

Y Cyfarfod Llawn

Dyddiad y cyfarfod:
Dydd Mawrth, 18 Hydref 2011

Amser y cyfarfod:
13:30

Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales



Agenda (23)v4

1. Cwestiynau i'r Prif Weinidog (60 munud)

[Gweld y cwestiynau](#)

2. Datganiad a Chyhoeddiad Busnes (30 munud)

[Gweld y Datganiad a Chyhoeddiad Busnes](#)

3. Datganiad gan y Gweinidog Iechyd a Gwasanaethau Cymdeithasol: Lansio ymgynghoriad ar yr angen i gyflwyno deddfwriaeth i sicrhau caniatâd rhieni ar gyfer prosesau tyllu cosmetig ar bobl ifanc (45 munud)

4. Datganiad gan Weinidog yr Amgylchedd a Datblygu Cynaliadwy: Cynnydd ynghylch newid yn yr hinsawdd o ran lleihau allyriadau nwyon ty gwydr a pharatoi ar gyfer newid yn yr hinsawdd (45 munud)

5. Cynnig i gymeradwyo Rheoliadau Amddiffyn rhag Tybaco (Gwerthiannau o Beiriannau Gwerthu) (Cymru) 2011 (15 munud) (Tudalennau 1 - 3)

NDM4828 Jane Hutt (Bro Morgannwg)

Cynnig bod Cynulliad Cenedlaethol Cymru, yn unol â Rheol Sefydlog 27.5:

Yn cymeradwyo bod y fersiwn drafft o'r Rheoliadau Amddiffyn rhag Tybaco (Gwerthiannau o Beiriannau Gwerthu) (Cymru) 2011 yn cael ei lunio yn unol â'r fersiwn drafft a osodwyd yn y Swyddfa Gyflwyno ar 27 Medi 2011.

Dogfennau Ategol

[Rheoliadau Amddiffyn rhag Tybaco \(Gwerthiannau o Beiriannau Gwerthu\) \(Cymru\) 2011](#)

[Memorandwm Esboniadol](#) – *Ar gael yn Saesneg yn unig*

Cynnig i drafod y ddwy eitem a ganlyn gyda'i gilydd yn unol â Rheol Sefydlog 12.24 ond i bleidleisio arnynt ar wahân (15 munud)

6. Cynnig i gymeradwyo Rheoliadau Iechyd Meddwl (Eiriolwyr Iechyd Meddwl Annibynnol) (Cymru) 2011

NDM4830 Jane Hutt (Bro Morgannwg)

Cynnig bod Cynulliad Cenedlaethol Cymru, yn unol â Rheol Sefydlog 27.5:

Yn cymeradwyo bod y fersiwn drafft o'r Rheoliadau Iechyd Meddwl (Eiriolwyr Iechyd Meddwl Annibynnol) (Cymru) 2011 yn cael ei lunio yn unol â'r fersiwn drafft a osodwyd yn y Swyddfa Gyflwyno ar 19 Medi 2011.

Dogfennau Ategol

[Rheoliadau Iechyd Meddwl \(Eiriolwyr Iechyd Meddwl Annibynnol\) \(Cymru\) 2011 Memorandwm Esboniadol](#) – *Ar gael yn Saesneg yn unig*
[Adroddiad y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol](#)

7. Cynnig i gymeradwyo Rheoliadau Iechyd Meddwl (Asesu Defnyddwyr Blaenorol Gwasanaethau Iechyd Meddwl Eilaidd) (Cymru) 2011

NDM4829 Jane Hutt (Bro Morgannwg)

Cynnig bod Cynulliad Cenedlaethol Cymru, yn unol â Rheol Sefydlog 27.5:

Yn cymeradwyo bod y fersiwn drafft o'r Rheoliadau Iechyd Meddwl (Asesu Defnyddwyr Blaenorol o Wasanaethau Iechyd Meddwl Eilaidd) (Cymru) 2011 yn cael ei lunio yn unol â'r fersiwn drafft a osodwyd yn y Swyddfa Gyflwyno ar 19 Medi 2011.

Dogfennau Ategol

[Rheoliadau Iechyd Meddwl \(Asesu Defnyddwyr Blaenorol o Wasanaethau Iechyd Meddwl Eilaidd\) \(Cymru\) 2011 Memorandwm Esboniadol](#) – *Ar gael yn Saesneg yn unig*
[Adroddiad y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol](#)

8. Dadl ar yr Adolygiad o Gymwysterau (60 munud)

NDM4831 Jane Hutt (Bro Morgannwg)

Cynnig bod Cynulliad Cenedlaethol Cymru:

Yn nodi y bydd yr Adolygiad o Gymwysterau yn ystyried sut y gallwn sicrhau bod ein system cymwysterau yn ddealliedig, yn cael ei gwerthfawrogi a'i bod yn bodloni anghenion ein pobl ifanc ac anghenion economi Cymru.

Dogfen Ategol

Mae Datganiad Ysgrifenedig oddi wrth y Dirprwy Weinidog Sgiliau ynghylch yr Adolygiad o Gymwysterau ar gael ar y ddolen ganlynol:

<http://wales.gov.uk/about/cabinet/cabinetstatements/2011/reviewofqualifications/?skip=1&lang=cy>

Cyflwynwyd y gwelliannau a ganlyn:

Gwelliant 1 - Jocelyn Davies (Dwyrain De Cymru)

Rhoi ar ôl 'economi Cymru':

'ac yn benodol sicrhau mai dim ond i fyfyrwyr sydd â'r lefelau llythrennedd a rhifedd priodol y dyfernir cymwysterau'.

Gwelliant 2 - William Graham (Dwyrain De Cymru)

Ychwanegu pwynt newydd ar ddiwedd y cynnig:

Yn gresynu bod y system gymwysterau bresennol wedi mynd yn gymhleth.

Gwelliant 3 - William Graham (Dwyrain De Cymru)

Ychwanegu pwynt newydd ar ddiwedd y cynnig:

Yn mynegi pryder bod cwmpas yr adolygiad yn eang.

Cyfnod Pleidleisio

9. Dadl fer a ohiriwyd ers 5 Hydref 2011 - NDM4815 Dafydd Elis-Thomas: Diwygio Amodau Deiliadaeth y Sector Rhentu Preifat (30 munud)

Bydd y Cynulliad yn cwrdd eto yn y Cyfarfod Llawn am 13:30 Dydd Mercher, 19 Hydref 2011

Eitem 5

**Y Pwyllgor Materion
Cyfansoddiadol a
Deddfwriaethol**

**Constitutional and Legislative
Affairs Committee**

Lesley Griffiths AM
Minister for Health and Social Services
Welsh Government
5th Floor, Tŷ Hywel
Cardiff Bay
CF99 1NA



Cynulliad National
Cenedlaethol Assembly for
Cymru Wales

Bae Caerdydd / Cardiff Bay
Caerdydd / Cardiff
CF99 1NA

5 October 2011

Dear Lesley

**CLA42 - The Protection from Tobacco (Sales from Vending Machines)
(Wales) Regulations 2011**

The Constitutional and Legislative Affairs Committee considered the above Statutory Instrument at its meeting on 3 October 2011.

The Committee noted that the regulations come into effect on 1 February next year but that the equivalent regulations came into effect in England on 1 October this year.

Welsh Government spokespersons have explained that the delay in Wales was due to legal challenges to the equivalent regulations in England. The Committee would be grateful if you could confirm that this is the reason for the delay and why it is that legal action has delayed the introduction of the Welsh regulations but not the regulations that were the subject of the legal challenge?

I understand that these regulations are to be debated in Plenary on 18 October. It would be helpful to Plenary consideration of the regulations if you could reply before the Plenary debate and if your reply could be made available to all Assembly Members as a supporting document for the debate.

Yours sincerely

David Melding AM
Chair, Constitutional and Legislative Affairs Committee



David Melding AM
Chair
Constitutional and Legislative
Affairs Committee
National Assembly for Wales
Cardiff Bay
Cardiff
CF99 1NA

11th October 2011

Dear David

Thank you for your letter of 5 October concerning the coming into force date of the Protection from Tobacco (Sales from Vending Machines) (Wales) Regulations 2011.

The Welsh Government consulted on the draft regulations in April 2010, which included a proposed coming into force date of 1 October 2011. However, legal challenges from the tobacco industry have raised timetabling issues.

In February 2010 Sinclair Collis, a tobacco vending machine operator and subsidiary of Imperial Tobacco, wrote to the Department of Health indicating that they intended to apply for a judicial review of section 22 of the Health Act 2009. After an exchange of correspondence with the Department of Health, Sinclair Collis made an application for judicial review. Section 22 of the Health Act 2009 is the section which gives the Secretary of State in relation to England, and Welsh Ministers in relation to Wales, the power to ban the sale of tobacco from vending machines. Sinclair Collis argued that section 22 of the Act breaches article 34 of the Treaty on the Functioning of the European Union (TEFU), as a ban on tobacco vending machines would constitute a restriction, without justification, on the free movement of goods between European Union Member States and, as such, would infringe article 34. They further argued that such a ban would amount to an unjustified interference with the property of Sinclair Collis contrary to Article 1 to the First Protocol of the European Convention on Human Rights.

Sinclair Collis also submitted a second application for judicial review challenging the making of the Tobacco (Sales from Vending Machines) (England) Regulations 2010. The two applications were consolidated.

If the Welsh Ministers had made the Protection from Tobacco (Sales from Vending Machines) (Wales) Regulations before the judicial review proceedings were concluded, it was anticipated that Welsh Ministers would be joined as a party to the judicial review action that was ongoing against the Secretary of State. The reason for this view is that the Welsh Regulations are identical in content and rely upon the same legal powers as those of the Secretary of State. The disadvantage to being added as a party to the proceedings would be the considerable legal costs that would be incurred in defending the judicial review action. Further, if the judicial review action had been successful any Regulations made under section 22 of the Health Act 2009 would have been quashed.

In view of the uncertainties raised by the judicial review proceedings and the desirability of avoiding Welsh Ministers' involvement in these proceedings, no action was taken to make the Welsh Regulations until the outcome of the judicial review was known. As the Judicial Review action completed in August, when Sinclair Collis' application to take their case to the Supreme Court was turned down, Welsh Ministers decided to bring forward the Regulations banning the sale of tobacco from vending machines in Wales. In the consultation report the Welsh Government committed to allowing appropriate time for businesses to implement the legislation and as such it is proposed for the Regulations to come into force 1 February 2012.

I am happy for this reply to be used in support of the debate on 18 October and I will arrange for it to be made available as a supporting document on the agenda.



Lesley Griffiths AC / AM

Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol
Minister for Health and Social Services