



## HYSBYSIAD YNGHYLCH GWELLIANNAU NOTICE OF AMENDMENTS

Cyflwynwyd ar 14 Ionawr 2013  
Tabled on 14 January 2013

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

**Jocelyn Davies**

**35**

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

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

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

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

**Jocelyn Davies**

**36**

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

*'Dismissal because of transfer of contract of employment*

- ( ) (1) Where any employee of the Auditor General or the WAO is dismissed by the Auditor General or by the WAO (as the case may be), the employee shall be treated for the purpose of Part X of the Employment Rights Act 1996 (unfair dismissal) as unfairly dismissed if the sole or principal reason for the employee's dismissal is –
- (a) the transfer itself; or
  - (b) a reason connected with the transfer that is not an economic, technical or organisational reason entailing changes in the workforce.
- (2) This sub-paragraph applies where the sole or principal reason for the dismissal is a reason connected with the transfer that is an economic, technical or organisational reason entailing changes in the workforce of either the Auditor General or the WAO (as the case may be) before or after the transfer of the employee's contract of employment under paragraph 5(1).
- (3) Where sub-paragraph (2) applies –
- (a) sub-paragraph (1) shall not apply;

- (b) without prejudice to the application of section 98(4) of the Employment Rights Act 1996 (test for fair dismissal), the dismissal shall, for the purposes of sections 98(1) and 135 of that Act (reason for dismissal), be regarded as having been for redundancy where section 98(2)(c) of that Act applies, or otherwise for a substantial reason of a kind such as to justify dismissal of an employee holding the position that the employee held.
- (4) Sub-paragraph (1) shall not apply in relation to a dismissal of an employee if the application of section 94 of the Employment Rights Act 1996 to the dismissal of the employee is excluded by or under any provision of that Act, the 1996 Tribunals Act or the Trade Union and Labour Relations (Consolidation) Act 1992.

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

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

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

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

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

*‘Diswyddo oherwydd trosglwyddo contract cyflogaeth*

- ( ) (1) Os caiff unrhyw gyflogai i’r Archwilydd Cyffredinol neu SAC ei ddiswyddo gan yr Archwilydd Cyffredinol neu SAC (yn ôl y digwydd), caiff drin y cyflogai at ddiben Rhan X o Ddeddf Hawliau Cyflogaeth 1996 (diswyddo annheg) fel pe bai wedi’i ddiswyddo’n annheg os mai’r unig reswm neu’r prif reswm dros ddiswyddo’r cyflogai yw –
  - (a) y trosglwyddiad ei hun; neu
  - (b) rheswm sy’n gysylltiedig â’r trosglwyddiad nad yw’n rheswm economaidd, technegol na sefydliadol sy’n golygu newidiadau i’r gweithlu.

- (2) Mae'r is-baragraff hwn yn gymwys pan fo'r unig reswm neu'r prif reswm dros ddiswyddo'r cyflogai yn rheswm sy'n gysylltiedig â'r trosglwyddiad sy'n rheswm economaidd, technegol neu sefydliadol ac sy'n golygu newidiadau i weithlu'r Archwilydd Cyffredinol neu SAC (yn ôl y digwydd) cyn neu ar ôl trosglwyddo contract cyflogaeth y cyflogai o dan is-baragraff 5(1).
- (3) Pan fo is-baragraff (2) yn gymwys –
  - (a) ni fydd is-baragraff (1) yn gymwys;
  - (b) heb ragfarnu cymhwyso adran 98(4) o Ddeddf Hawliau Cyflogaeth 1996 (prawf ar gyfer diswyddo teg), rhaid ystyried y diswyddo, at ddibenion adrannau 98(1) a 135 o'r Ddeddf honno (rheswm dros ddiswyddo), yn enghraifft o ddileu swydd fel pe bai adran 98(2)(c) o'r Ddeddf honno yn gymwys, neu fel arall am reswm sylweddol fel i gyfiawnhau diswyddo cyflogai sy'n dal y swydd yr oedd y cyflogai yn ei ddal.
- (4) Rhaid i is-baragraff (1) beidio â bod yn gymwys mewn perthynas â diswyddo cyflogai os caiff cymhwyso adran 94 o Ddeddf Hawliau Cyflogaeth 1996 i ddiswyddo'r cyflogai ei eithrio gan neu o dan unrhyw ddarpariaeth o'r Ddeddf honno, Deddf Tribiwnlysoedd 1996 neu Ddeddf Undebau Llafur a Chysylltiadau Llafur (Cydgrynhoi) 1992.

*Effaith trosglwyddo contract cyflogaeth ar gytundebau ar y cyd*

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

*Effaith trosglwyddo contract cyflogaeth ar gydnabod undeb llafur*

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

**Aled Roberts** 37

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

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

**Aled Roberts** 38

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

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

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

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

**Mohammad Asghar** 9A

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

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

**Mohammad Asghar** 10A

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

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

**Mohammad Asghar** 39

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

‘() The employee members are to comprise—

(a) 2 persons appointed in accordance with paragraph ( ) (“employee members A”),  
and

(b) a person appointed in accordance with paragraph ( ) (“employee member B”).

*Employee members A*

( ) (1) If there is a vacancy, the Auditor General must recommend a person to the non-executive members for appointment.

(2) The non-executive members must—

(a) appoint that person, or

(b) require the Auditor General to recommend another person (in which event this sub-paragraph applies again and so on until someone is appointed).

*Employee member B*

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

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

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

*Aelodau sy’n gyflogeion A*

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

*Aelod sy’n gyflogai B*

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

**Jocelyn Davies**

40

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

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

**Jocelyn Davies**

41

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

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

**Jocelyn Davies**

42

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

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

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

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

**Jocelyn Davies**

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

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