister, I would like to ask you a specific question about your amendment 17. It seeks to insert into the Bill a clause that adds such other functions as the Welsh Ministers may specify in the Order. This may seem a rather odd question to be asking at this stage, but because of the lack of scrutiny and the fact that the Constitutional and Legislative Affairs Committee, in which I trust, has not had a proper chance to look at this, I am going to just ask you directly. There is no curtailment to this; this is an open-ended power being given to Welsh Ministers and, for me, that goes to the heart of my unease over this entire Bill. It seems to me that the Bill seeks to imbue in Welsh Ministers, once again, an enormous amount of power without having appropriate checks and balances, either by this place or indeed by things like the agricultural board that is being proposed.

2.45 p.m.

[164] That rides at the heart of an awful lot of legislation that we see going through, but at least other legislation in other portfolios has had the opportunity to go through committee stages and all of us have had the opportunity to raise concerns about the centralisation of power. I would like to really understand from you what functions you would seek to include in the Order and how we, as a legislature, can ever come back to you as the Welsh Government and say to you that you are going too far and exceeding that power. We need the checks and balances. To be frank, this emergency Bill, which seeks to ram home a piece of legislation in very short order has not, in my view, been subject to adequate scrutiny, which we have been able to enjoy in relation to other Bills. Even if we have not agreed politically on the outcomes, at least we know that we have done our duties as Assembly Members. So, I would like to understand from you specifically where the limit is going to be on the power of Welsh Ministers. This one amendment on which I have come in to ask a question on—which I could repeat but will not—stands for an awful lot of the other parts of Bill where the same thing keeps coming up again and again: Welsh Ministers taking the power for themselves. I think that that disempowers us and we are here to represent the people of Wales and to be a parliament and we should be doing this scrutiny.

[165] **Mohammad Asghar:** I rise to support amendment 8 in the name of William Powell. As a member of the Public Accounts Committee, I believe that it is vital that all public sector bodies must ensure that their accounts are in order. A comprehensive view of expenditure, income and cash flow is important for the transparency and scrutiny of the panel. It is essential that a copy of these accounts is laid before the National Assembly to ensure that scrutiny takes place. I urge the Assembly to support this amendment.

[166] **The Presiding Officer:** I call the Minister to reply to the debate.

[167] **Alun Davies:** Every so often the mask slips and the veneer of reasonableness disappears. The attack that we heard earlier from the Conservative Member for North Wales on Lantra is something that we all regret. Her attack on working people in the agriculture industry I think is something that we all regret. Her attack on people who responded to a consultation I think is something that we will all regret. I look at the faces on the Conservative benches and I can see that there is a great deal of embarrassment there and I know that you share some of our concerns about the language that we just heard in this debate.

[168] We have discussed already some of the issues that were raised during the debate on this group. We discussed the points that the Member for Carmarthen West and South Pembrokeshire raised on issues of scrutiny and I have reminded you that the process that we are using here is an elongated version of the processes that are laid down in the Standing Orders of the National Assembly, not the Government. We are using those processes, not our own processes. Those are processes that exist for this purpose. I have sought additional layers and levels of scrutiny that are not demanded by Standing Orders, and I have made it very clear to the Constitutional and Legislative Affairs Committee and the Environment and Sustainability Committee that I am prepared to appear in front of them to answer their questions along the lines that you have raised. I met the Constitutional and Legislative Affairs Committee last week and I have responded to the points that it made in the amendments that I am placing this afternoon and will be placing again tomorrow afternoon.

[169] **Nick Ramsay:** Will you take an intervention?

[170] **Alun Davies:** I am not taking any interventions.

[171] I have already made the offer to your geographical neighbour, the Member for Preseli Pembrokeshire, that, if he wishes to work with us to deliver further amendments, I am happy to do so. I assume that your points on centralisation were about rhetoric rather than reality. In terms of the roles that the panel might play, in addition to those that you have already discussed in relation to skills, professionalisation, health and safety within the industry and promoting the business development of the industry, which I think is absolutely fundamental, we also need to understand how the industry might respond to challenges such as climate change, food scarcity and the much wider development of the industry, foreshadowed by the common agricultural policy agreement reached last month and which will be implemented in Wales over the coming months and years: fundamental issues about the future functioning and future profitability of the industry. I hope that this panel will play a much wider and richer role in enabling us to do that. The amendment I have tabled enables that to happen, and I know that that is something that the Member would seek to support.

[172] In terms of other matters, the points made by the Liberal Democrats were well made, although erroneously made. We accept your points on accounts and reviews. You will see that the Government has tabled an amendment that does respond to the points you have raised in response to the debate we had last week and the findings of the Constitutional and Legislative Affairs Committee. Therefore, I would ask you not to proceed with your amendments and to

support the amendments that have been tabled that will provide far higher levels of review and scrutiny than you have asked for.

[173] **The Presiding Officer:** The question is that amendment 17 be agreed to. Does any Member object? There is objection, so we will proceed to an electronic vote.

[Canlyniad y bleidlais ar welliant 17.](#)
[Result of the vote on amendment 17.](#)

Derbyniwyd gwelliant 17: O blaid 34, Yn erbyn 12, Ymatal 5.
Amendment 17 agreed: For 34, Against 12, Abstain 5.

Grŵp 5: Cyfansoddiad ac Aelodaeth y Panel (Gwelliannau 18, 3, 4, 5, 30, 54, 107, 108, 12, 13, 74 a 116)

Group 5: Constitution and Membership of the Panel (Amendments 18, 3, 4, 5, 30, 54, 107, 108, 12, 13, 74 and 116)

[174] **The Presiding Officer:** The lead amendment in the group is amendment 18. I call on the Minister to move amendment 18 and to speak to it and the other amendments in the group.

[175] **Alun Davies:** I move amendment 18 in my name.

[176] This, again, is an area of the Bill to which I have given very careful consideration. I recognise the need for the panel to be as representative as possible of all areas of the sector, but we cannot be overly prescriptive in that regard on the face of the Bill. This is a matter that we have discussed on many occasions in this place: whether we place the emphasis on the face of the legislation or whether we deliver the same ambitions through secondary legislation. I believe that the Order establishing the panel, which will be subject to a full three-month consultation process, and also a public appointments process, should provide further details of the membership and the expertise required. However, I have listened to the views and concerns that Members expressed last week and have therefore brought forward amendment 18 to give an outline of what I would expect the membership of the panel to consist of.

[177] There are other amendments to this area of the Bill, and, while I am sympathetic to their ambitions and objectives, I believe that they are too prescriptive and are more prescriptive than what I believe should exist on the face of the Bill, although that does not mean that their ambitions or objectives are necessarily wrong. It is important that we get this right. I want a collaborative and partnership approach in order to build a better future for the agriculture industry. That is why I want to hear what the industry itself has to say about the panel's constitution and membership, including any subsequent Orders. For that reason, I do not believe that the Bill is the correct place for the introduction of what is proposed in amendments 54, 108 and 116, which would insert Schedules outlining the constitution, membership and procedures of the panel into the Bill itself. Those matters are best pursued and delivered through Orders and secondary legislation.

[178] Our Bill seeks to preserve the provisions of the Agricultural Wages (England and Wales) Order 2012, but not the AWB itself. We have already heard some opposition Members on the Conservative benches describe the AWB as outdated and in need of radical reform or abolition. They then seek, in these amendments, to introduce almost a replica of the AWB, which they have said needs to be abolished. I do not believe that you can do that. So, I hope that what we are doing is modernising and delivering a panel that will reflect the needs of the industry and be representative of the industry as a whole. We need to look at the sector in the widest possible way to ensure that membership of the board will include representation by everybody mentioned in some of the amendments, but not limited to those people. I hope

that the Government amendment delivers the sort of structures that Members require. I hope that it reflects the discussions that we had in the Constitutional and Legislative Affairs Committee. I also hope that it reflects the nature and tenor of the debate that we had last week. I hope that we will, therefore, ensure that the other amendments will be not moved in the face of the amendment that we are seeking to deliver.

[179] I will say one last word on amendment 30, which seeks to ensure that the constitution and membership of the panel comply with the requirements of the Equality Act 2010. This amendment is unnecessary—there is no need to specify this on the face of the Bill. The membership and the composition of the panel must adhere to the provisions of the Equality Act 2010, given that public appointments will be made to the panel. As the Welsh Ministers already have a statutory duty under that Act to ensure that these principles are adhered to, it is not necessary to introduce additional specific provision stating what is already the case.

[180] **Antoinette Sandbach:** The amendment that the Government has tabled does not go far enough, in effect. The Government recognises, in its amendment, that the panel needs to be sector representative, but it does not specify that. This is about wage-setting legislation and about setting the rates of pay for workers, and one thing that the Agricultural Wages Board does, with which we agree, is that it specifies the balance that is required on the board—that balance is in the representation. We have, therefore, put forward amendments that describe the panel as the existing board. The only changes that are made are in relation to the current requirement for the AWB that specifies that one woman needs to be present on each of the committees. I have set a figure of 25%, whereas Suzy Davies has set a figure of 50%, and it is a matter for the Assembly to decide which would be more appropriate.

[181] However, our amendments go much further. The proposed Schedule provides for the constitution and the proceedings. Importantly, it gives the Assembly a role in appointing the independent members and it gives the Assembly the power to nominate a chair of the panel. To my mind, those are important constitutional safeguards. They indicate that the panel comes under the purview of the Assembly, rather than of the Welsh Ministers, in terms of accountability. That gives a kind of independence that the Minister does not foresee in his amendments. Quite the contrary: the whole theme of the Minister's amendments is to ensure that he is advised by the panel—he does not have to pay specific attention to the panel and he concentrates, as previous speakers have said in relation to other amendments, power in his own hands.

[182] Presiding Officer, I would like not to move amendment 107, because I do not think that it has been tabled correctly, so I will not move that. There are technical amendments concerning the farming unions, which we support. However, it is important that there is that oversight and distance from Welsh Ministers in terms of appointments and the details of the membership. It is for those reasons that those amendments have been tabled. In his evidence to the Constitutional and Legislative Affairs Committee, the Minister stated that he felt that

[183] ‘the least disruptive approach would be to legislate to maintain the status quo’.

[184] This amendment is the one that sets up the panel in a way that maintains the status quo in terms of its composition and its appointment, not in terms of its remit, which we have already dealt with in other amendments. This is in terms of its composition. It is vital to ensure that that balance is maintained on the face of the Bill, rather than being left to the discretion of Welsh Ministers.

3.00 p.m.

[185] **Mick Antoniw:** Minister, I warmly welcome amendment 18, because it very much broadens out and clarifies the representation of all parts of the agricultural sector. You will

recall, Minister, that during the course of the abolition process of the Agricultural Wages Board, a most cumbersome body with in excess of 20 representatives, young farmers were very opposed to it. Looking to the future of the agricultural industry—in fact, their industry—is it your thinking that this gives us an opportunity, for the first time, to give a designated role to young farmers within the industry that will be their future and that this is a real first and a real potential achievement for the Assembly?

[186] **Llyr Huws Gruffydd:** Rwyf i hefyd yn falch bod y Llywodraeth wedi cyflwyno gwelliant sy'n rhoi mwy o gig ar yr asgwrn, efallai, ac sy'n rhoi mwy o wybodaeth am gyfansoddiad ac aelodaeth y panel. Nid oes gennyf deimladau cryf iawn am union niferoedd, mae'n rhaid imi gyfaddef; rwyf yn ddigon meddwl agored ynglŷn â'r peth, dim ond, wrth gwrs, bod cynrychiolaeth deg a chyfartal o du cyflogwyr a chyflogeion a'r cyrff sy'n eu cynrychioli, ynghyd, wrth gwrs, â'r angen am rai aelodau annibynnol. Serch hynny, mae'n bwysig bod y panel yn sicrhau cynrychiolaeth addas o safbwynt cydraddoldebau. Am y rheswm hwn, rydym am ategu ar wyneb y Bil, drwy welliant 30, bod yn rhaid i unrhyw Orchymyn sy'n cael ei wneud o dan isadran (3) mewn perthynas â chyfansoddiad ac aelodaeth y panel gydymffurfio ag egwyddorion Deddf Cydraddoldeb 2010. Byddwn yn gofyn i'r Cynulliad gefnogi'r egwyddor honno ar wyneb y Bil.

Llyr Huws Gruffydd: I am also pleased that the Government has tabled an amendment that puts more meat on the bone, perhaps, and provides more information about the constitution and membership of the panel. I do not have very strong feelings about the exact numbers, I have to admit; I am open-minded enough about that, only, of course, that there is fair and equal representation from the point of view of employers, employees and their representative bodies, as well as the need for some independent members. However, it is important that the panel ensures appropriate representation from the equalities perspective. For this reason, we need to place on the face of the Bill, by means of amendment 30, that any Order made under subsection (3) in relation to the constitution and membership of the panel must comply with the principles of the Equality Act 2010. I ask the Assembly to support that principle on the face of the Bill.

[187] **William Powell:** Given the emphasis that has been placed on maintaining the status quo and the protection of workers' rights and terms and conditions by the Minister and others in the run-up to this emergency legislation, I was more than a little disappointed to see that there was no explicit reference to the place either of the farming unions or, indeed, to the trade unions in terms of the composition of this panel. As Members will be aware, the outgoing AWB made specific provision for these bodies to appoint allocated members to the panel in order to protect their interests. I would like to see the status quo being maintained in Wales in any future body that is to be created. I note that the Minister has moved on this point in his amendments, and I understand his reluctance to name specific unions, for obvious reasons—not, in fact, that I am suggesting that. However, we can go further than amendment 18 and ensure that there is no wriggle room in future to exclude appropriate union participation for the life of this future body. I also support amendments that have been made to ensure that the panel is fully compliant with the Equality Act 2010 and so I will be urging support for those, too.

[188] **Suzy Davies:** I speak to amendments 54 and 74. I am pleased that the Minister has, rather belatedly, decided that the Bill should give us some indication of what the panel might look like, although I challenge his earlier assertion that it is as representative as possible. Certainly, I am not aware of any Young Farmers Clubs consultation response that has commented directly upon it.

[189] Amendment 74, enabled by amendment 54, introduces a detailed Schedule—even more detailed, perhaps, than that put forward by Antoinette Sandbach—which describes how an arm's-length panel might look. We certainly do not want it to look like an arm of

Government. What we need is some certainty in this part of the Bill. That is why this particular amendment has been suggested. We would like the panel to look independent, useful, powerful, even, which is a word introduced from the other side of the Chamber in an earlier part of this debate, and accountable to the Assembly and to the industry.

[190] The membership of the panel suggested in amendment 74 reflects that better than the Minister's own amendment, I would suggest. I hope that Members are pleased to see the inclusion of trade union representatives, which would be compulsory. I hope that Members will be pleased to see that the voice of employers has not been overlooked. I particularly hope that Members will also be pleased to see that the amendment seeks to ensure gender balance. Most of all, I hope that Members are pleased to see that a representative of this place would chair that panel, which would ensure the checks and balances that Angela Burns talked about in a different part of the Bill.

[191] In view of the history of this Bill, I seek an assurance that the decisions made and the advice given by this panel is seen to be non-party political, and not subject to too much influence from one particular part of the industry or sector. I believe that a chairperson from the Assembly would be able to ensure that.

[192] **Mohammad Asghar:** Amendment 30 in the name of Llyr Huws Gruffydd refers to the constitutional membership of the panel, and ensures that it must comply with the principles of the Equality Act 2010. We fully support this amendment. The Welsh Government's report on its programme for government highlights how Welsh public sector boards are disproportionate in terms of those they represent. We know that a fifth of the working-age population in Wales identify themselves as disabled, but less than 5.5% of board members identify themselves as disabled. If the Welsh Government is serious in its aim to increase diversity on Welsh public sector boards, and to increase the number of women and disabled people on those boards, it can demonstrate this in accepting and supporting amendment 30.

[193] **Russell George:** Like most members of this committee this afternoon, I have struggled to properly scrutinise this Bill at this stage. In terms of amendment 18, I would like to know what rationale that you have used in prescribing the numbers of the panel, and I wonder why you have not been more prescriptive in terms of the balance of representation of the panel at this stage. I would have thought that being as prescriptive as possible with primary legislation ensures clarity and makes for better legislation. So, I would be interested to hear your views when you respond.

[194] **Nick Ramsay:** I hope that the Minister listens to the suggestions that have been made in moving these amendments; I know that you have been a bit disparaging of some of our amendments before, but believe it or not, these are meant in good faith. I certainly support William Powell's amendment 3 and also Suzy Davies's amendment 74. I also echo Russ George's comments; I cannot understand either why there has been prescription over the numbers on the panel, but no attempt at all to disallow that wriggle room in the future, which Will Powell spoke about. Surely, if you going to going down this line, Minister—and it is clear from the shortness of time that we have had to consider this that you are committed to this—then make it futureproof. You must specify that there should be members from the farming community and the farming unions on that panel. Not to do so leaves a huge gap in this, so please reconsider your position. I also support, by the way, Llyr Huws Gruffydd's amendment 30, because that has to be there—we have to have respect for the equality issue.

[195] **Alun Davies:** I will start by reiterating the final point in my previous contribution, which answers the point that the Member for Monmouth made in his final point. There is already a statutory duty in law that we must comply with the demands of the Equality Act 2010. That is why we do not support the amendment, not because we do not wish to comply

with the legislation, but because that duty is already upon us. It would simply be adding something to the Bill that is unnecessary.

[196] We have had an interesting conversation and discussion this afternoon, and while I appreciate what the Conservative Member for South Wales West was saying, I am not sure that you are really going to achieve your ambition of this panel not being ‘party political’—to use your term—by asking a politician to chair it. By putting on the face of legislation that a politician must chair it—that no-one except a politician must chair it—

[197] **Suzy Davies** *rose*—

[198] **Alun Davies:** I am not taking interventions. I do not believe that that is the best way of ensuring that there is independent advice, and that the panel is independent of party politics in the way that you assume. Many of the amendments made by the Conservatives and Liberal Democrats this afternoon have been about recreating the AWB, of which they have just supported the abolition—

[199] **Antoinette Sandbach** *rose*—

[200] **Alun Davies:** I am not taking any interventions. They have just supported the abolition of that body. You cannot, on the one hand, come here saying that you support the abolition and then, on the other hand, seek to use our structures and our processes here at every opportunity that you can to recreate that exact structure. What we are trying to do here is something very different. We have, I hope, provided an amendment that provides the framework for the composition of the membership and the necessary flexibility that is needed, following a period of consultation and consideration, which will enable us to have members of the panel who will represent the whole of the agricultural industry and all parts of it. I am not simply going to say that we should have the farming unions and trade unions sitting together. I believe that we should have independent members and I believe that the membership of a panel, taken together, should reflect, as my friend the Member for Pontypridd has already said, those people who were not represented on the AWB. Having a richer combination of people and members will enable the new panel to achieve all of our ambitions and visions.

[201] **Antoinette Sandbach:** Will you take an intervention?

[202] **The Presiding Officer:** The Minister has said that he is not taking interventions.

[203] The question is that amendment 18 be agreed to. Does any Member object? Was that an objection? If you could speak up a little, it would be helpful. There is objection, so we will move to an electronic vote.

[Canlyniad y bleidlais ar welliant 18.](#)
[Result of the vote on amendment 18.](#)

Derbyniwyd gwelliant 18: O blaid 34, Yn erbyn 12, Ymatal 5.
Amendment 18 agreed: For 34, Against 12, Abstain 5.

[204] **The Presiding Officer:** We will now move to dispose of the next amendments in the marshalled list. I call on Suzy Davies to move amendment 52.

[205] **Suzy Davies:** I move amendment 52 in my name.

[206] **The Presiding Officer:** The question is that amendment 52 be agreed to. Does any Member object? There is objection, so we will move to an electronic vote. [*Interruption.*] I

am sorry? You want the number of the amendment? Which one do you want? We have a whole selection here. It is amendment 52.

[Canlyniad y bleidlais ar welliant 52.](#)
[Result of the vote on amendment 52.](#)

Gwrthodwyd gwelliant 52: O blaid 17, Yn erbyn 34, Ymatal 0.
Amendment 52 not agreed: For 17, Against 34, Abstain 0.

[207] **The Presiding Officer:** I call on Suzy Davies to move amendment 53.

[208] **Suzy Davies:** I move amendment 53 in my name.

[209] **The Presiding Officer:** If amendment 53 is agreed, amendments 2, 29, 3, 4, 5, 6 and 30 will fall. The question is that amendment 53 be agreed to.

[210] **Lesley Griffiths:** I object.

[211] **The Presiding Officer:** It would be helpful if you could speak up a little—

[212] **Lesley Griffiths:** You did not ask the question.

[213] **The Presiding Officer:** There is objection, so we will move to an electronic vote.

[Canlyniad y bleidlais ar welliant 53.](#)
[Result of the vote on amendment 53.](#)

Gwrthodwyd gwelliant 53: O blaid 12, Yn erbyn 39, Ymatal 0.
Amendment 53 not agreed: For 12, Against 39, Abstain 0.

[214] **The Presiding Officer:** I call on William Powell to move amendment 2.

[215] **Suzy Davies:** I move amendment 2 in my name.

[216] **The Presiding Officer:** If amendment 2 is agreed, amendment 29 will fall. The question is that amendment 2 be agreed to. Are there any objections? There is objection, so we will move to an electronic vote.

[Canlyniad y bleidlais ar welliant 2.](#)
[Result of the vote on amendment 2.](#)

Gwrthodwyd gwelliant 2: O blaid 24, Yn erbyn 26, Ymatal 0.
Amendment 2 not agreed: For 24, Against 26, Abstain 0.

[217] **The Presiding Officer:** I call on Llyr Huws Gruffydd to move amendment 29.

[218] **Llyr Huws Gruffydd:** Cynigiaf **Llyr Huws Gruffydd:** I move amendment welliant 29 yn fy enw i. 29 in my name.

[219] **The Presiding Officer:** The question is that amendment 29 be agreed to. Does any Member object? There is objection, so we will move to an electronic vote.

[Canlyniad y bleidlais ar welliant 29.](#)
[Result of the vote on amendment 29.](#)

*Gwrthodwyd gwelliant 29: O blaid 13, Yn erbyn 38, Ymatal 0.
Amendment 29 not agreed: For 13, Against 38, Abstain 0.*

[220] **The Presiding Officer:** I call on William Powell to move amendment 3.

[221] **William Powell:** I move amendment 3 in my name.

[222] **The Presiding Officer:** The question is that amendment 3 be agreed to. Does any Member object? There is objection, so we will move to an electronic vote.

[Canlyniad y bleidlais ar welliant 3.](#)
[Result of the vote on amendment 3.](#)

*Gwrthodwyd gwelliant 3: O blaid 25, Yn erbyn 26, Ymatal 0.
Amendment 3 not agreed: For 25, Against 26, Abstain 0.*

3.15 p.m.

[223] **The Presiding Officer:** I call on William Powell to move amendment 4.

[224] **William Powell:** I move amendment 4 in my name.

[225] **The Presiding Officer:** If amendment 4 is not agreed, amendment 5 will fall. The question is that amendment 4 be agreed to. Does any Member object? There is objection, so we will move to an electronic vote.

[Canlyniad y bleidlais ar welliant 4.](#)
[Result of the vote on amendment 4.](#)

*Gwrthodwyd gwelliant 4: O blaid 13, Yn erbyn 38, Ymatal 0.
Amendment 4 not agreed: For 13, Against 38, Abstain 0.*

*Methodd gwelliant 5
Amendment 5 fell.*

[226] **The Presiding Officer:** I call on William Powell to move amendment 6.

[227] **William Powell:** I move amendment 6 in my name.

[228] **The Presiding Officer:** The question is that amendment 6 be agreed to. Does any Member object? There is objection, so we will move to an electronic vote.

[Canlyniad y bleidlais ar welliant 6.](#)
[Result of the vote on amendment 6.](#)

*Gwrthodwyd gwelliant 6: O blaid 5, Yn erbyn 41, Ymatal 0.
Amendment 6 not agreed: For 5, Against 41, Abstain 0.*

[229] **The Presiding Officer:** We are getting a little frivolous; I remind Members that we have a long way to go. I call on Llyr Huws Gruffydd to move amendment 30.

[230] **Llyr Huws Gruffydd:** Cynigaf **Llyr Huws Gruffydd:** I move amendment welliant 30 yn fy enw i. 30 in my name.

[231] **The Presiding Officer:** The question is that amendment 30 be agreed to. Does any

Member object? There is objection, so we will move to an electronic vote.

[Canlyniad y bleidlais ar welliant 30.](#)
[Result of the vote on amendment 30.](#)

Gwrthodwyd gwelliant 30: O blaid 25, Yn erbyn 26, Ymatal 0.
Amendment 30 not agreed: For 25, Against 26, Abstain 0.

[232] **The Presiding Officer:** I call Suzy Davies to move amendment 54.

[233] **Suzy Davies:** I move amendment 54 in my name.

[234] **The Presiding Officer:** If amendment 54 is not agreed, amendment 74 will fall. The question is that amendment 54 be agreed to. Does any Member object? There is objection, so we will move to an electronic vote.

[Canlyniad y bleidlais ar welliant 54.](#)
[Result of the vote on amendment 54.](#)

Gwrthodwyd gwelliant 54: O blaid 17, Yn erbyn 34, Ymatal 0.
Amendment 54 not agreed: For 17, Against 34, Abstain 0.

[235] **The Presiding Officer:** I call on William Powell to move amendment 7.

[236] **William Powell:** I move amendment 7 in my name.

[237] **The Presiding Officer:** The question is that amendment 7 be agreed to. Does any Member object? There is objection, so we will move to an electronic vote.

[Canlyniad y bleidlais ar welliant 7.](#)
[Result of the vote on amendment 7.](#)

Gwrthodwyd gwelliant 7: O blaid 17, Yn erbyn 34, Ymatal 0.
Amendment 7 not agreed: For 17, Against 34, Abstain 0.

[238] **The Presiding Officer:** I call on William Powell to move amendment 8.

[239] **William Powell:** I move amendment 8 in my name.

[240] **The Presiding Officer:** The question is that amendment 8 be agreed to. Does any Member object? There is objection, so we will move to an electronic vote.

[Canlyniad y bleidlais ar welliant 8.](#)
[Result of the vote on amendment 8.](#)

Gwrthodwyd gwelliant 8: O blaid 25, Yn erbyn 26, Ymatal 0.
Amendment 8 not agreed: For 25, Against 26, Abstain 0.

[241] **The Presiding Officer:** I call on Suzy Davies to move amendment 55.

[242] **Suzy Davies:** I move amendment 55 in my name.

[243] **The Presiding Officer:** If amendment 55 is agreed, amendments 31, 77, 32, 78, 79, 80, 81, 82, 83, 33, 84, 9, 10, 19, 85, 86 and 87 will fall. The question is that amendment 55 be agreed to. Does any Member object? There is objection, so we will move to an electronic

vote.

[Canlyniad y bleidlais ar welliant 55.](#)
[Result of the vote on amendment 55.](#)

Gwrthodwyd gwelliant 55: O blaid 12, Yn erbyn 39, Ymatal 0.
Amendment 55 not agreed: For 12, Against 39, Abstain 0.

[244] **The Presiding Officer:** I call on Llyr Huws Gruffydd to move amendment 31.

[245] **Llyr Huws Gruffydd:** Cynigiaf **Llyr Huws Gruffydd:** I move amendment welliant 31 yn fy enw i a gydag enw 31 in my name and with the name of Antoinette Sandbach yn ei gefnogi. Antoinette Sandbach in support.

[246] **The Presiding Officer:** The question is that amendment 31 be agreed to. Does any Member object? There is objection, so we will move to an electronic vote.

[Canlyniad y bleidlais ar welliant 31.](#)
[Result of the vote on amendment 31.](#)

Gwrthodwyd gwelliant 31: O blaid 25, Yn erbyn 26, Ymatal 0.
Amendment 31 not agreed: For 25, Against 26, Abstain 0.

[247] **The Presiding Officer:** I call on Antoinette Sandbach to move amendment 77.

[248] **Antoinette Sandbach:** I move amendment 77 in my name.

[249] **The Presiding Officer:** The question is that amendment 77 be agreed to. Does any Member object? There is objection, so we will move to an electronic vote.

[Canlyniad y bleidlais ar welliant 77.](#)
[Result of the vote on amendment 77.](#)

Gwrthodwyd gwelliant 77: O blaid 25, Yn erbyn 26, Ymatal 0.
Amendment 77 not agreed: For 25, Against 26, Abstain 0.

[250] **The Presiding Officer:** I call on Llyr Huws Gruffydd to move amendment 32.

[251] **Llyr Huws Gruffydd:** Cynigiaf **Llyr Huws Gruffydd:** I move amendment welliant 32 yn fy enw i a gydag enw 32 in my name and with the name of Antoinette Sandbach yn ei gefnogi. Antoinette Sandbach in support.

[252] **The Presiding Officer:** The question is that amendment 32 be agreed to. Does any Member object? There is objection, so we will move to an electronic vote.

[Canlyniad y bleidlais ar welliant 32.](#)
[Result of the vote on amendment 32.](#)

Gwrthodwyd gwelliant 32: O blaid 25, Yn erbyn 26, Ymatal 0.
Amendment 32 not agreed: For 25, Against 26, Abstain 0.

Grŵp 6: Gorchmynion Cyflogau Amaethyddol (Gwelliannau 78, 79, 80, 81, 82, 33, 36, 39 a 41)

Group 6: Agricultural Wages Orders (Amendments 78, 79, 80, 81, 82, 33, 36, 39 and 41)

[253] **The Presiding Officer:** The lead amendment in the group is amendment 78. I call on Antoinette Sandbach to move and speak to amendment 78, and to speak to the other amendments in the group.

[254] **Antoinette Sandbach:** I move amendment 78 in my name.

[255] Amendment 78 ensures that it is the panel that will consider whether or not to make the Order regarding the minimum rates of remuneration, and that it should consider doing so at least once in each calendar year. The amendment, therefore, ensures a formalised structure for the panel and that action is undertaken on a yearly basis. The reason for this is that we have seen already, when the sub-committees were devolved to the Assembly, or the Welsh Government, that when the agriculture dwelling house advisory committee and the agricultural wages committee had their functions devolved here, those functions have not been exercised since 2007. So, this is a clear example of where the board would be created and it would ensure that the functions are carried out.

[256] Amendments 79, 80—and 81, which I will not move, Presiding Officer—and 82 are amendments that require or get the panel to look at the factors or the circumstances that would require the Orders to go above the national minimum wage and to consider those circumstances.

*Daeth y Dirprwy Lywydd (David Melding) i'r Gadair am 3.21 p.m.
The Deputy Presiding Officer (David Melding) took the Chair at 3.21 p.m.*

[257] We believe that there must be a presumption that, where you wish to go higher than the national minimum wage, which is, obviously, the minimum, the reasons are published and made available for scrutiny.

[258] In terms of the hours of work, amendment 82 ensures that Welsh Ministers or the panel may not include provisions about the pension and hours of work, which means that they could not specify the minimum hours of work. That is because it is very important, on a farm, that you have some flexibility. You might have some seasonal workers who come in and do occasional work, and you need that flexibility in order to ensure that it is not a one-size-fits-all approach, but that there is flexibility between the employers and the employees in terms of hours.

[259] We support Llyr Huws Gruffydd's amendment about the notice provisions under the agricultural advisory panel. This is something that is carried out at present. It gives people who may not previously have been aware of the Order the opportunity to look at it or at potential Orders. It is particularly important in dealing with cross-border issues. We have had evidence from the farming unions that there is substantial integration between farms on the English and Welsh sides of the border. There could be real problems caused. Those questions about how to deal with cross-border issues simply have not been dealt with in terms of the scrutiny.

[260] Deputy Presiding Officer, I am disappointed that the Minister for agriculture will not take interventions, because it seems to me that there are legitimate questions being asked by this process. This is a shortened process and to not take interventions in order to clarify points, it seems to me, goes against the purposes of our sitting as a committee. As a committee, we should be able to question the Minister on what his intentions are. So, Minister, perhaps you could explain how you are going to deal with those cross-border issues,

because you have not explained that in the regulatory impact assessment and I do not feel that it is very clear. There are subsequent amendments that would deal with that, but it is really important that there are opportunities for people to feed in about the impact of this Order. Again, we had very conflicting advice when we were sitting in the Environment and Sustainability Committee, particularly from Unite, which said that the Order was both very simple and very complex and difficult for people to understand. It is important, when Orders are being made, that people have an opportunity to object, so we will support Llyr Huws Gruffydd's amendment in that regard.

[261] **Mick Antoniw:** I particularly wanted to speak to amendment 79, as I could not believe it when I read it. I wonder whether members of the opposition have actually read it and are not embarrassed by it. It goes contrary to evidence that was given that abolishing the Agricultural Wages Board would lead to a rise in wage rates and so on. This very specifically seeks to say that the minimum wage is the norm, and anything above that is an absolute exception; the icing on the cake. It clearly exposes, I think, the Conservative aspiration for rural communities to be low-wage economies. Minister, I take some blame for this and I do apologise, because it appears that, last week, I made a statement that the Tory party wanted to bring back serfdom. It was a joke. I did not realise that the Member would be taking it seriously. *[Laughter.]*

[262] **Llyr Huws Gruffydd:** Mae nifer o welliannau Plaid Cymru yn seiliedig ar drosglwyddo'r cyfrifoldeb i wneud Gorchymyn ar gyflogau o'r Gweinidog i'r panel. Rwyf yn dal yn awyddus i hyrwyddo'r egwyddor honno. Fel yr ydym eisoes wedi clywed, dyna sy'n gyson, wrth gwrs, gyda'r drefn bresennol a'r trefniadau sydd yn eu lle yn yr Alban a Gogledd Iwerddon. Rwyf am gyfeirio yn benodol at welliant 41, sydd yn amlinellu Atodlen i'w mewnosod. Mae honno yn un bwysig yn fy marn i, oherwydd mae hi'n amlinellu'r broses o greu hysbysiad cyhoeddus o'r Gorchymyn arfaethedig, y broses i wrthwynebu Gorchymyn o'r fath, a sut mae mynd ati wedyn i ystyried newidiadau i gynigion gwreiddiol. Os ydym yn derbyn yr egwyddor mai'r panel a ddylai wneud y Gorchymyn, mae'r gwelliannau hyn yn dilyn yn rhesymegol. Y peth pwysig i mi yw bod trefn glir o gwmpas gwneud Gorchymyn, ac mae gwelliant 41, yn enwedig, yn ceisio sicrhau'r eglurder hwnnw.

Llyr Huws Gruffydd: There are a number of Plaid Cymru amendments that are based on transferring responsibility for making Orders on wages from the Minister to the panel. I am still eager to promote that principle. As we have heard, that is consistent, of course, with the current arrangements and the arrangements in place in Scotland and Northern Ireland. I want to make specific reference to amendment 41, which outlines a Schedule to be inserted. That is important in my opinion, because it outlines the process of creating a public notice of the proposed Order, how one would oppose such an Order, and also how one would consider any amendments to the original proposals. If we accept the principle that the panel should make the Order, these amendments do follow rationally from that. The important thing for me is that there is a clear system in place around making Orders, and amendment 41 in particular endeavours to ensure that clarity.

[263] **Alun Davies:** I would say to the Plaid Cymru Member for North Wales that I have given him an undertaking in a previous debate on this legislation that I would be open to conversations, following the conclusion of committee stage, on that matter. I repeat that undertaking now. I hope that he will feel able to not proceed with the amendment that refers to this matter, on the basis of the conversations that will be able to take place following votes on this matter. I will, however, say that the Government will support amendment 36 in his name.

[264] In terms of other matters, one of the key benefits of the current system is that it guides negotiations between farmers and workers, and avoids unnecessary disputes and the need for lengthy individual negotiations. Our research demonstrates that this is one of the

most valuable parts of the legislation. I believe that amendments 79, 80 and 81 will place an additional and unnecessary burden on Welsh Ministers by requiring them to justify why they have set wages in the agricultural sector higher than the national minimum wage. That is something that we regard as unnecessary. We also regard amendment 82 as unnecessary. Other amendments have already been dealt with in discussions on the place of the Orders being made by the board or the Welsh Ministers.

[265] Some of the amendments that we have heard from the Conservative benches this afternoon really do go against one of the key principles of this Bill, which is that, although we are proposing to preserve the existing provisions of the 2012 Order, we also want to develop, modernise and streamline any future Orders that are made under this Bill. It is important that we have the right balance of what is regulated and what is not regulated.

[266] The UK Government has argued that the current regime presents an unnecessary regulatory burden. I contest this position. A key benefit of the current system is that it guides negotiations between employers and employees, avoiding unnecessary disputes and ensuring that workplace harmony is maintained. We are not imposing a new regulatory burden. What we are doing is keeping something that is valued and established and well known in the industry. If Members listened to or read the evidence of the Farmers Union of Wales, they will know that farmers already have to deal with a great deal of paperwork, and the change to the national minimum wage regime alone will actually present a much bigger burden than keeping the current system.

3.30 p.m.

[267] Keeping the existing regime reduces the administrative burden on businesses and,

[268] ‘covers a great deal of information that farmers would have to seek elsewhere if it did not exist’.

[269] **Simon Thomas:** I am grateful to the Minister for giving way. One example of where this interface plays out is surely the fact that the AWB, as constituted, can look at things like accommodation as part of the set-up around wages, which the Low Pay Commission said is clearly not part of its remit in looking at the national minimum wage.

[270] **Alun Davies:** Absolutely, and, for that reason, we will be looking at exactly those matters later in this process. I am pleased to hear that the Member would support the work that will be done on that.

[271] In closing, our intention is to preserve and then develop a framework to support the industry, to enhance and retain skills, and to help the rural economy by having efficient and productive businesses and by providing decent living conditions for people in the agriculture sector. Also, the chief executive of the Gangmasters Licensing Authority, Paul Broadbent, expressed concerns that the abolition of the AWB will lead to the exploitation of workers. He said that there is a place for necessary regulation in certain areas. For all of the above reasons, I cannot accept the proposed amendments in this group.

[272] **The Deputy Presiding Officer:** I call on Antoinette Sandbach to reply.

[273] **Antoinette Sandbach:** I was very interested to hear the Minister saying that he contested the assertion that the Agricultural Wages Board places an unnecessary burden, because his regulatory impact assessment has not looked at the burden that it places on small businesses. So, he has not provided a single shred of evidence to this committee that that is, in fact, right. I do not know where he got the quotation from the Gangmasters Licensing Authority, but it certainly was not from his own consultation, because that response was not

present in that consultation.

[274] **Alun Davies:** I will tell you where I got it from; it was in *The Independent* newspaper on 23 June. [*Interruption.*]

[275] **Antoinette Sandbach:** Now we know the source of Welsh Government evidence. With regard to the evidence given by the FUW, let us not forget that we have had no evidence from any organisation that is actually looking at this Bill as published. We have had a general look at the principles of the Agricultural Wages Board, but there was no report by the Environment and Sustainability Committee and no opportunity to look at this Bill. So, I do not think that the Minister can say that the FUW supports this Bill as drafted. In fact, we wrote to the FUW and asked whether or not it was prepared to look at some of the amendments made and comment on them by Monday. It made clear its inability to respond due to the short timescale and pre-existing commitments. We must bear in mind that the marshalled list of amendments was not published until Monday, so there has been no opportunity, or very little opportunity, for organisations to provide evidence or comment on this Bill. The Minister says that he contests the regulatory burden; where is your evidence, Minister? You had the opportunity to produce a regulatory impact assessment; you have clearly not done it, or you have produced one, but one that has no value, on the face of it.

[276] In terms of Mick Antoniw's submissions, that is not wrong. What amendment 79 does is ask for reasons. It asks for an evidence base—

[277] **Andrew R.T. Davies:** I am grateful to the Member for taking an intervention. Amendment 79 is quite clear. All it states is that, if the new body agrees to set a rate above the minimum wage, it should specify why that is the case. It could actually increase the level of wages if the reasoning is sound and robust. Why are you standing in the way of reasoned argument?

[278] **Antoinette Sandbach:** I think that we all know that when it comes to the Welsh Government.

[279] **Mick Antoniw** *rose*—

[280] **Antoinette Sandbach:** I will not, I am afraid.

[281] It does require that evidence and reasons—concrete reasons—be given, which is really important, if there is going to be a departure. We have reservations as to whether or not the setting of wages is devolved, and that may well be decided in another place. However, it seems to be very important that, where there is going to be a departure—as Andrew R.T. Davies said—that is properly reasoned and considered. It is for those reasons that these amendments have been put forward, to ensure that those reasons are publicly available, and are available for scrutiny. Once again, I say to the Minister that he has not told us, at any point during these proceedings, why it is that the agriculture sector needs more protection than any other workers in the UK. He has not explained that to us. I would like to know, and understand, from the Minister, why he is saying that agricultural workers are incapable of entering into negotiations with their employers in today's modern age. Those are the reasons why we have tabled the amendments, and I hope that Members will support them.

[282] **The Deputy Presiding Officer:** The question is that amendment 78 be agreed to. Does any Member object? There is objection, so we will proceed to an electronic vote.

[Canlyniad y bleidlais ar welliant 78.](#)
[Result of the vote on amendment 78.](#)

*Gwrthodwyd gwelliant 78: O blaid 25, Yn erbyn 25, Ymatal 0.
Amendment 78 not agreed: For 25, Against 25, Abstain 0.*

*Fel sy'n ofynnol o dan Reol Sefydlog Rhif 6.20, defnyddiodd y Dirprwy Lywydd ei bleidlais fwrw drwy bleidleisio yn erbyn y gwelliant.
As required by Standing Order No. 6.20, the Deputy Presiding Officer exercised his casting vote by voting against the amendment.*

[283] **The Deputy Presiding Officer:** I call on Antoinette Sandbach to move amendment 79.

[284] **Antoinette Sandbach:** I move amendment 79 in my name.

[285] **The Deputy Presiding Officer:** The question is that amendment 79 be agreed to. Does any Member object? There is objection, so we will move to an electronic vote.

[Canlyniad y bleidlais ar welliant 79.](#)
[Result of the vote on amendment 79.](#)

*Gwrthodwyd gwelliant 79: O blaid 16, Yn erbyn 34, Ymatal 0.
Amendment 79 not agreed: For 16, Against 34, Abstain 0.*

[286] **The Deputy Presiding Officer:** I call on Antoinette Sandbach to move amendment 80.

[287] **Antoinette Sandbach:** I move amendment 80 in my name.

[288] **The Deputy Presiding Officer:** The question is that amendment 80 be agreed to. Does any Member object? There is objection, so we will proceed to an electronic vote.

[Canlyniad y bleidlais ar welliant 80.](#)
[Result of the vote on amendment 80.](#)

*Gwrthodwyd gwelliant 80: O blaid 17, Yn erbyn 34, Ymatal 0.
Amendment 80 not agreed: For 17, Against 34, Abstain 0.*

[289] **The Deputy Presiding Officer:** I call on Antoinette Sandbach to move amendment 81.

[290] **Antoinette Sandbach:** I withdraw amendment 81 in my name.

[291] **The Deputy Presiding Officer:** Amendment 81 has not been moved.

*Ni chynigiwyd gwelliant 81.
Amendment 81 not moved.*

[292] **The Deputy Presiding Officer:** I call on Antoinette Sandbach to move amendment 82.

[293] **Antoinette Sandbach:** I move amendment 82 in my name.

[294] **The Deputy Presiding Officer:** The question is that amendment 82 be agreed to. Does any Member object? There is objection, so we will proceed to an electronic vote.

[Canlyniad y bleidlais ar welliant 82.](#)
[Result of the vote on amendment 82.](#)

Gwrthodwyd gwelliant 82: O blaid 17, Yn erbyn 34, Ymatal 0.
Amendment 82 not agreed: For 17, Against 34, Abstain 0.

Grŵp 7: Yr Hawl i Wyliau a Gorfodi'r Hawl Hwnnw (Gwelliannau 83, 92, 34, 93 a 95)
Group 7: Holiday Entitlement and Enforcement (Amendments 83, 92, 34, 93 and 95)

[295] **The Deputy Presiding Officer:** The lead amendment in the group is amendment 83. I call on Antoinette Sandbach to move amendment 83 and to speak to it and to the other amendments in the group.

[296] **Antoinette Sandbach:** I move amendment 83 in my name.

[297] Holiday entitlement seems to have been one of the few things that has been specified on the face of this Bill. However, as it is currently drafted, it does not recognise the limitations that are present on the need to fix holiday entitlement, at a time that suits the seasonal nature of the farm business or, indeed, how the farm business operates. Therefore, amendment 83 ensures that the farm business, and the employee, can agree on a suitable arrangement for the time taken off, in order that it has minimal impact on the business, but still provides holiday entitlement for the employee.

[298] I would like to give an example of that. An employee taken on for the lambing season could not turn around and insist on having leave during the very time that he has been taken on for employment. Leave has to be suitable and agreed, effectively, by the employer and the employee. This issue is not currently covered in the Bill, and we believe that it should be included at this stage.

[299] The Welsh Government has included prosecution even for a first offence in relation to holiday leave and entitlement, and has created quite an issue around the burden of proof, so amendment 92 has been tabled to make sure that requests for holiday leave are written down and that the employer must provide a written response to the request. This is really because of the drastic consequences for farmers in potentially losing their good character by being prosecuted under this section. It is a concern and if there is a written request, at least it will be there for future reference.

[300] Amendment 34, tabled by Llyr Huws Gruffydd, is substantially similar to our amendment 83; so, we will be supporting that.

[301] I also wanted to talk about the working time regulations. We want to ensure that a worker could be paid in lieu of holiday owed to him, and that is the reason for tabling amendment 93, which ensures compliance with the working time regulations. It gives the employee the choice as to whether or not he wants to be paid in lieu or request holidays.

[302] Those are the reasons for these amendments being tabled in this section, to ensure that there is greater clarity around where the obligations lie.

[303] **Llyr Huws Gruffydd:** Rydym eisoes wedi clywed nad yw gwelliant 34, gan Blaid Cymru, yn annhebyg i welliant 83. Roeddwn yn teimlo bod angen rhyw fath o gydnabyddiaeth o natur dymhorol y diwydiant a'r gwaith sy'n cael ei wneud, tra'n cydnabod bod gan bob gweithiwr yr **Llyr Huws Gruffydd:** We have already heard that amendment 34, by Plaid Cymru, is not dissimilar to amendment 83. I felt that there was a need for some sort of recognition of the seasonal nature of the industry and the work being done, while also acknowledging that all workers have the right to their fair

hawl i'w cyfran deilwng o wyliau. Ar yr un pryd, byddai'n afresymol disgwyl i gyflogwr amaethyddol ganiatáu gwyliau ar adegau penodol, fel y cyfnod wyna, er enghraifft. Felly, chwilio am gydnabyddiaeth o hynny rydym ni, drwy sicrhau na fydd cyflogwr sy'n gwrthod gwyliau ar adeg o'r fath yn euog o drosedd dan yr adran benodol hon. Ond, fel rwy'n pwysleisio, ni fyddai hynny'n effeithio ar hawl y gweithiwr i gael ei hawl gwyliau llawn dros y flwyddyn.

share of holidays. At the same time, it would be unreasonable to expect an agricultural employer to allow holidays during specific periods, such as the lambing season, for example. So, we are looking for recognition of that, by ensuring that an employer who refuses leave at such a time is not guilty of an offence under this specific section. However, I emphasise that that would not affect the right of the worker to have his full leave entitlement over the course of the year.

[304] **Mohammad Asghar:** I rise in support of amendment 34 in the name of Llyr Huws Gruffydd. We have to recognise the difficulties that employers in the agriculture industry face due to the seasonal nature of the sector. This amendment provides protection for employers who are unable to grant holiday leave and make it clear that, by doing so, they do not commit an offence. This is an important safeguard, and I urge the Welsh Government to support it.

[305] **Alun Davies:** I have listened to what has been said in this debate. These amendments reduce the flexibility and place an unnecessary restriction on employees and employers. To a very large extent, this is the level of detail that should not be stated on the face of the Bill; it is detail that should be attended to as part of any Order.

[306] Amendment 34 in the name of Llyr Huws Gruffydd states that, if an employer refuses to allow a worker to take holidays at a particular time of year—the lambing season is the example that he has given—because of the seasonal nature of the business, that employer would not be guilty of an offence. I agree with that position. However, the amendment is not required because the Bill already allows for this. There is no right given here by which the employee can take any holidays at a time of their choosing, whenever they wish. It is simply that they would be entitled to take holidays, as in the case in most industries, at the employer's discretion and agreement.

3.45 p.m.

[307] That is already in the Bill and already allowed for. I accept entirely the point that has been made, in terms of the fact that it would be a ludicrous situation if a farmer was deprived of his or her workforce in the middle of lambing, if that were to be the case. That is not what is being proposed in this legislation. The safeguard that is required by amendment 34 simply is not required to deliver what we agree is required.

[308] Amendment 92 proposes that requests by employees for annual leave are to be made in writing and are to be responded to in writing by the employer. I believe that this is overly prescriptive. It places an unnecessary and inflexible burden on the employer and the employee, with no consideration for circumstances when this arrangement cannot be practically complied with. It is an example of far too much bureaucracy and red tape that the industry simply does not require.

[309] Amendment 93 seeks to disapply the enforcement provisions of section 5 to those holding entitlements in excess of the statutory minimum prescribed, or where payments have been made in lieu. This, I believe, would cause confusion in enforcement of the Bill's provisions, which is otherwise clear.

[310] Amendment 95 removes the burden of proof from the employer, but it does not replace it with anything else. Again, this takes no account of the practical application of the enforcement provisions. It is clear at present and should remain that way.

[311] **Antoinette Sandbach:** I do not think that there is much difference between the position of Llyr Huws Gruffydd and mine, in terms of the amendments. The amendments are designed to allow that flexibility. Minister, now that you have said that and it is on the face of the proceedings, there is no doubt that if that issue is ever debated again in the future, people will be able to come to the Record of Proceedings and see it, but I disagree with you that it is clear on the face of the Bill. It is not clear on the face of the Bill. There are two parties across this Chamber that looked at the Bill and saw that it was not clear. You have placed an obligation on the employer regarding the burden of proof, but you have not specified a means of being able to show that. Obliging someone to put a request for holiday in writing allows the burden of proof to be discharged easily. I do not think that it would be at present. This is about providing clarity and simplicity in terms of how those burdens can be discharged.

[312] In terms of working time regulations, this refers to holidays in excess of the prescribed period. The prescribed period is set out and it can run up to 38 days in the year, depending on how many days are worked per week. In terms of additional holiday entitlement that accrues as a result of the working time regulations, Minister, your Bill does not deal with that. Amendment 93 specifically deals with that, leaving the choice with the worker. They can choose to take the holiday entitlement or they can choose to be paid in lieu. That seems to be perfectly reasonable. Why should the Welsh Government be prescriptive over who can do that? It is about giving the opportunity to the person who would like to take that decision. In my submission, that is the appropriate place for it to be.

[313] **The Deputy Presiding Officer:** The question is that amendment 83 be agreed to. Does any Member object? There is objection, so we will proceed to an electronic vote.

[Canlyniad y bleidlais ar welliant 83.](#)
[Result of the vote on amendment 83.](#)

Gwrthodwyd gwelliant 83: O blaid 25, Yn erbyn 26, Ymatal 0.
Amendment 83 not agreed: For 25, Against 26, Abstain 0.

[314] **The Deputy Presiding Officer:** We now move to dispose of the next amendments on the marshalled list. I call on Llyr Huws Gruffydd to move amendment 33.

[315] **Llyr Huws Gruffydd:** Cynigiau **Llyr Huws Gruffydd:** I move amendment welliant 33 yn fy enw i. 33 in my name.

[316] **The Deputy Presiding Officer:** If amendment 33 is agreed, amendments 84, 9 and 10 will fall. The question is that amendment 33 be agreed to. Does any Member object? There is objection, so we will proceed to an electronic vote.

[Canlyniad y bleidlais ar welliant 33.](#)
[Result of the vote on amendment 33.](#)

Gwrthodwyd gwelliant 33: O blaid 8, Yn erbyn 43, Ymatal 0.
Amendment 33 not agreed: For 8, Against 43, Abstain 0.

[317] **The Deputy Presiding Officer:** I call on Antoinette Sandbach to move amendment 84.

[318] Are you moving amendment 84?

[319] **Antoinette Sandbach:** Sorry, I move amendment 84 in my name.

[320] **The Deputy Presiding Officer:** The question is that amendment 84 be agreed to. Does any Member object? There is objection, so we will have an electronic vote.

[Canlyniad y bleidlais ar welliant 84.](#)
[Result of the vote on amendment 84.](#)

Gwrthodwyd gwelliant 84: O blaid 20, Yn erbyn 26, Ymatal 5.
Amendment 84 not agreed: For 20, Against 26, Abstain 5.

[321] **The Deputy Presiding Officer:** I call on William Powell to move amendment 9.

[322] **William Powell:** I move amendment 9 in my name.

[323] **The Deputy Presiding Officer:** The question is that amendment 9 be agreed to. Does any Member object? There is objection, so we will have an electronic vote.

[Canlyniad y bleidlais ar welliant 9.](#)
[Result of the vote on amendment 9.](#)

Gwrthodwyd gwelliant 9: O blaid 13, Yn erbyn 38, Ymatal 0.
Amendment 9 not agreed: For 13, Against 38, Abstain 0.

[324] **The Deputy Presiding Officer:** I call on William Powell to move amendment 10.

[325] **William Powell:** I move amendment 10 in my name.

[326] **The Deputy Presiding Officer:** The question is that amendment 10 be agreed to. Does any Member agree? There is objection, so we will proceed to an electronic vote.

[Canlyniad y bleidlais ar welliant 10.](#)
[Result of the vote on amendment 10.](#)

Gwrthodwyd gwelliant 10: O blaid 13, Yn erbyn 38, Ymatal 0.
Amendment 10 not agreed: For 13, Against 38, Abstain 0.

[327] **The Deputy Presiding Officer:** I call on the Minister to move amendment 19.

[328] **Alun Davies:** I move amendment 19 in my name.

[329] **The Deputy Presiding Officer:** The question is that amendment 19 be agreed to. Does any Member object? There is objection, so we will proceed to an electronic vote.

[Canlyniad y bleidlais ar welliant 19.](#)
[Result of the vote on amendment 19.](#)

Derbyniwyd gwelliant 19: O blaid 39, Yn erbyn 12, Ymatal 0.
Amendment 19 agreed: For 39, Against 12, Abstain 0.

[330] **The Deputy Presiding Officer:** I call on Antoinette Sandbach to move amendment 85.

[331] **Antoinette Sandbach:** I move amendment 85 in my name.

[332] **The Deputy Presiding Officer:** The question is that amendment 85 be agreed to. Does any Member object? There is objection, so we will proceed to an electronic vote.

[Canlyniad y bleidlais ar welliant 85.](#)
[Result of the vote on amendment 85.](#)

Gwrthodwyd gwelliant 85: O blaid 25, Yn erbyn 26, Ymatal 0.
Amendment 85 not agreed: For 25, Against 26, Abstain 0.

[333] **The Deputy Presiding Officer:** I call on Antoinette Sandbach to move amendment 86.

[334] **Antoinette Sandbach:** I move amendment 86 in my name.

[335] **The Deputy Presiding Officer:** The question is that amendment 86 be agreed to. Does any Member object? There is objection, so we will proceed to an electronic vote.

[Canlyniad y bleidlais ar welliant 86.](#)
[Result of the vote on amendment 86.](#)

Gwrthodwyd gwelliant 86: O blaid 25, Yn erbyn 26, Ymatal 0.
Amendment 86 not agreed: For 25, Against 26, Abstain 0.

[336] **The Deputy Presiding Officer:** I call on Antoinette Sandbach to move amendment 87.

[337] **Antoinette Sandbach:** I move amendment 87 in my name.

[338] **The Deputy Presiding Officer:** The question is that amendment 87 be agreed to. Does any Member object? There is objection, so we will proceed to an electronic vote.

[Canlyniad y bleidlais ar welliant 87.](#)
[Result of the vote on amendment 87.](#)

Gwrthodwyd gwelliant 87: O blaid 25, Yn erbyn 26, Ymatal 0.
Amendment 87 not agreed: For 25, Against 26, Abstain 0.

[339] **The Deputy Presiding Officer:** I call on Antoinette Sandbach to move amendment 88.

[340] **Antoinette Sandbach:** I move amendment 88 in my name.

[341] **The Deputy Presiding Officer:** The question is that amendment 88 be agreed to. Does any Member object? There is objection, so we will proceed to an electronic vote.

[Canlyniad y bleidlais ar welliant 88.](#)
[Result of the vote on amendment 88.](#)

Gwrthodwyd gwelliant 88: O blaid 17, Yn erbyn 34, Ymatal 0.
Amendment 88 not agreed: For 17, Against 34, Abstain 0.

[342] **The Deputy Presiding Officer:** I call on Suzy Davies to move amendment 56.

[343] **Suzy Davies:** I move amendment 56 in my name.

[344] **The Deputy Presiding Officer:** If amendment 56 is agreed, amendment 57 will fall. The question is that amendment 56 be agreed to. Does any Member object? There is

objection, so we will move to an electronic vote.

[Canlyniad y bleidlais ar welliant 56.](#)
[Result of the vote on amendment 56.](#)

Gwrthodwyd gwelliant 56: O blaid 12, Yn erbyn 39, Ymatal 0.

Amendment 56 not agreed: For 12, Against 39, Abstain 0.

Grŵp 8: Gorfodi (Gwelliannau 57, 89, 90, 91, 94, 96, 97 a 98)
Group 8: Enforcement (Amendments 57, 89, 90, 91, 94, 96, 97 and 98)

[345] **The Deputy Presiding Officer:** The eighth group relates to enforcement. The lead amendment is amendment 57, and I call on Suzy Davies to move and speak to that amendment and the other amendments in the group.

[346] **Suzy Davies:** I move amendment 57 in my name.

[347] My amendment in this group simply deletes section 4(2)(1), to remove from this Bill reference to offences under the National Minimum Wage Act 1998. It does not seek to affect the 1998 statute in any way. The reason I believe this needs to be deleted from the Bill is that it oversteps the mark of being an incidental consequence of a Bill whose primary purpose cannot relate to employment. I asked the Minister to be very careful about transposing into Wales-only law any provision of England-and-Wales law that might, in itself, be outside competence. Minimum wage is already protected by the 1998 statute; this paragraph, I believe, should be removed, as it tries to remove those sanctions that relate directly to different minimum wages decided in and applicable only in Wales. We do have criminal sanctions as incidental provisions in other legislation; that is true. However, I ask Members to remind themselves of the primary purpose of this legislation. Introducing criminal offences into this Bill for breaches of rights with regard to wages is an incidental on the incidental—an extension on the extension, if you like. You can stretch section 154 of the Government of Wales Act too far, Minister. Can you persuade us that you are not stretching it as far as the Supreme Court?

[348] **Antoinette Sandbach:** I speak to the further amendments in this group, and support Suzy Davies's amendment 57. The further amendments in this group are designed to give basic protection to people who could have a knock on the door and be faced with a requirement to enter their home. Amendments 89, 90, 91, 94 and 96 effectively deal with the kind of protections that will be there. They recognise that there may be farmers who have young children or elderly relatives living at their home premises, and if enforcement officers turn up and require entry to the property, this means that they are on reasonable notice, so that they can make arrangements for their relatives or children to be looked after and to avoid alarm or distress at what, effectively, would otherwise be a forced entry. It prescribes the kind of information that is needed for reasonable notice, and would give sufficient time to enable, for example, a union representative, legal representative or an independent third party to be present when those enforcement officers are present at the scene. It seems to me that these are important safeguards—constitutional safeguards—where we are looking at passing an emergency piece of legislation that, as we know, has not gone through the full scrutiny process of this Assembly, as it normally would.

[349] Secondly, amendment 94 has a precondition. I have looked at the agricultural wages Order in relation to Scotland, and the board does not have powers to prosecute. Its set-up does not—. Sorry, I do not mean the board, but Scottish Ministers. Scottish Ministers do not have the powers to prosecute under this section. So, Minister, I would like to know why you are taking forward powers of prosecution, because in Scotland these matters are dealt with by written warning first, and if that is not sufficient, it then goes to an employment tribunal. Why

are you seeking to potentially prosecute Welsh farmers rather than giving them the kind of protections or equal treatment that would apply in Scotland? Why do you say that the Scottish system is inadequate, and that you need to prosecute? Someone potentially losing their good character has implications for many other things, and it is a serious decision to create a criminal offence. I agree with Suzy Davies that, actually, this is not within your competence, and you are stretching section 154 of the Government of Wales Act too far with these particular provisions.

[350] What amendment 96 does is offer an opportunity so that there is a written warning to an employer, and an opportunity for that employer to undergo training. Given the cross-border issues that will apply to this legislation, where we have farms that straddle both sides of the border, and one farmer may be subjected to two different types of wage regimes, I think it is very important that those protections are here, on the face of the Bill, and there is a clear opportunity for somebody to have that process of education and understanding before criminal proceedings can be taken.

4.00 p.m.

[351] Amendment 97 is a technical amendment to require data protection provisions to make sure that people's personal information is not disclosed too widely beyond the remit of the panel. I hope that Members across the Chamber will support those important safeguards that have been tabled.

[352] **The Deputy Presiding Officer:** I call on the Minister to respond.

[353] **Alun Davies:** Thank you very much, Deputy Presiding Officer. There is, of course, no point in making statutory provisions without the intention or the ability to enforce them. The provisions of wages Orders have been subject to enforcement and our Welsh rural inspectors would have addressed any complaints relating to this matter. As we are preserving the provisions of the 2012 Order with this Bill, we have based our enforcement position on the regime as it existed prior to the abolition of the AWB. We are, therefore, not introducing anything new or anything that is not known with this Bill. However, I have to say that we have already discussed a number of these different items. I understand what the Conservative Member for South West Wales is seeking to do, but, if we were to support her amendment 57, we would be in the curious position of the Bill having enforcement provisions but there being limited sanctions for non-compliance and obvious means of circumventing the regime. That would raise the question as to why anybody would wish to comply with the Bill if they were not able to be brought to task for not doing so.

[354] Regarding amendment 89, we need to understand what that is in the case of farming. A dwelling house is often the place of business and subject to powers of entry for enforcement purposes. This issue arises in other legislation, too, so we are not introducing anything that is new, novel or radical in this Bill. The way the Bill is drafted allows for reasonable notice to be given before inspection, which is, again, standard practice and current practice.

[355] Amendments 90 and 91 deal with the definition of reasonable notice and try to define it further, but without giving any timescale. What we regard as 'reasonable notice' is a timescale that gives the individual enough time to prepare for the inspection, but not with the intention of allowing any individual to frustrate the inspection process.

[356] Amendments 94 and 96 are, in our view, entirely unnecessary. Any enforcement officer appointed to exercise functions under this Bill must already act in accordance with the provisions of the Police and Criminal Evidence Act 1984. Should they not do so, any of the evidence gathered in an inspection could be challenged as being inadmissible in any

subsequent prosecution. The criminal law of England and Wales provides sufficient safeguards to those investigated with a possibility of being prosecuted for an offence. As a result, this Bill does not need to contain provisions that go above and beyond what is already provided for in a tried, tested and trusted system.

[357] Turning to amendments 97 and 98, the agricultural advisory panel will not be able to take on statutory enforcement powers. Those will need to remain with the Welsh Ministers. I find the idea that panel members would be given details of the outcomes of inspections concerning. That shows little understanding, not only of our intended Bill, but also of our legal enforcement system.

[358] For the reasons outlined above, I am not able to support any of the amendments in this group.

[359] **The Deputy Presiding Officer:** I call Suzy Davies to reply.

[360] **Suzy Davies:** Minister, I will deal with your first comments first. While you may be seeking to introduce something that is, effectively, what was the status quo under UK law, that does not protect you from the possibility of acting ultra vires if you are trying to transfer particular powers into Wales-only law if the position that was seeking to be protected under UK law is something that Parliament has competence to introduce, but which this place, regrettably, does not have competence to introduce. You have not addressed the point that this is an incidental provision on something that is itself incidental. I am also disappointed that you have not faced, with any great conviction, the point made by Antoinette Sandbach regarding safeguards. We are talking about pretty serious criminal sanctions here. An alleged defendant must be permitted to enjoy the protection of the principles of natural law. There is, as she points out, no equivalent to these powers in Scotland, where, of course, there is no issue about the competence to introduce criminal sanctions anyway. So, I am disappointed that you have taken such a hard stance against this. I hope you might be prepared to reconsider that in future.

[361] **The Deputy Presiding Officer:** The question is that amendment 57 be agreed to. Does any Member object? There is objection, so we will proceed to an electronic vote.

[Canlyniad y bleidlais ar welliant 57.](#)
[Result of the vote on amendment 57.](#)

Gwrthodwyd gwelliant 57: O blaid 12, Yn erbyn 34, Ymatal 5.
Amendment 57 not agreed: For 12, Against 34, Abstain 5.

[362] **The Deputy Presiding Officer:** I call on Antoinette Sandbach to move amendment 89.

[363] **Antoinette Sandbach:** I move amendment 89 in my name.

[364] **The Deputy Presiding Officer:** The question is that amendment 89 be agreed to. Does any Member object? There is objection, so we will proceed to an electronic vote.

[Canlyniad y bleidlais ar welliant 89.](#)
[Result of the vote on amendment 89.](#)

Gwrthodwyd gwelliant 89: O blaid 12, Yn erbyn 34, Ymatal 5.
Amendment 89 not agreed: For 12, Against 34, Abstain 5.

[365] **The Deputy Presiding Officer:** I call on Antoinette Sandbach to move amendment

90.

[366] **Antoinette Sandbach:** I move amendment 90 in my name.

[367] **The Deputy Presiding Officer:** The question is that amendment 90 be agreed to. Does any Member object? There is objection, so we will proceed to an electronic vote.

[Canlyniad y bleidlais ar welliant 90.](#)
[Result of the vote on amendment 90.](#)

Gwrthodwyd gwelliant 90: O blaid 25, Yn erbyn 26, Ymatal 0.
Amendment 90 not agreed: For 25, Against 26, Abstain 0.

[368] **The Deputy Presiding Officer:** I call on Antoinette Sandbach to move amendment 91.

[369] **Antoinette Sandbach:** I move amendment 91 in my name.

[370] **The Deputy Presiding Officer:** The question is that amendment 91 be agreed to. Does any Member object? There is objection, so we will proceed to an electronic vote.

[Canlyniad y bleidlais ar welliant 91.](#)
[Result of the vote on amendment 91.](#)

Gwrthodwyd gwelliant 91: O blaid 25, Yn erbyn 26, Ymatal 0.
Amendment 91 not agreed: For 25, Against 26, Abstain 0.

[371] **The Deputy Presiding Officer:** We now move to dispose of the next amendments on the marshalled list. I call on Antoinette Sandbach to move amendment 92.

[372] **Antoinette Sandbach:** I move amendment 92 in my name.

[373] **The Deputy Presiding Officer:** The question is that amendment 92 be agreed to. Does any Member object? There is objection, so we will proceed to an electronic vote.

[Canlyniad y bleidlais ar welliant 92.](#)
[Result of the vote on amendment 92.](#)

Gwrthodwyd gwelliant 92: O blaid 25, Yn erbyn 26, Ymatal 0.
Amendment 92 not agreed: For 25, Against 26, Abstain 0.

[374] **The Deputy Presiding Officer:** I call on Suzy Davies to move amendment 58.

[375] **Suzy Davies:** I move amendment 58 in my name.

[376] **The Deputy Presiding Officer:** If amendment 58 is agreed, amendments 34, 93, 94 and 95 will fall. The question is that amendment 58 be agreed to. Does any Member object? There is objection, so we will proceed to an electronic vote.

[Canlyniad y bleidlais ar welliant 58.](#)
[Result of the vote on amendment 58.](#)

Gwrthodwyd gwelliant 58: O blaid 12, Yn erbyn 39, Ymatal 0.
Amendment 58 not agreed: For 12, Against 39, Abstain 0.

[377] **The Deputy Presiding Officer:** I call on Llyr Huws Gruffydd to move amendment 34.

[378] **Llyr Huws Gruffydd:** Yn ysbryd y sicrwydd a roddwyd gan y Gweinidog fod y mater hwn yn cael ei ddelio ag ef mewn deddfwriaeth arall, ni fyddaf yn cynnig y gwelliant. **Llyr Huws Gruffydd:** In the spirit of the assurances given by the Minister that this issue will be dealt with in other legislation, I will not move the amendment.

*Ni chynigiwyd gwelliant 34.
Amendment 34 not moved.*

[379] **The Deputy Presiding Officer:** I call on Antoinette Sandbach to move amendment 93.

[380] **Antoinette Sandbach:** I move amendment 93 in my name.

[381] **The Deputy Presiding Officer:** The question is that amendment 93 be agreed to. Does any Member object? There is objection, so we will proceed to an electronic vote.

[Canlyniad y bleidlais ar welliant 93.](#)
[Result of the vote on amendment 93.](#)

*Gwrthodwyd gwelliant 93: O blaid 17, Yn erbyn 34, Ymatal 0.
Amendment 93 not agreed: For 17, Against 34, Abstain 0.*

[382] **The Deputy Presiding Officer:** I call on Antoinette Sandbach to move amendment 94.

[383] **Antoinette Sandbach:** I move amendment 94 in my name.

[384] **The Deputy Presiding Officer:** If amendment 94 is not agreed, amendment 96 will fall. The question is that amendment 94 be agreed to. Does any Member object? There is objection, so we will proceed to an electronic vote.

[Canlyniad y bleidlais ar welliant 94.](#)
[Result of the vote on amendment 94.](#)

*Gwrthodwyd gwelliant 94: O blaid 17, Yn erbyn 34, Ymatal 0.
Amendment 94 not agreed: For 17, Against 34, Abstain 0.*

[385] **The Deputy Presiding Officer:** I call on Antoinette Sandbach to move amendment 95.

[386] **Antoinette Sandbach:** I move amendment 95 in my name.

[387] **The Deputy Presiding Officer:** The question is that amendment 95 be agreed to. Does any Member object? There is objection, so we will proceed to an electronic vote.

[Canlyniad y bleidlais ar welliant 95.](#)
[Result of the vote on amendment 95.](#)

*Gwrthodwyd gwelliant 95: O blaid 12, Yn erbyn 34, Ymatal 5.
Amendment 95 not agreed: For 12, Against 34, Abstain 5.*

Methodd gwelliant 96.
Amendment 96 fell.

Grŵp 9: Cadw Cofnodion (Gwelliannau 59 a 118)
Group 9: Record Keeping (Amendments 59 and 118)

[388] **The Deputy Presiding Officer:** The lead amendment in the group is amendment 59. I call on Suzy Davies to move amendment 59 and to speak to it and the other amendment in the group.

[389] **Suzy Davies:** I move amendment 59 in my name.

[390] Members will be pleased to know that I will be keeping this very short. This amendment deletes the wholly unexplained and entirely unclear obligation on employers to keep records. Minister, if you want to heap red tape onto employers, please explain why and tell us what on the face of the Bill. Please tell us also whether there will be any financial assistance for employers to mitigate this mystery burden.

[391] **Antoinette Sandbach:** My amendment, I guess, assumes the failure of amendment 59—

[392] **Rhodri Glyn Thomas:** You have no faith in her whatsoever.

[393] **Antoinette Sandbach:** That is not true, Rhodri Glyn Thomas; I have every faith in my colleague. I believe that her amendment is the right one, and I support it. However, given the way in which this Bill has been put forward—when you are, as it were, missing a member of your team due to a by-election—I hope that this will deal with the position if amendment 59 is not agreed. It puts the obligation on the panel, which we hope will have a representative cross-section of the industry, so it will be for the industry and not Welsh Ministers to decide what recommendations it has in this regard. That, simply, is that amendment.

[394] **The Deputy Presiding Officer:** I call the Minister to respond.

[395] **Alun Davies:** This is about employer obligations to maintain appropriate employee details and it is important that this stays in the Bill as drafted. In terms of amendment 59, I do not understand an amendment that seeks to remove any requirement for employers to keep records of appropriate employee details as may be required. This is about effective monitoring and is standard procedure in most industries, and most employers would not have any difficulty with this requirement. While a further amendment, amendment 118, proposes that the panel may make regulations placing a duty on employers to keep records, the making of regulations in this regard is a ministerial function and, for reasons of scrutiny and accountability that we have already debated and discussed this afternoon, I believe that this function should remain with Welsh Ministers.

[396] **Antoinette Sandbach** *rose*—

[397] **The Deputy Presiding Officer:** Are you giving way, Minister?

[398] **Alun Davies:** For those reasons, we cannot support these amendments.

[399] **Antoinette Sandbach:** May I ask a question?

[400] **The Deputy Presiding Officer:** The Minister did not give way. It is up to him. I call on Suzy Davies to reply to the debate.

[401] **Suzy Davies:** Just to clarify, Minister, I do not think that this is a case of—well, I cannot remember what you called it now, but this is about defective drafting, really. You have put a clause into this Bill that suggests that you have not planned or even decided what exactly you are hoping employers will do. Bearing in mind that that could be a burden, perhaps you could have applied a little more thought to it and given us some indication in the Bill, or perhaps even some draft regulations for us to have a look at, so that we would have at least some idea as to how to advise constituents on your Bill.

[402] **The Deputy Presiding Officer:** If amendment 59 is agreed, amendment 118 will fall. The question is that amendment 59 be agreed to. Does any Member object? There is objection, so we will proceed to an electronic vote.

[Canlyniad y bleidlais ar welliant 59.](#)
[Result of the vote on amendment 59.](#)

Gwrthodwyd gwelliant 59: O blaid 12, Yn erbyn 39, Ymatal 0.
Amendment 59 not agreed: For 12, Against 39, Abstain 0.

[403] **The Deputy Presiding Officer:** I call on Antoinette Sandbach to move amendment 118.

[404] **Antoinette Sandbach:** I move amendment 118 in my name.

[405] **The Deputy Presiding Officer:** The question is that amendment 118 be agreed to. Does any Member object? There is objection, so we will proceed to an electronic vote.

[Canlyniad y bleidlais ar welliant 118.](#)
[Result of the vote on amendment 118.](#)

Gwrthodwyd gwelliant 118: O blaid 25, Yn erbyn 26, Ymatal 0.
Amendment 118 not agreed: For 25, Against 26, Abstain 0.

[406] **The Deputy Presiding Officer:** We will now move to dispose of the next amendments on the marshalled list. I call on Suzy Davies to move amendment 60.

[407] **Suzy Davies:** I move amendment 60 in my name.

[408] **The Deputy Presiding Officer:** The question is that amendment 60 be agreed to. Does any Member object? There is objection, so we will proceed to an electronic vote.

[Canlyniad y bleidlais ar welliant 60.](#)
[Result of the vote on amendment 60.](#)

Gwrthodwyd gwelliant 60: O blaid 12, Yn erbyn 39, Ymatal 0.
Amendment 60 not agreed: For 12, Against 39, Abstain 0.

[409] **The Deputy Presiding Officer:** I call on Suzy Davies to move amendment 61.

[410] **Suzy Davies:** I move amendment 61 in my name.

[411] **The Deputy Presiding Officer:** If amendment 61 is agreed, amendments 35 and 36 will fall. The question is that amendment 61 be agreed to. Does any Member object? There is objection, so we will proceed to an electronic vote.

[Canlyniad y bleidlais ar welliant 61.](#)
[Result of the vote on amendment 61.](#)

Gwrthodwyd gwelliant 61: O blaid 12, Yn erbyn 39, Ymatal 0.
Amendment 61 not agreed: For 12, Against 39, Abstain 0.

[412] **The Deputy Presiding Officer:** I call on Antoinette Sandbach to move amendment 97.

[413] **Antoinette Sandbach:** I move amendment 97 in my name.

[414] **The Deputy Presiding Officer:** The question is that amendment 97 be agreed to. Does any Member object? There is objection, so we will proceed to an electronic vote.

[Canlyniad y bleidlais ar welliant 97.](#)
[Result of the vote on amendment 97.](#)

Gwrthodwyd gwelliant 97: O blaid 25, Yn erbyn 26, Ymatal 0.
Amendment 97 not agreed: For 25, Against 26, Abstain 0.

[415] **The Deputy Presiding Officer:** I call on Antoinette Sandbach to move amendment 98.

[416] **Antoinette Sandbach:** I move amendment 98 in my name.

[417] **The Deputy Presiding Officer:** The question is that amendment 98 be agreed to. Does any Member object? There is objection, so we will proceed to an electronic vote.

4.15 p.m.

[Canlyniad y bleidlais ar welliant 98.](#)
[Result of the vote on amendment 98.](#)

Gwrthodwyd gwelliant 98: O blaid 25, Yn erbyn 26, Ymatal 0.
Amendment 98 not agreed: For 25, Against 26, Abstain 0.

[418] **The Deputy Presiding Officer:** I call on Suzy Davies to move amendment 62.

[419] **Suzy Davies:** I move amendment 62 in my name.

[420] **The Deputy Presiding Officer:** The question is that amendment 62 be agreed to. Does any Member object? There is objection, so we will proceed to an electronic vote.

[Canlyniad y bleidlais ar welliant 62.](#)
[Result of the vote on amendment 62.](#)

Gwrthodwyd gwelliant 62: O blaid 12, Yn erbyn 39, Ymatal 0.
Amendment 62 not agreed: For 12, Against 39, Abstain 0.

[421] **The Deputy Presiding Officer:** I call on Suzy Davies to move amendment 63.

[422] **Suzy Davies:** I move amendment 63 in my name.

[423] **The Deputy Presiding Officer:** The question is that amendment 63 be agreed to. Does any Member object? There is objection, so we will proceed to an electronic vote.

[Canlyniad y bleidlais ar welliant 63.](#)
[Result of the vote on amendment 63.](#)

Gwrthodwyd gwelliant 63: O blaid 12, Yn erbyn 39, Ymatal 0.
Amendment 63 not agreed: For 12, Against 39, Abstain 0.

[424] **The Deputy Presiding Officer:** I call on Suzy Davies to move amendment 64.

[425] **Suzy Davies:** I move amendment 64 in my name.

[426] **The Deputy Presiding Officer:** If amendment 64 is agreed, amendments 35 and 36 will fall. The question is that amendment 64 be agreed to. Does any Member object? There is objection, so we will proceed to an electronic vote.

[Canlyniad y bleidlais ar welliant 64.](#)
[Result of the vote on amendment 64.](#)

Gwrthodwyd gwelliant 64: O blaid 12, Yn erbyn 39, Ymatal 0.
Amendment 64 not agreed: For 12, Against 39, Abstain 0.

[427] **The Deputy Presiding Officer:** I call on Llyr Huws Gruffydd to move amendment 35.

[428] **Llyr Huws Gruffydd:** Cynigiaf **Llyr Huws Gruffydd:** I move amendment welliant 35 yn fy enw i. 35 in my name.

[429] **The Deputy Presiding Officer:** The question is that amendment 35 be agreed to. Does any Member object? There is objection, so we will proceed to an electronic vote.

[Canlyniad y bleidlais ar welliant 35.](#)
[Result of the vote on amendment 35.](#)

Gwrthodwyd gwelliant 35: O blaid 19, Yn erbyn 25, Ymatal 5.
Amendment 35 not agreed: For 19, Against 25, Abstain 5.

[430] **The Deputy Presiding Officer:** I call on Llyr Huws Gruffydd to move amendment 36.

[431] **Llyr Huws Gruffydd:** Cynigiaf **Llyr Huws Gruffydd:** I move amendment welliant 36 yn fy enw i. 36 in my name.

[432] **The Deputy Presiding Officer:** The question is that amendment 36 be agreed to. Does any Member object? There are no objections, so amendment 36 is agreed in accordance with Standing Order No. 17.34.

Derbyniwyd gwelliant 36
Amendment 36 agreed.

Grŵp 10: Adolygu'r Ddeddf a'i Chyfnod Para (Gwelliannau 20, 21, 22, 23, 14, 24, 73 a 115)

Group 10: Review and Duration of Act (Amendments 20, 21, 22, 23, 14, 24, 73 and 115)

[433] **The Presiding Officer:** The lead amendment in the group is amendment 20. I call on the Minister to move amendment 20 and to speak to it and the other amendments in the group.

[434] **Alun Davies:** I move amendment 20 in my name.

[435] This again refers to the debate that we had in the Constitutional and Legislative Affairs Committee and the debate that we had on the floor of the Chamber last week. A number of Members on all sides of the Chamber felt that it would be useful to look towards a sunset process in different ways. What I am trying to do here is to listen to what has been said and suggest a positive way forward, which, I hope, will lead to agreement on all sides of the Chamber. I see that a number of amendments have been put forward to achieve something very similar to this, although what they have in common is that they all propose very different timescales.

[436] I have given the matter considerable and careful consideration, and I have also reviewed the proposals put forward by other Members subsequent to tabling my amendments on this issue. Amendment 20 in my name proposes a review of the operation of the Act as soon as is practical after three years of the Act being in force. A report of this review must be laid before the Assembly. The review and subsequent report must consider the effect of the operation of the Act on agricultural workers, the employers of agricultural workers and the wider agricultural sector. In preparing this report, Members will see that amendment 20 carries through the importance that we have placed elsewhere in the Act on consultation. Welsh Ministers must consult in preparing the report.

[437] Amendment 21 provides for the Act to automatically cease to have effect after four years, unless Welsh Ministers make an Order extending the duration of the Act. By virtue of amendment 22, such an Order would be made subject to the affirmative procedure, and would therefore have the safeguards of scrutiny that Members have requested at different stages in our deliberations this afternoon.

[438] Should the review indicate that the duration of the Act should not be extended, Welsh Ministers will have the power, by way of subsection (3) of amendment 21, to make provision to deal with the consequences of this. I trust that Members will agree that, taken together, both the review and the sunset provision deliver a comprehensive package that will ensure the operation and effect of the Act are considered and extended, or ended, as necessary. I consider that it would not be appropriate to end the Act without a review, or before there was adequate time to evaluate the implementation of the Act and the operation of the provisions. I have seen amendments by different Members proposing 12, 18 or 24 months. It is my view that all these periods would be too short to establish how the panel has operated, the impact that the Orders have made in the industry and the work of the panel on the industry.

[439] My amendment 20 proposes a review of the Act three years from the date of Royal Assent. Three years will give us adequate time to reflect on the initial objectives and to examine how the different provisions of the Act have been implemented and how it has affected and benefitted the agricultural industry. It will, therefore, be pitched after the next election. It will be for a new Assembly to take a decision on whether this Act is established in law or whether the sunset clause is allowed to ensure that the duration of this Act is limited.

[440] I am pleased that the amendments proposed by the Plaid Cymru Member for Mid and West Wales also allow for sufficient time to pass for a proper evaluation of the effect of the Act. However, I hope, for the reasons that I have outlined, that he will agree with me that the Government amendments deal with this matter comprehensively and that he will consider withdrawing his amendments in order to support the amendments that we have laid down. I am happy to give the certainty that we have taken some considerable time in drawing up a review that is comprehensive and a sunset clause that is absolute, but that, at the same time, enables Members here, or Members who will be here in a new Assembly, to take a view on this legislation.

[441] **Antoinette Sandbach:** The disappointing thing about this amendment is that it does not take into account what the Minister said in his own consultation on the AWB. He proposed bringing forward legislation 18 months after the closure of the consultation. The consultation closed two weeks ago. It seems to me that, if there is going to be a proper procedure, rather than an emergency Bill procedure, then that needs to be reviewed in the 18 months, as the Minister clearly said that he could comply with that timetable in terms of consultation. In our view, 18 months is the realistic time frame for a sunset clause. That does not prevent the Minister from bringing forward legislation that complies with the requirements of scrutiny and due consideration by the committees of the Assembly in the meantime. This is being brought forward under an emergency Bill procedure.

[442] The Constitutional and Legislative Affairs Committee made it very clear in its letter that it had insufficient time to consider the provisions of the Act. No committee will have been able to consider the amendments to this Bill, which is different from the ordinary procedure of this place. It seems to me that we are now sitting here as a committee to bat this over to another Assembly where the Assembly Members present will not have experienced what happened and will not know at first hand what the arguments were in the Chamber about the way in which the legislative consent motion was brought forward and the way in which the emergency Bill was brought forward. Some Members will not know the background. We know that, in the last Assembly, a third of the Assembly changed in terms of its membership. It is important that, in the review of the Act, there is an absolute sunset clause of 18 months. The Minister said he could bring forward legislation on it in his consultation paper. He is on notice now and it seems to me that he should do it within the time that he said he would.

[443] To argue that he needs three or four years to see how this Act operates is, to my mind, quite wrong. You have not published the details of the regulatory impact assessment on small businesses. In four years' time, those businesses might have gone to the wall because of the additional burdens provided by this Act. [*Interruption.*] You do not know, Minister; you have not done the work. It seems to me that it is important that there is an absolute sunset clause in relation to this. However, I take comfort from the proviso that the Minister talked about in terms of when it gets Royal Assent, because there might be some delay in that happening.

[444] **Simon Thomas:** Hoffwn goesawu'r ffaith fod y Llywodraeth a'r Gweinidog wedi cynnig dau welliant pwysig yma heddiw. Mae'r gwelliant cyntaf yn gosod y cyfnod adolygu a'r ail welliant yn sicrhau bod darpariaethau'r Bil yn dod i ben o fewn cyfnod penodol, sy'n rhoi cyfle i ni adolygu beth sy'n digwydd yn y Bil hwn. [*Torri ar draws.*] A oes rhywun yn trio gwneud ymyrraeth? Ymddengys nad oes. Pwynt sylfaenol y Gweinidog yw ein bod yn dod â deddfwriaeth frys gerbron y lle hwn, ac y gallai nifer o bethau ddigwydd yn y cyddestun hwn. Rwy'n cytuno â'r Gweinidog bod angen mwy na 18 mis neu ddwy flynedd i adolygu hyn. Yn anffodus, nid wyf yn cytuno gyda llefarydd y Ceidwadwyr sy'n sôn am y baich ychwanegol. Nid oes baich ychwanegol trwy barhau â chyfundrefn sydd eisoes yn ei lle. Mae angen bwysleisio hynny. Mae busnesau'n gwybod yn iawn beth yw'r gyfundrefn bresennol, ac mi fyddant yn

Simon Thomas: I would like to welcome the fact that the Government and the Minister have tabled two important amendments here today. The first sets out the review period and the second ensures that the provisions of the Bill will conclude within a specific time frame, which gives us an opportunity to review what happens as a result of this Bill. [*Interruption.*] Is anyone trying to intervene? It appears not. The Minister's fundamental point is that we are discussing emergency legislation here, and that a number of things could happen within that context. I agree with the Minister that we need more than 18 months or two years to review this. Unfortunately, I do not agree with the Conservative spokesperson who talks about an additional burden. There is no additional burden with continuing with a regime that is already in place. That needs to be emphasised. Businesses know exactly what the current regime involves, and they will

gwybod bod y Cynulliad hwn wedi deddfu i barhau â'r gyfundrefn honno.

know that this Assembly has legislated to continue with that regime.

[445] Mae angen gofyn pam fod angen unrhyw fath o gymal machlud o gwbl. Rwy'n edrych ar y machlud hwn fel machlud meddal, os oes y fath beth: nid yw'n golygu bod rhaid ailgyflwyno'r ddeddfwriaeth yn llawn, ond mae'n golygu bod Gorchymyn yn cael ei wneud drwy'r broses gadarnhaol. Rwy'n falch bod y Gweinidog yn cydnabod bod angen proses gadarnhaol, fel sydd yn fy ngwelliant 23 hefyd. Byddai hynny'n golygu bod y cyfnod wedi dod i ben, nid ar gyfer y Cynulliad newydd yn unig—nid hynny sy'n bwysig yn y fan hon—ond beth am San Steffan a'r hyn sy'n digwydd yno? Cwestiwn i'r Llywodraeth a'r Blaid Lafur fan hyn yw hynny, oherwydd maent wedi bod yn awyddus iawn i gadw'r ddarpariaeth hon yng Nghymru. A ydynt yn mynd i gadw'r ddarpariaeth hon yn Lloegr ar ôl etholiadau San Steffan y maent yn bwriadu eu hennill mewn blwyddyn neu ddwy? Os felly, mae'n amlwg na allech gael cyfnod adolygu sy'n osgoi'r ffaith y bydd etholiad yn 2016 yn Lloegr a fydd, o bosibl, yn golygu newid y Llywodraeth yn San Steffan.

We need to ask why we need any sort of sunset clause at all. I look at this sunset clause as a soft sunset clause, if there is such a thing: it does not mean that the legislation will need to be reintroduced in full, but it means that an Order would be made through the affirmative procedure. I am pleased that the Minister accepts that an affirmative procedure is needed, as is included in my amendment 23 as well. That would mean that the period would have lapsed, not just for the new Assembly—that is not what is important here—but what about Westminster and what happens there? This is a question for the Government and for the Labour Party here, because they have been very eager to keep this provision in Wales. Are they going to retain this provision in England after the Westminster elections that they hope to win in a year or two? If so, it is clear that you could not have a review period that ignores the fact that there will be an election in 2016 in England, which could possibly lead to a change of Government in Westminster.

[446] Rwyf i eisiau bod yn garedig wrth y Blaid Lafur: rwy'n cymryd y bydd etholiad yn San Steffan ac y bydd y Llywodraeth newydd yn ailgyflwyno bwrdd cyflogau amaethyddol yn Lloegr. Bydd posibilid wedyn i ailedrych ar y sefyllfa yng Nghymru. Fodd bynnag, bydd ailedrych ar y sefyllfa yng Nghymru jyst cyn etholiad Cynulliad yn wallgof, achos byddai'n gyfnod anodd iawn i wneud hynny. Felly, mae'n briodol ein bod yn mynd heibio etholiad y Cynulliad a'n bod yn mynd i mewn i'r Cynulliad nesaf cyn adolygu'r holl broses.

I want to be kind to the Labour Party: I assume that there will be an election in Westminster and that there will be a new Government that will reintroduce an agricultural wages board for England. There would then be a possibility to review the situation in Wales. However, reviewing the situation in Wales just before the Assembly election would be madness, because that would be a very difficult thing to do at that time. So, it is appropriate that we go beyond the Assembly election and that we enter the next Assembly before reviewing the whole process.

[447] Yn fy ngwelliant 24, dewisais roi dyddiad penodol i hynny. Mae'n well gyda'r Gweinidog nodi pedair blynedd ar ôl i'r ddeddfwriaeth ddod i rym. Nid oeddwn yn siŵr pam y bu i'r Gweinidog wneud hyn yn y ffordd honno, yn hytrach na rhoi dyddiad i mewn. Fodd bynnag, fe wnaeth fy nharo wedyn mai'r rheswm am hynny, mae'n sicr gen i, yw oherwydd y bydd y Bil hwn yn 'bennu lan yn y Goruchaf Lys. Ni fydd y Bil hwn yn dod i rym nes bod y Goruchaf Lys

In my amendment 24, I chose to include a specific date. The Minister prefers to note four years following the enactment of the legislation. I was not quite sure why the Minister had chosen that approach, rather than including a date. However, it then struck me that the reason for that, I am sure, is because this Bill will end up in the Supreme Court. This Bill will not come into force until the Supreme Court has had its say. That is my opinion; I would be very much surprised if

wedi cael ei ddweud arno. Rwy'n meddwl hynny; byddaf yn synnu'n fawr os nad yw'n mynd i'r Goruchaf Lys. Felly, mae'n fwy priodol bod unrhyw ddarpariaethau i ddod â'r Bil i ben yn digwydd ar ôl y dyddiad iddo ddod i rym, oherwydd mae'n bosibl iawn y bydd y dyddiad dod i rym yn cael ei ohirio cryn dipyn.

[448] Felly, rwy'n meddwl bod yr amser yn briodol—rwyf i a'r Gweinidog wedi cynnig pedair blynedd. Mae'n briodol iawn ein bod yn aros i weld beth fydd yn digwydd yn San Steffan—lle mae materion penodol, megis materion ar draws ffiniau—a beth sy'n digwydd o ran cymhwysedd y Bil hwn. Mae'n bwysig aros i weld a aiff y Bil hwn i'r Goruchaf Lys ai peidio.

4.30 p.m.

[449] Os ydych yn rhoi hynny i gyd at ei gilydd, rwy'n meddwl bod y ddarpariaeth y mae'r Gweinidog wedi ei rhoi yn ei welliant yn gwneud, i bob pwrpas, yr un gwaith ag yr oeddwn i'n trio ei wneud. Er mwyn hwyluso'r drefn, felly, pan ydym yn dod at y rhan hon o'r rhestr o welliannau wedi'u didoli, Gadeirydd, ni wnaaf gynnig fy ngwelliannau.

[450] **William Powell:** I am pleased to see the broad measure of agreement that there is in the Chamber with regard to the desirability of the sunset clause. Clearly, the numerous difficulties that accompany this piece of emergency legislation and the paucity of scrutiny that is available to us as a result of the procedure that has been taken forward make this sunset clause not only desirable, but essential. I firmly believe that that would provide us with a certain level of safeguarding in considering, in the round, whether or not this is an appropriate structure for the long-term future.

[451] Given the agreement, it appears to me that the discussion that we are currently having is more one around numbers and time frame than it is around the principles of having a sunset clause, as indeed was recommended by the Constitutional and Legislative Affairs Committee. To that end, I would agree with Simon Thomas that anything below two years is simply too short a time to undertake such a review, and it would require us to restart almost immediately the process that we are currently completing. Equally, however, I believe that anything that takes things into the fifth Assembly is problematic, as it would be too long, in my view, for this to continue without returning to the Assembly for a fuller scrutiny process. To that end, I would advance my timetable of 24 months initially, but with the option to extend this further by the agreement of this Assembly. I believe that this provides a suitable middle way to take forward a proportionate and safeguarding sunset clause.

[452] **Suzy Davies:** I, too, acknowledge that other Members have tabled amendments for a sunset clause for this Bill, and I recognise that the Minister has moved on this. I think that we were all disappointed, in the Constitutional and Legislative Affairs Committee, to hear that the Minister had, at that stage, not even considered a sunset clause, proving that his

this Bill does not end up in the Supreme Court. So, it is more appropriate that any provisions to bring an end to the Bill would happen only after the legislation is introduced, given that it is possible that its introduction will be delayed by quite a long time.

Therefore, I think that the time frame is appropriate—the Minister and I have noted four years. It is appropriate that we wait to see what happens in Westminster—where there are issues, such as cross-border issues—and what happens in relation to the competency of this Bill. It is important to see whether this Bill goes to the Supreme Court or not.

If you bring all those things together, I think that the provision that the Minister has made in his amendment does, to all intents and purposes, the same job as I was trying to do. To facilitate the process, therefore, when we come to this section of the marshalled list, Chair, I will not be moving my amendments.

Government has learned nothing from the council tax regulations fiasco.

[453] My suggested period for a sunset clause is demanding at a year, rather than the longer period suggested by other Members. However, I remind Members that there was a requirement for urgency in this Bill that caused this Bill to come through via the expedited procedure. In that case, there needs to be something urgent in the way that the Minister demonstrates that it was necessary. I would say that that argument, perhaps, has already fallen apart, as there is nothing about the provisions of section 2 as drafted that has proved the urgency that was behind this Bill. So, I ask the Assembly to oblige the Minister, basically, to get a move on, to expedite the creation of the panel and get it operational, because, Simon Thomas, I disagree with you; it is not exactly the same context as with the Agricultural Wages Board. Minister, if you cannot show us by the end of the year that this panel is functioning, you cannot show us that the need for it was urgent in the first place. In which case, there was no need to drag the Assembly to the Chamber this week, no need to circumvent scrutiny, no need to legislate when your Government has a skills agenda that could well meet your education ambitions, and no need to add to the UK legislation that already protects workers.

[454] **Russell George:** I would like to speak briefly in support of amendment 73, tabled by Suzy Davies. While I welcome the Minister listening to the Constitutional and Legislative Affairs Committee's recommendations regarding the sunset clause, I think that, given the controversial nature of the way that the Welsh Government has processed this piece of legislation, it is not right that we should allow the Act to progress for a further three or four years before review. It is absolutely right that 12 months is a sufficient amount of time to establish a panel and for it to be fully operational and compliant. At that stage, it would allow the National Assembly for Wales and the Welsh Government to do the proper due diligence that this piece of legislation rightly deserves. The Minister complains about the actions of UK Government in scheduling its amendments to the Enterprise and Regulatory Reform Bill just before Christmas, but the fact is that the UK Government's intentions on the future of the AWB were made clear in July 2010, so the policy has been clear for some time.

[455] Therefore, I and other Members are still not happy with the rationale for the emergency nature of this Bill, its lack of detail, and the lack of secondary regulations in the way in which it confers considerable amounts of powers onto Welsh Ministers, whether they are Ministers in this Government or any future Government of any other parties. As I have previously stated, protecting the rights of agricultural workers is important. It is important to me, however, the Agricultural Wages Board was outdated and inflexible. Stakeholders like the NFU support that view. I am still not clear what the Minister's overall intentions are. I say that because, in one breath, he says that it is not about bringing forward new legislation, but ensuring the status quo, and yet, earlier this afternoon, he said that he wants the legislation to be visionary and enhancing. Therefore, I think that a year is sufficient to see how the panel is operating, examining the regulatory burden, for the Welsh Government to consult and report on the impact, and allows us time to scrutinise in order to fulfil our functions properly.

[456] **Alun Davies:** I accept the good faith in which the Member for Montgomeryshire has contributed to the debate. However, I would say to him that he has spent the afternoon voting to put more inflexibility and more prescription on the face of this legislation. Therefore, to criticise others for a lack of flexibility, I think, is probably misplaced.

[457] I am grateful to the Plaid Cymru Member for Mid and West Wales for not proceeding with his amendments. I think that there is a broad range of agreement between us on this matter, and I think that there is a broader range of agreement across the Chamber on this than perhaps has been apparent in the debate.

[458] The issue that I have with the Liberal Democrat amendment on this is that it would provide for the absolute ending of this Act after four years. It does not provide for any means

by which the Act may be established in law. Therefore, the Act would fall after four years with your amendment. Therefore, your amendment does not provide the opportunity to review the working of the legislation. It does not provide for any further debate in this place. It simply provides for the ending of the Act after a four-year period. That, I think, is too limiting for us to accept.

[459] I ask Members to support the amendments here. It has been brought forward following the debate last week, and following the discussion in the Constitutional and Legislative Affairs Committee. I believe that it reflects both the word and the spirit of what that committee and that debate asked for. Thank you.

[460] **The Deputy Presiding Officer:** The question is that amendment 20 be agreed to. Does any Member object? There is objection, so we will proceed to an electronic vote.

[Canlyniad y bleidlais ar welliant 20.](#)
[Result of the vote on amendment 20.](#)

Derbyniwyd gwelliant 20: O blaid 39, Yn erbyn 11, Ymatal 0.
Amendment 20 agreed: For 39, Against 11, Abstain 0.

[461] **The Deputy Presiding Officer:** I call on the Minister to move amendment 21.

[462] **Alun Davies:** I move amendment 21 in my name.

[463] **The Deputy Presiding Officer:** If amendment 21 is agreed, amendments 14, 23, 24, 73 and 115 will fall. If amendment 21 is not agreed, amendment 22 will fall. The question is that amendment 21 be agreed to. Does any Member object? There is objection, so we will proceed to an electronic vote.

[Canlyniad y bleidlais ar welliant 21.](#)
[Result of the vote on amendment 21.](#)

Derbyniwyd gwelliant 21: O blaid 34, Yn erbyn 17, Ymatal 0.
Amendment 21 agreed: For 34, Against 17, Abstain 0.

[464] **The Deputy Presiding Officer:** We will now dispose of the next amendments on the marshalled list. I call on Suzy Davies to move amendment 65.

[465] **Suzy Davies:** I move amendment 65 in my name.

[466] **The Deputy Presiding Officer:** The question is that amendment 65 be agreed to. Does any Member object? There is objection, so we will proceed to an electronic vote.

[Canlyniad y bleidlais ar welliant 65.](#)
[Result of the vote on amendment 65.](#)

Gwrthodwyd gwelliant 65: O blaid 12, Yn erbyn 39, Ymatal 0.
Amendment 65 not agreed: For 12, Against 39, Abstain 0.

[467] **The Deputy Presiding Officer:** I call on Antoinette Sandbach to move amendment 99.

[468] **Antoinette Sandbach:** I move amendment 99 in my name.

[469] **The Deputy Presiding Officer:** If amendment 99 is not agreed, amendments 117 and 110 will fall. The question is that amendment 99 be agreed to. Does any Member object? There is objection, so we will proceed to an electronic vote.

[Canlyniad y bleidlais ar welliant 99.](#)
[Result of the vote on amendment 99.](#)

Gwrthodwyd gwelliant 99: O blaid 17, Yn erbyn 34, Ymatal 0.
Amendment 99 not agreed: For 17, Against 34, Abstain 0.

Grŵp 11: Gorchmynion a Rheoliadau (Gwelliannau 37, 100, 101, 102, 104, 66, 67, 105, 106, 68, 11, 38, 69 a 109)

Group 11: Orders and Regulations (Amendments 37, 100, 101, 102, 104, 66, 67, 105, 106, 68, 11, 38, 69 and 109)

[470] **The Presiding Officer:** The lead amendment in this group is amendment 37. I call on Llyr Huws Gruffydd to move amendment 37 and to speak to it and the other amendments in the group.

[471] **Llyr Huws Gruffydd:** Cynigiaf welliant 37 yn fy enw i.

Llyr Huws Gruffydd: I move amendment 37 in my name.

[472] Rydym yn ffeindio ein hunain, drwy gymeradwyo'r elfen hon, mewn gwirionedd, yn rhoi gormod o raff i'r Gweinidogion. Mae cymal olaf yr adran hon yn rhoi'r hawl i'r Gweinidog addasu'r deddfiad hwn neu unrhyw ddeddfiad arall mewn perthynas â'r sector amaethyddol yng Nghymru. Credaf fod hwn yn gymal sy'n rhoi llawer gormod o law rydd i Weinidogion Cymru wneud fel y mynnont. Mewn deddfwriaeth frys fel y ddeddfwriaeth hon, a ninnau heb gael y cyfle y byddai nifer ohonom yn dymuno ei gael i graffu mor fanwl ag y dylem, a ddylem gynnwys y fath adran, sydd, yn fy marn i, yn llawer rhy benagored ac yn rhoi llawer gormod o raff i Weinidogion Cymru wneud fel y mynnont? Teimlaf fod adran 14 yn rhoi sgôp inni wneud newidiadau angenrheidiol a ddaw yn amlwg yn sgîl y Bil hwn, a hynny heb fod mor benagored â'r hyn sydd yn adran 13. Mae gwelliant 38, gyda llaw, yn dilyn yn rhesymegol o hynny, ac yn newid angenrheidiol yn sgîl derbyn gwelliant 37. Os nad yw'r gwelliant yn cael ei dderbyn, byddem yn awyddus i gefnogi rhai o'r gwelliannau eraill sy'n tynhau'r adran hon i'r perwyl a amlinellwyd gennyf yn fy sylwadau blaenorol. Wrth drafod deddfwriaeth frys fel y ddeddfwriaeth hon, mae gofyn inni fod yn ofalus a chael ffocws tyn a phenodol o ran y pwerau a roddir i Weinidogion. Rwyf yn hyderus y byddai'r gwelliannau hyn yn mynd tipyn o'r ffordd i gyflawni hynny.

We find ourselves, in approving this section, giving the Minister too much rope, if you like. The final part of this section gives the Minister the right to adapt this legislation or any other legislation in relation to the agriculture sector in Wales. I believe that that gives Welsh Ministers far too much of a free hand to do as they choose. In emergency legislation like this, without the opportunity that many of us would have liked to scrutinise it in as much detail as we should, should we include a section like this, which is far too open-ended and gives Welsh Ministers far too much rope to do as they choose? I feel that section 14 gives some scope to make any necessary changes that will become apparent as a result of this Bill, without being as open-ended as section 13. Amendment 38 is a rational consequential of the acceptance of amendment 37. If the amendment is not agreed, we would be eager to support some of the other amendments that tighten up this section to the ends that I was endeavouring to achieve, as outlined in my earlier comments. In discussing emergency legislation like this, we need to be careful and clearly focused on the powers given to Ministers. I am confident that these amendments would go some of the way to achieving that.

[473] **Antoinette Sandbach:** I understand why Llyr Huws Gruffydd has tabled this amendment. We have real concerns about the fact that subsection (b) of that whole section effectively gives the power to amend any enactment. I agree that subsection (b) is far too wide. However, amendments 100, 101, 102, 104 and 105 basically limit the power given to Welsh Ministers and require that any Order or regulation under the Act has to be necessary, rather than expedient. We have seen the expediency of the emergency Bill procedure, which has led to a lack of scrutiny here. It is my view that we should not allow that latitude, and that those amendments should be supported if amendment 37 is not carried. Therefore, if amendment 37 is not carried, I would urge you to support the other amendments that limit the powers. The only exception is amendment 38. In any event, the idea is to ensure that there are proper and necessary reasons, rather than just expediency, for the Welsh Minister to have the power to act. That is why we have tabled the other amendments. Otherwise, as Llyr Huws Gruffydd has said, there is almost an unfettered power for the Minister to change any number of enactments. We know that there are already constitutional and legislative issues arising out of this. It seems that it is not appropriate to give this unfettered discretion for amendment.

[474] **William Powell:** With reference to my earlier comments, amendment 11 seeks to limit ministerial power over wage setting and to ensure that Orders are subject to the affirmative action of this Assembly. As with many of the other amendments in this and other groups, there is a demonstration here that there are a number of different ways that we can achieve this, and I am happy to support them at this stage.

4.45 p.m.

[475] Throughout the process, we need to remain mindful of the grey areas of territory that the Welsh Government is pushing us into at this time with regard to what is devolved and what is not. I share the apprehension of Simon Thomas and, indeed, Antoinette Sandbach that this matter may well end up in the Supreme Court.

[476] While a lot of work remains to be undertaken following this afternoon's extended committee meeting, I would urge the Government to listen further to the many issues that the parties in this Chamber have raised today, to ensure that the Bill that we consider tomorrow is improved further than what we were presented with last week, as that had so many fundamental inadequacies. To that end, I believe that the status quo is best served by allowing this Bill to advance to the next stage. As such, I will not seek to oppose its progression today.

[477] **Suzy Davies:** Amendments 66, 67, 68 and 69 were originally tabled to delete wholesale ministerial powers contained in section 14. The reason for that—I make this point again—was that we do not know what such Orders and regulations could look like. The scrutiny of secondary legislation does not permit amendments to be tabled, and we do not know, because we have had no real opportunity to ask the Minister, whether some of those provisions may not have been better set out on the face of the Bill. However, the specific amendments that I have tabled are consequential on earlier amendments, which have fallen, so I will not be moving the four amendments in my name. Nevertheless, I reserve the right to reintroduce them tomorrow, once we have had an opportunity to look at the potential that the amendments could have on the Bill as amended and redrafted.

[478] **The Deputy Presiding Officer:** I call on the Minister to speak.

[479] **Alun Davies:** I am happy to have that conversation with the Conservative Member for South Wales West. If she wishes to have a further conversation about potential amendments for the next stage, I am happy to meet her to discuss those matters with her.

[480] The Conservative Member for North Wales described these clauses as an

‘unprecedented power’, when, in fact, many of these amendments are technical amendments that seek to remove fairly standard provision in legislation.

[481] On amendment 37, we will disagree on this matter, though we have agreed a lot this afternoon. It provides Welsh Ministers with a power to make an Order and any incidental, consequential or supplementary provision—it is not the unfettered power that was described during an earlier speech, but a discrete power, and a power that exists in order to make those amendments that enable this legislation to be enacted properly. So, it is not an unfettered power. It is not an unprecedented power. It is a very standard set of legislative tools that enable this legislation to be implemented fully.

[482] The technical amendments that have been—

[483] **Antoinette Sandbach:** Will you take an intervention?

[484] **Alun Davies:** The technical amendments that have been amended in this matter—

[485] **Antoinette Sandbach:** Will you take an intervention, Minister?

[486] **The Deputy Presiding Officer:** I do not think that he intends to give way.

[487] **Alun Davies:** Amendment 104, in particular, specifies a panel making the Order, not Welsh Ministers. The panel cannot currently make Orders, but I will consider this matter and I will return to this matter prior to Stage 3 tomorrow.

[488] I understand the points made by the Conservative Member for South Wales West, and I repeat my undertaking to her that, if she wishes to press those amendments, I would be happy to have conversations with her about how that can best be achieved when we come to Stage 3 tomorrow. Other than that, I would urge Members to reject these amendments.

[489] **The Deputy Presiding Officer:** I call on Llyr Huws Gruffydd to reply.

[490] **Llyr Huws Gruffydd:** Rydych yn dweud nad yw'n rhoi rhwydd hynt i chi, a'i fod yn rhyw fath o *discrete power*; wel, dywedwch hynny yn y Bil. Gwnewch hynny'n gliriach. Rwy'n poeni am y pwerau anfwriadol y byddwn yn eu trosglwyddo yn y geiriad fel ag y mae, a dyna pam rydym yn anghyfforddus yn defnyddio Bil brys fel cyfrwng i ddod i gasgliadau ar nifer o'r pwyntiau hyn.

Llyr Huws Gruffydd: You say that it does not give you a free hand, and that it is some sort of discrete power; well, make that clear in the Bill. Make that clearer. I am concerned about the unintended consequences of transferring powers with the wording as it is, which is why we are uncomfortable with using an emergency Bill as a means of coming to conclusions on many of these points.

[491] Mae cymhariaeth wedi ei gwneud â rhyw fath o gymal Harri VIII, sef ei fod yn ymgais fwriadol am rym diamod. Ni fyddwn yn meddwl bod hynny'n fwriadol, ond yn sicr, mae'n dangos peryglon deddfwriaeth frys fel hon. Felly, byddwn yn ddiolchgar, fel mae'r Gweinidog wedi awgrymu, pe bai'n barod i edrych ar y geiriad a chryfhau, efallai, y mynegiant.

A comparison has been made to some sort of Henry VIII clause—that it is a deliberate grab for unconditional powers. I would not have thought that that was intentional, but it does show the dangers of such emergency legislation. So, I would be grateful if, as the Minister has suggested, he would be willing to look at the wording, strengthening how it is phrased.

[492] **The Deputy Presiding Officer:** If amendment 37 is agreed, amendments 100 to 103 will fall. The question is that amendment 37 be agreed to. Does any Member object? There

are objections, so we will proceed to an electronic vote.

[Canlyniad y bleidlais ar welliant 37.](#)
[Result of the vote on amendment 37.](#)

Gwrthodwyd gwelliant 37: O blaid 24, Yn erbyn 26, Ymatal 0.
Amendment 37 not agreed: For 24, Against 26, Abstain 0.

[493] **The Deputy Presiding Officer:** I call on Antoinette Sandbach to move amendment 100.

[494] **Antoinette Sandbach:** I move amendment 100 in my name.

[495] **The Deputy Presiding Officer:** The question is that amendment 100 be agreed to. Does any Member object? There are objections, so we will proceed to an electronic vote.

[Canlyniad y bleidlais ar welliant 100.](#)
[Result of the vote on amendment 100.](#)

Gwrthodwyd gwelliant 100: O blaid 25, Yn erbyn 26, Ymatal 0.
Amendment 100 not agreed: For 25, Against 26, Abstain 0.

[496] **The Deputy Presiding Officer:** I call on Antoinette Sandbach to move amendment 101.

[497] **Antoinette Sandbach:** I move amendment 101 in my name.

[498] **The Deputy Presiding Officer:** The question is that amendment 101 be agreed to. Does any Member object? There are objections, so we will proceed to an electronic vote.

[Canlyniad y bleidlais ar welliant 101.](#)
[Result of the vote on amendment 101.](#)

Gwrthodwyd gwelliant 101: O blaid 25, Yn erbyn 26, Ymatal 0.
Amendment 101 not agreed: For 25, Against 26, Abstain 0.

[499] **The Deputy Presiding Officer:** I call on Antoinette Sandbach to move amendment 102.

[500] **Antoinette Sandbach:** I move amendment 102 in my name.

[501] **The Deputy Presiding Officer:** The question is that amendment 102 be agreed to. Does any Member object? There are objections, so we will proceed to an electronic vote.

[Canlyniad y bleidlais ar welliant 102.](#)
[Result of the vote on amendment 102.](#)

Gwrthodwyd gwelliant 102: O blaid 25, Yn erbyn 26, Ymatal 0.
Amendment 102 not agreed: For 25, Against 26, Abstain 0.

Grŵp 12: Diffiniadau o Amaethyddiaeth a Gweithwyr Amaethyddol (Gwelliannau 103, 111, 40, 112, 72 a 113)
Group 12: Definitions of Agriculture and Agricultural Worker (Amendments 103, 111, 40, 112, 72 and 113)

[502] **The Deputy Presiding Officer:** The lead amendment in this group is amendment 103. I call on Antoinette Sandbach to move amendment 103 and to speak to it and to the other amendments in the group.

[503] **Antoinette Sandbach:** I move amendment 103 in my name.

[504] In terms of amendment 103 and the subsequent amendments—111, 112, 113 and 114—the issue around this relates to the definition of agriculture under the Government of Wales Act 2006. Section 103 effectively indicates that this enactment cannot modify the definitions of agriculture or agricultural worker. We have had information in front of the Environment and Sustainability Committee, when this Bill was not being considered, that there may be a modification as to the definition of ‘agricultural worker’. I believe that Lord Dafydd Elis-Thomas, who sadly is not here today, described the operation of this Act as potentially affecting 85,000 workers in Wales in the evidence that he gave. Indeed, the Unite union indicated that it wanted to redefine ‘agriculture’ so that it was far broader than its current definition. It talked about extending it, for example, to gardeners or, in fact, anyone who works outside with their hands, which would encompass quite a few local government employees working outside on highways and so on. It seemed to me that that is why it is so important that amendment 103 is there. In that same regard, it was very clear that the current drafting, in terms of agriculture, covered production, so we have, in amendment 112, said

[505] ‘leave out “production” and insert “growing”’.

[506] That is because it had the potential to take in the whole of the food supply chain. It was very clear that, therefore, you could take in enormous groups of private industry and private business that have nothing to do with the growing of food, but in fact are adding value to that food. It seems that that would be contrary to the Minister’s stated aims of trying to improve the supply chain in Wales, because that may well lead to additional burdens here that would not be present elsewhere in the UK. It is for those reasons that these amendments have been proposed.

[507] Cross-border issues have not been dealt with in the consultation. The Minister has not explained how we are going to deal with English employees, employed in England, who may, on a temporary basis, be working in Wales, or vice versa. There are amendments tabled that deal with cross-border issues, but we have not had the opportunity to look at those properly and the Minister still has not provided any detailed information on how that will be dealt with and how it will be applied. I know that, in front of the Constitutional and Legislative Affairs Committee, the suggestion was made that it will depend on where the business is registered, but that is the only information that we have at present on how these cross-border issues will be dealt with. I think that it is important that we deal with these amendments. It seems to me that it will definitely be outside competence if you are trying to impose Welsh law on English farms. I do not see how that works. It is for those reasons that we have tabled these amendments, and we would ask for your support.

[508] **Llyr Huws Gruffydd:** Mae Llyr Huws Gruffydd: Plaid Cymru’s amendment 40, in my opinion, offers more clarity on cross-border issues. If part of the work of an agriculture worker happens in Wales, then that worker falls within the remit of this Bill. It is quite simple. That is my

gorchwyl y Bil. Mae'n ddigon syml. Dyna yw fy nealltwriaeth i o'r geiriad gwreiddiol, ond teimlaf fod y gwelliant rydym yn ei gynnig yn llai amwys ac yn dweud hynny'n gliriach. Mae mor syml â hynny.

understanding of the original wording, but I feel that our amendment is less ambiguous and states that more clearly. It is as simple as that.

[509] **Suzy Davies:** Members, I have tabled amendment 72 simply because of the wholly foreseeable practical problems for farming businesses and, perhaps, other agri-businesses that cross the English border—and it is a long border. Members in rural constituencies on that border will know that cross-border holdings exist. This Bill needs to accommodate those arrangements. If the Bill stays silent on the issue, I foresee some happy lawyers on the horizon. My suggestion is simply expedient, and it is to exclude workers on land in Wales who are employed by individuals or businesses in England or elsewhere. In such circumstances, their status as an employee hails from England, let us say, but this Bill is not applicable or enforceable in England. It is also foreseeable that certain employees may work on both sides of the border, even in the course of a given day. The easiest way forward on this issue, Minister—I am trying to be helpful, as the expedited procedure has not given me the chance to iron this out for inclusion in the Bill—is just to leave such workers out of it. We have had no evidence from you, and an assertion will not do, that any similar provision that operates on other borders within the UK is working successfully.

[510] **Alun Davies:** It is clear from the debates that we have had on this matter that there are some very real concerns. Let me try to address some of those concerns. It is set out in section 15 of the Bill that an agricultural worker is a person employed in agriculture in Wales. That is both simple and clear. We are not seeking to make any real amendments to the current legislation with that section. We have seen the proposal by the Plaid Cymru Member for North Wales in amendment 40, wishing to spell out that a worker is covered by the Bill whether or not the whole of his or her work is undertaken in Wales. That is the intention of the Government, and in order to put this matter beyond all doubt, I am happy to support amendment 40 to provide that level of surety.

[511] Other amendments recognise the reality that many farms fall on the border between Wales and England. This is not a novel situation. Were the Member for Dwyfor Meirionydd to be in the Chamber this afternoon, he would no doubt read to us the treaty of Montgomery. I will not embarrass the current Member for Montgomeryshire by asking him to repeat what it says, and I see that he does not seek to take up my challenge.

5.00 p.m.

[512] We are used to dealing with matters on either side of our shared border with England. Next Tuesday, I will be launching a consultation on single-farm payment structures. Those structures have been, and will continue to be, operated differently on both sides of the border. That is something that all people who farm across the border recognise and understand; they do not find the difficulties that have been described this afternoon.

[513] I have looked at the issue carefully. What I propose to do is to follow the example of what is done in Scotland regarding its wages board provisions. In Scotland, they consider where the business is registered before deciding whether the Scottish or English provisions and rates will apply. However, were we ever to come across this specific issue—as I say, those people who currently farm on both sides of our border are very familiar with the different administrations and policies that exist on either side of the border—we will deal with each case separately, to ensure that we deal with the potential problems efficiently and adequately. I do not believe that we need to add further provisions to this Bill this afternoon to deliver that.

[514] I am concerned by some of the amendments that seek to weaken some of the provisions of the Bill and to undermine its purpose. I will not go any further this afternoon. What we are seeking to do here is to preserve an existing system. The definitions that we use do not extend the legislation to include anybody who is not currently covered. We are not adding additional sectors, such as processing. We are not changing the understanding or meaning of ‘agriculture’. I believe that our definition of ‘agriculture’, referred to in the Bill, is sufficient and clear. That is set out on the face of the Bill. So, we will support amendment 14, but I urge Members not to support the other amendments in this group.

[515] **The Deputy Presiding Officer:** I call on Antoinette Sandbach to reply.

[516] **Antoinette Sandbach:** Thank you for your reply, Minister. I note what you say about claiming single-farm payments, for example, but that is a claim that happens once a year. If you have a farm that has 60 acres on one side of the border and 60 acres on the other, a farm worker who is expected to cross that border every day to farm that land might spend two hours on one side of the border and four hours on the other on a Monday; on Tuesday, it might be four hours on the Welsh side and two hours on the English side. It seems to me that when we are talking about employment—Minister, would you like me to stop so that you can perhaps listen? [ASSEMBLY MEMBERS: ‘Oh.’]

[517] **The Deputy Presiding Officer:** Order. I am sorry that I have to intervene at this late stage. We are in committee session here, and I think that the decorum that we usually observe in committee is the appropriate way to conduct this session also. I certainly think that all Members should listen to the Member who happens to be speaking.

[518] **Antoinette Sandbach:** Thank you, Deputy Presiding Officer. Minister, this is a real issue. You have rightly pointed out that you have received submissions that there are substantial numbers of farms that operate as holdings on both sides of the border. The difference is that, previously, it was an England-and-Wales law. It is now, potentially, going to become a Wales-only law, which is going to deal with employment terms and conditions and the level of wages. There will be two different regimes operating on either side of the border. Minister, your answers today have not established how an employer would deal with those two regimes.

[519] You have indicated that this will be dealt with on the basis of where they are registered. However, what happens if they are registered in Wales and the majority of their holding is in England, or vice versa? I am more than happy to take an intervention from you if you have an answer to that question, so that we know how that issue would be dealt with. Do you have an answer that you can give this Assembly?

[520] **Alun Davies:** I think that I covered that matter in my intervention earlier.

[521] **Antoinette Sandbach:** So, the answer is ‘no’. That goes to the very heart of this legislation. There will be two different employment law regimes, two different employment wages regimes and double the amount of record keeping. It is for those reasons that these amendments have been tabled. I have heard what Plaid Cymru has said in terms of its amendment and its intentions, but I am concerned that it does not deal properly with those issues. However, I am sure that that can be clarified in the proceedings tomorrow.

[522] **The Deputy Presiding Officer:** The question is that amendment 103 be agreed to. Does any Member object? I see that there is objection, so we will proceed to an electronic vote.

[*Canlyniad y bleidlais ar welliant 103.*](#)
[*Result of the vote on amendment 103.*](#)

*Gwrthodwyd gwelliant 103: O blaid 25, Yn erbyn 26, Ymatal 0.
Amendment 103 not agreed: For 25, Against 26, Abstain 0.*

[523] **The Deputy Presiding Officer:** I call on Antoinette Sandbach to move amendment 104.

[524] **Antoinette Sandbach:** I move amendment 104 in my name.

[525] **The Deputy Presiding Officer:** If amendment 104 is agreed, amendment 39 will fall. The question is that amendment 104 be agreed to. Does any Member object? I see that there is objection, so we will proceed to an electronic vote.

[Canlyniad y bleidlais ar welliant 104.](#)
[Result of the vote on amendment 104.](#)

*Gwrthodwyd gwelliant 104: O blaid 25, Yn erbyn 26, Ymatal 0.
Amendment 104 not agreed: For 25, Against 26, Abstain 0.*

[526] **The Deputy Presiding Officer:** I call on Suzy Davies to move amendment 66.

[527] **Suzy Davies:** I will not move amendment 66 in my name.

[528] **The Deputy Presiding Officer:** Amendment 66 is not moved.

*Ni chynigiwyd gwelliant 66.
Amendment 66 not moved.*

[529] **The Deputy Presiding Officer:** I call on Suzy Davies to move amendment 67.

[530] **Suzy Davies:** I will not move amendment 67 in my name.

[531] **The Deputy Presiding Officer:** Amendment 67 is not moved.

*Ni chynigiwyd gwelliant 67.
Amendment 67 not moved.*

[532] **The Deputy Presiding Officer:** I call on Antoinette Sandbach to move amendment 105.

[533] **Antoinette Sandbach:** I move amendment 105 in my name.

[534] **The Deputy Presiding Officer:** The question is that amendment 105 be agreed to. Does any Member object? I see that there is objection, so we will proceed to an electronic vote.

[Canlyniad y bleidlais ar welliant 105.](#)
[Result of the vote on amendment 105.](#)

*Gwrthodwyd gwelliant 105: O blaid 25, Yn erbyn 26, Ymatal 0.
Amendment 105 not agreed: For 25, Against 26, Abstain 0.*

[535] **The Deputy Presiding Officer:** I call on Antoinette Sandbach to move amendment 106.

[536] **Antoinette Sandbach:** I move amendment 106 in my name.

[537] **The Deputy Presiding Officer:** The question is that amendment 106 be agreed to. Does any Member object? I see that there is objection, so we will proceed to an electronic vote.

[Canlyniad y bleidlais ar welliant 106.](#)
[Result of the vote on amendment 106.](#)

Gwrthodwyd gwelliant 106: O blaid 19, Yn erbyn 26, Ymatal 5.
Amendment 106 not agreed: For 19, Against 26, Abstain 5.

[538] **The Deputy Presiding Officer:** I call on Suzy Davies to move amendment 68.

[539] **Suzy Davies:** I will not move amendment 68 in my name.

[540] **The Deputy Presiding Officer:** Amendment 68 is not moved.

Ni chynigiwyd gwelliant 68.
Amendment 68 not moved.

[541] **The Deputy Presiding Officer:** I call on Antoinette Sandbach to confirm that she will not be moving amendment 107.

[542] **Antoinette Sandbach:** I confirm that I will not move amendment 107 in my name.

[543] **The Deputy Presiding Officer:** Amendment 107 has not been moved.

Ni chynigiwyd gwelliant 107.
Amendment 107 not moved.

[544] **The Deputy Presiding Officer:** I call on William Powell to move amendment 11.

[545] **William Powell:** I move amendment 11 in my name.

[546] **The Deputy Presiding Officer:** The question is that amendment 11 be agreed to. Does any Member object? I see that there is objection, so we will proceed to an electronic vote.

[Canlyniad y bleidlais ar welliant 11.](#)
[Result of the vote on amendment 11.](#)

Gwrthodwyd gwelliant 11: O blaid 25, Yn erbyn 26, Ymatal 0.
Amendment 11 not agreed: For 25, Against 26, Abstain 0.

[547] **The Deputy Presiding Officer:** I call on the Minister to move amendment 22.

[548] **Alun Davies:** I move amendment 22 in my name.

[549] **The Deputy Presiding Officer:** The question is that amendment 22 be agreed to. Does any Member object? There is objection, so we will proceed to an electronic vote.

[Canlyniad y bleidlais ar welliant 22.](#)
[Result of the vote on amendment 22.](#)

*Derbyniwyd gwelliant 22: O blaid 34, Yn erbyn 12, Ymatal 5.
Amendment 22 agreed: For 34, Against 12, Abstain 5.*

[550] **The Deputy Presiding Officer:** I call on Llyr Huws Gruffydd to move amendment 38.

[551] **Llyr Huws Gruffydd:** Cynigiau **Llyr Huws Gruffydd:** I move amendment welliant 38 yn fy enw i. 38 in my name.

[552] **The Deputy Presiding Officer:** The question is that amendment 38 be agreed to. Does any Member object? There is objection, so we will proceed to an electronic vote.

[Canlyniad y bleidlais ar welliant 38.](#)
[Result of the vote on amendment 38.](#)

*Gwrthodwyd gwelliant 38: O blaid 13, Yn erbyn 38, Ymatal 0.
Amendment 38 not agreed: For 13, Against 38, Abstain 0.*

*Ni chynigiwyd gwelliant 23.
Amendment 23 not moved.*

[553] **The Deputy Presiding Officer:** I call on Antoinette Sandbach to move amendment 108.

[554] **Antoinette Sandbach:** I move amendment 108.

[555] **The Deputy Presiding Officer:** The question is that amendment 108 be agreed to. Does any Member object? There is objection, so we will proceed to an electronic vote.

[Canlyniad y bleidlais ar welliant 108.](#)
[Result of the vote on amendment 108.](#)

*Gwrthodwyd gwelliant 108: O blaid 20, Yn erbyn 25, Ymatal 5.
Amendment 108 not agreed: For 20, Against 25, Abstain 5.*

[556] **The Deputy Presiding Officer:** I call on Suzy Davies to move amendment 69.

[557] **Suzy Davies:** I will not move amendment 69 in my name.

[558] **The Deputy Presiding Officer:** Amendment 69 is not moved.

*Ni chynigiwyd gwelliant 69.
Amendment 69 not moved.*

[559] **The Deputy Presiding Officer:** I call on Antoinette Sandbach to move amendment 109.

[560] **Antoinette Sandbach:** I move amendment 109 in my name.

[561] **The Deputy Presiding Officer:** The question is that amendment 109 be agreed to. Does any Member object? There is objection, so we will proceed to an electronic vote.

[Canlyniad y bleidlais ar welliant 109.](#)
[Result of the vote on amendment 109.](#)

*Gwrthodwyd gwelliant 109: O blaid 25, Yn erbyn 26, Ymatal 0.
Amendment 109 not agreed: For 25, Against 26, Abstain 0.*

[562] **The Deputy Presiding Officer:** I call on Llyr Huws Gruffydd to move amendment 39.

[563] **Llyr Huws Gruffydd:** Cynigiau **Llyr Huws Gruffydd:** I move amendment welliant 39 yn fy enw i. 39 in my name.

[564] **The Deputy Presiding Officer:** The question is that amendment 39 be agreed to. Does any Member object? There is objection, so we will proceed to an electronic vote.

[Canlyniad y bleidlais ar welliant 39.](#)
[Result of the vote on amendment 39.](#)

*Gwrthodwyd gwelliant 39: O blaid 25, Yn erbyn 26, Ymatal 0.
Amendment 39 not agreed: For 25, Against 26, Abstain 0.*

*Methodd gwelliant 110.
Amendment 110 fell.*

[565] **The Deputy Presiding Officer:** I call on Suzy Davies to move amendment 70.

[566] **Suzy Davies:** I move amendment 70 in my name.

[567] **The Deputy Presiding Officer:** The question is that amendment 70 be agreed to. Does any Member object? There is objection, so we will proceed to an electronic vote.

[Canlyniad y bleidlais ar welliant 70.](#)
[Result of the vote on amendment 70.](#)

*Gwrthodwyd gwelliant 70: O blaid 12, Yn erbyn 39, Ymatal 0.
Amendment 70 not agreed: For 12, Against 39, Abstain 0.*

[568] **The Deputy Presiding Officer:** I call on Antoinette Sandbach to move amendment 111.

[569] **Antoinette Sandbach:** I move amendment 111 in my name.

[570] **The Deputy Presiding Officer:** If amendment 111 is agreed, amendment 40 will fall. The question is that amendment 111 be agreed to. Does any Member object? There is objection, so we will proceed to an electronic vote.

[Canlyniad y bleidlais ar welliant 111.](#)
[Result of the vote on amendment 111.](#)

*Gwrthodwyd gwelliant 111: O blaid 12, Yn erbyn 34, Ymatal 5.
Amendment 111 not agreed: For 12, Against 34, Abstain 5.*

[571] **The Deputy Presiding Officer:** I call on Llyr Huws Gruffydd to move amendment 40.

[572] **Llyr Huws Gruffydd:** Cynigiau **Llyr Huws Gruffydd:** I move amendment welliant 40 yn fy enw i. 40 in my name.

[573] **The Deputy Presiding Officer:** The question is that amendment 40 be agreed to. Does any Member object? There is objection, so we will proceed to an electronic vote.

[Canlyniad y bleidlais ar welliant 40.](#)
[Result of the vote on amendment 40.](#)

Derbyniwyd gwelliant 40: O blaid 39, Yn erbyn 12, Ymatal 0.
Amendment 40 agreed: For 39, Against 12, Abstain 0.

[574] **The Deputy Presiding Officer:** I call on Antoinette Sandbach to move amendment 112.

[575] **Antoinette Sandbach:** I move amendment 112 in my name.

[576] **The Deputy Presiding Officer:** The question is that amendment 112 be agreed to. Does any Member object? There is objection, so we will proceed to an electronic vote.

[Canlyniad y bleidlais ar welliant 112.](#)
[Result of the vote on amendment 112.](#)

Gwrthodwyd gwelliant 112: O blaid 12, Yn erbyn 34, Ymatal 5.
Amendment 112 not agreed: For 12, Against 34, Abstain 5.

[577] **The Deputy Presiding Officer:** I call on William Powell to move amendment 12.

[578] **William Powell:** I move amendment 12 in my name.

[579] **The Deputy Presiding Officer:** The question is that amendment 12 be agreed to. Does any Member object? There is objection, so we will proceed to an electronic vote.

[Canlyniad y bleidlais ar welliant 12.](#)
[Result of the vote on amendment 12.](#)

Gwrthodwyd gwelliant 12: O blaid 25, Yn erbyn 26, Ymatal 0.
Amendment 12 not agreed: For 25, Against 26, Abstain 0.

[580] **The Deputy Presiding Officer:** I call on Suzy Davies to move amendment 71.

[581] **Suzy Davies:** I move amendment 71 in my name.

[582] **The Deputy Presiding Officer:** The question is that amendment 71 be agreed to. Does any Member object? There is objection, so we will proceed to an electronic vote.

[Canlyniad y bleidlais ar welliant 71.](#)
[Result of the vote on amendment 71.](#)

Gwrthodwyd gwelliant 71: O blaid 12, Yn erbyn 39, Ymatal 0.
Amendment 71 not agreed: For 12, Against 39, Abstain 0.

[583] **The Deputy Presiding Officer:** I call on William Powell to move amendment 13.

[584] **William Powell:** I move amendment 13 in my name and with the name of Antoinette Sandbach in support.

[585] **The Deputy Presiding Officer:** The question is that amendment 13 be agreed to.

Does any Member object? There is objection, so we will proceed to an electronic vote.

[Canlyniad y bleidlais ar welliant 13.](#)
[Result of the vote on amendment 13.](#)

Gwrthodwyd gwelliant 13: O blaid 25, Yn erbyn 26, Ymatal 0.
Amendment 13 not agreed: For 25, Against 26, Abstain 0.

[586] **The Deputy Presiding Officer:** I call on Suzy Davies to move amendment 72.

[587] **Suzy Davies:** I move amendment 72 in my name.

[588] **The Deputy Presiding Officer:** The question is that amendment 72 be agreed to. Does any Member object? There is objection, so we will proceed to an electronic vote.

[Canlyniad y bleidlais ar welliant 72.](#)
[Result of the vote on amendment 72.](#)

Gwrthodwyd gwelliant 72: O blaid 17, Yn erbyn 34, Ymatal 0.
Amendment 72 not agreed: For 17, Against 34, Abstain 0.

[589] **The Deputy Presiding Officer:** I call on Antoinette Sandbach to move amendment 113.

[590] **Antoinette Sandbach:** I move amendment 113 in my name.

[591] **The Deputy Presiding Officer:** The question is that amendment 113 be agreed to. Does any Member object? There is objection, so we will proceed to an electronic vote.

[Canlyniad y bleidlais ar welliant 113.](#)
[Result of the vote on amendment 113.](#)

Gwrthodwyd gwelliant 113: O blaid 17, Yn erbyn 33, Ymatal 0.
Amendment 113 not agreed: For 17, Against 33, Abstain 0.

Methodd gwelliannau 14, 24 a 73.
Amendments 14, 24 and 73 fell.

5.15 p.m.

Grŵp 13: Cyfyngiadau ar y Panel a Gweinidogion Cymru (Gwelliant 114)
Group 13: Restriction on the Panel and the Welsh Ministers (Amendment 114)

[592] **The Deputy Presiding Officer:** The lead and only amendment in the group is amendment 114. I call on Antoinette Sandbach to move the amendment and speak to it.

[593] **Antoinette Sandbach:** I move amendment 114 in my name.

[594] This amendment puts on the face of the Bill the fact that the powers and restrictions of the Government of Wales Act 2006 apply to the panel set up under the Bill, and not just to the Welsh Ministers. This is because there has been a consistent source of debate regarding the legislative competence of this Bill. This would require the panel, as well as the Minister, to act within legislative competence. No doubt, guidance will be given at a future stage as to the extent of that competence as it is defined in relation to agriculture.

[595] **Russell George:** I want to ask the Minister—I hope Simon Thomas can forgive me here, because I am going to take a bite of the cherry in terms of the question that he is going to put to the Counsel General tomorrow—how much detailed discussion he had with the Counsel General in relation to where the competence of this Bill falls. How much of that discussion and advice can you share with us this afternoon?

[596] **The Deputy Presiding Officer:** I call on the Minister to speak.

[597] **Alun Davies:** We have discussed this matter on a number of different occasions. I believe that this amendment is entirely unnecessary. I am completely satisfied that all the provisions of this Bill are within the legislative competence of this place. The Presiding Officer has also made her determination on this matter. On 29 January, we rejected the legislative consent motion that we were forced to lay to contest the UK Government's decision to move an amendment to the Enterprise and Regulatory Reform Bill without our knowledge or agreement. We made it clear then that we believe that we have the right to legislate in this area. All Members voted, although not with us to oppose this LCM; our Conservative and Liberal colleagues voted to allow the legislative consent motion to proceed. I would contend that this action acknowledged that we have legislative competence in this matter. This is a Bill about agriculture. It is a subject listed in Part 1 of Schedule 7 to the Government of Wales Act 2006, and none of the exceptions listed in that Part are engaged. I am absolutely confident that the Bill's provisions are clearly within the legislative competence of this place. I trust that you will agree that the Welsh Government fully understands how it can use its powers under the Government of Wales Act 2006 and, therefore, does not need it spelled out for it in another piece of legislation. For those reasons, I cannot support this amendment.

[598] **The Deputy Presiding Officer:** I call on Antoinette Sandbach to reply.

[599] **Antoinette Sandbach:** As I started, so I finish. You will recall, way back a few hours ago, that I opened by dealing with the controversy that the legislative consent motion itself caused in this Chamber and the fact that that legislative consent motion itself did not go through the appropriate constitutional procedures. I do not accept that there has been a clear and unambiguous ruling by the—. I need to correct that. There has been a clear and unambiguous ruling by the Presiding Officer, which indicates that there is a very fine line, and that she had to look at a very fine line. In her judgment, she quite clearly indicated the concerns that she had in ruling in favour of competence. For the Minister to stand up and say that all Members of this Chamber supported the LCM is, quite frankly, not correct as far as I am concerned. I am going to go and check the record, Minister, because I doubt very much that we supported that LCM and I do not believe that we did vote for it.

[600] **Simon Thomas:** I do not think that she needs to check the record, because it does not matter whether she voted for it or not; that does not actually decide what is in competence or not. What decides what is in competence or not is the decision of the Presiding Officer and, ultimately, the Supreme Court. Her amendment goes further than is necessary, I have to say, because all bodies in Wales have to work within their vires and their competencies.

[601] **Antoinette Sandbach:** I accept that, but it provides clear provisions for the panel and it deals with the position that, if this Bill does go to the Supreme Court, there might be some parts of it that fall within competence. We have already talked about education and training. It relates to the definition—*[Interruption.]* Does the First Minister want to say something? If so, I am happy to give way.

[602] **The First Minister (Carwyn Jones):** In terms of the Supreme Court, it either holds the entire Bill within competence or none of it; there cannot be parts that are looked at. It is not like the Scottish settlement.

[603] **Antoinette Sandbach:** Well, we shall see, First Minister. [*Laughter.*] I have to confess that I do not know whether or not that is the position. It is my understanding, from reading the Government of Wales Act 2006, that any provisions that are outside competence are automatically invalid. I am not certain that that makes those that are within competence also invalid, but, no doubt, that is for another place. However, what I would say is that this amendment does make sure that, if there are provisions of this Bill that survive, those provisions are limited to the areas that are identified in any subsequent judgment as being within competence.

[604] **The Deputy Presiding Officer:** The question is that amendment 114 be agreed to. Does any Member object? There is objection, so we will proceed to an electronic vote.

[Canlyniad y bleidlais ar welliant 114.](#)
[Result of the vote on amendment 114.](#)

Gwrthodwyd gwelliant 114: O blaid 17, Yn erbyn 34, Ymatal 0.
Amendment 114 not agreed: For 17, Against 34, Abstain 0.

Methodd gwelliant 115.
Amendment 115 fell.

[605] **The Deputy Presiding Officer:** As amendment 33 was not agreed, amendment 41 has fallen.

Methodd gwelliant 41.
Amendment 41 fell.

Methodd gwelliant 74.
Amendment 74 fell.

[606] **The Deputy Presiding Officer:** We now move to dispose of the remaining amendment 116 and I call on Antoinette Sandbach to move the amendment.

[607] **Antoinette Sandbach:** I move amendment 116 in my name.

[608] **The Deputy Presiding Officer:** The question is that amendment 116 be agreed to. Does any Member object? There is objection, so we will proceed to an electronic vote.

[Canlyniad y bleidlais ar welliant 116.](#)
[Result of the vote on amendment 116.](#)

Gwrthodwyd gwelliant 116: O blaid 25, Yn erbyn 26, Ymatal 0.
Amendment 116 not agreed: For 25, Against 26, Abstain 0.

Methodd gwelliant 117.
Amendment 117 fell.

[609] **The Deputy Presiding Officer:** That concludes the proceedings of the Committee of the Whole Assembly. Today's Plenary will start at 5.45 p.m. As usual, the bell will be rung 10 minutes and five minutes before Plenary commences.

Daeth y cyfarfod i ben am 5.22 p.m.
The meeting ended at 5.22 p.m.

