

# Cofnod y Trafodion The Record of Proceedings

[Y Pwyllgor Iechyd a Gofal Cymdeithasol](#)

[The Health and Social Care Committee](#)

28/01/2016

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[Agenda - Cymraeg](#)  
[Agenda - English](#)



Cynulliad  
Cenedlaethol  
Cymru

National  
Assembly for  
Wales

## Cynnwys Contents

- 7 Cyflwyniadau, Ymddiheuriadau a Dirprwyon  
Introductions, Apologies and Substitutions
- 7 Bil Iechyd y Cyhoedd (Cymru): Cyfnod 2—Trafod y Gwelliannau  
Public Health (Wales) Bill: Stage 2—Consideration of Amendments
- 9 Grŵp 1: Y Defnydd o Ddyfeisiau Mewnanadlu Nicotin—Cyffredinol  
(Gwelliannau 4, 145, 146, 147, 5, 148, 11, 12, 13, 15, 16, 143, 2, 3,  
1)  
Group 1: Use of Nicotine Inhaling Devices—General (Amendments 4,  
145, 146, 147, 5, 148, 11, 12, 13, 15, 16, 143, 2, 3, 1)
- 23 Grŵp 2: Troseddau sy'n Ymwneud â'r Defnydd o Ddyfeisiau  
Mewnanadlu Nicotin mewn Mangreoedd a Cherbydau (Gwelliannau 6,  
149, 7, 8, 9, 10, 150)  
Group 2: Offences Relating to the Use of Nicotine Inhaling Devices in  
Premises and Vehicles (Amendments 6, 149, 7, 8, 9, 10, 150)
- 26 Grŵp 3: Cyfyngiad ar Ysmygu mewn Mannau Chwarae Plant, ar Dir  
Ysbytai a Thir Ysgolion (Gwelliannau 134, 135, 136, 137, 138, 139,  
229)  
Group 3: Restriction on Smoking in Children's Play Areas, Hospital  
Grounds and School Grounds (Amendments 134, 135, 136, 137, 138,  
139, 229)
- 33 Grŵp 4: Ysmygu a'r Defnydd o Ddyfeisiau Mewnanadlu Nicotin—  
Dehongli (Gwelliannau 151, 152, 153, 27, 170, 171, 172, 28, 29 a  
173)  
Group 4: Smoking and Use of Nicotine Inhaling Devices—  
Interpretation (Amendments 151, 152, 153, 27, 170, 171, 172, 28, 29  
and 173)
- 37 Grŵp 5: Smoke-free Premises and Vehicles (Gwelliannau 18, 19, 20,  
21, 22)  
Group 5: Mangreoedd a Cherbydau Di-fwg (Amendments 18, 19, 20,  
21, 22)

- 42 Grŵp 6: Mangreoedd a Cherbydau Di-ddyfais Mewnanadlu Nicotin (Gwelliannau 154, 221, 155, 156, 157, 158)  
Group 6: Nicotine Inhaling Device-free Premises and Vehicles (Amendments 154, 221, 155, 156, 157, 158)
- 58 Grŵp 7: Ysmygu a'r Defnydd o Ddyfeisiau Mewnanadlu Nicotin—Gorfodi (Gwelliannau 159, 160, 161, 23, 162, 163, 24, 164, 165, 166, 14, 167, 168, 169, 25, 26)  
Group 7: Smoking and Use of Nicotine Inhaling Devices—Enforcement (Amendments 159, 160, 161, 23, 162, 163, 24, 164, 165, 166, 14, 167, 168, 169, 25, 26)
- 71 Grŵp 8: Adolygu a Diddymu Darpariaethau sy'n ymwneud â Dyfeisiau Mewnanadlu Nicotin ym Mhennod 1 o Ran 2 (Gwelliannau 225, 226, 227, 228, 224)  
Group 8: Review and Repeal of Provisions relating to Nicotine Inhaling Devices in Chapter 1 of Part 2 (Amendments 225, 226, 227, 228, 224)
- 79 Grŵp 9: Cofrestr o Fanwerthwyr Tybaco a Chynhyrchion Nicotin (Gwelliannau 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 174, 43, 44)  
Group 9: Register of Retailers of Tobacco and Nicotine Products (Amendments 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 174, 43, 44)
- 84 Grŵp 10: Manwerthwyr Tybaco a Chynhyrchion Nicotin—Gorfodi (Gwelliannau 45, 46, 175, 176, 177, 97, 98, 99)  
Group 10: Retailers of Tobacco and Nicotine Products—Enforcement (Amendments 45, 46, 175, 176, 177, 97, 98, 99)
- 86 Grŵp 11: Manwerthwyr Tybaco a Chynhyrchion Nicotin—Dehongli (Gwelliannau 47,48, 49)  
Group 11: Retailers of Tobacco and Nicotine Products—Interpretation (Amendments 47, 48, 49)
- 88 Grŵp 12: Gorchmynion Mangre o dan Gyfyngiad—Trosedd o ran Tybaco neu Nicotin (Gwelliant 178)  
Group 12: Restricted Premises Orders—Tobacco or Nicotine Offence (Amendment 178)

- 89 Grŵp 13: Ystyr ‘Triniaethau Arbennig’ (Gwelliannau 117, 118, 119, 120, 121, 122, 204, 123, 83, 124, 125, 126, 127, 85, 132, 86)  
Group 13: Meaning of ‘Special Procedures’ (Amendments 117, 118, 119, 120, 121, 122, 204, 123, 83, 124, 125, 126, 127, 85, 132, 86)
- 99 Grŵp 14: Triniaethau Arbennig—Meini Prawf Trwyddedu ac Amodau Trwyddedu Mandadol (Gwelliannau 179, 180, 181, 182A, 182, 183, 184, 185, 186, 187, 188)  
Group 14: Special Procedures—Licensing Criteria and Mandatory Licensing Conditions (Amendments 179, 180, 181, 182A, 182, 183, 184, 185, 186, 187, 188)
- 108 Grŵp 15: Triniaethau Arbennig—Dyddi Trwyddedau (Gwelliannau 51, 52, 53, 54, 189, 190, 191, 192, 193, 67, 205, 100, 102, 103)  
Group 15: Special Procedures—Issuing of Licences (Amendments 51, 52, 53, 54, 189, 190, 191, 192, 193, 67, 205, 100, 102, 103)
- 112 Grŵp 16: Triniaethau Arbennig—Dirymu Trwyddedau (Gwelliannau 194, 195, 196, 101)  
Group 16: Special Procedures—Revocation of Licences (Amendments 194, 195, 196, 101)
- 114 Grŵp 17: Triniaethau Arbennig—Gofynion o ran Cymeradwyaeth (Gwelliannau 55, 56, 57, 58, 59, 60, 61, 62, 63, 82, 84)  
Group 17: Special Procedures—Approval Requirements (Amendments 55, 56, 57, 58, 59, 60, 61, 62, 63, 82, 84)
- 117 Grŵp 18: Triniaethau Arbennig—Ffioedd (Gwelliannau 197, 198, 222, 223)  
Group 18: Special Procedures—Fees (Amendments 197, 198, 222, 223)
- 119 Grŵp 19: Triniaethau Arbennig—Dirymu Cymeradwyaeth (Gwelliannau 64, 65, 66)  
Group 19: Special Procedures—Revocation of Approval (Amendments 64, 65, 66)
- 122 Grŵp 20: Triniaethau arbennig—Hysbysiadau Stop a Hysbysiadau Camau Adfer (Gwelliannau 68, 69, 70, 71, 72, 73, 74, 75, 76)  
Group 20: Special Procedures—Stop Notices and Remedial Action Notices (Amendments 68, 69, 70, 71, 72, 73, 74, 75, 76)

- 125 Grŵp 21: Triniaethau arbennig—Troseddau (Gwelliannau 115, 77, 78, 79, 80, 199)  
Group 21: Special procedures—Offences (Amendments 115, 77, 78, 79, 80, 199)
- 128 Grŵp 22: Triniaethau Arbennig—Gorfodi (Gwelliannau 200, 81, 201, 202, 203)  
Group 22: Special Procedures—Enforcement (Amendments 200, 81, 201, 202, 203)
- 137 Grŵp 23: Rhoi Twll mewn Rhan Bersonol o'r Corff—Troseddau (Gwelliannau 87, 206, 207 ac 88)  
Group 23: Intimate Piercing—Offences (Amendments 87, 206, 207 and 88)
- 140 Grŵp 24: Ystyr 'Rhoi Twll mewn Rhan Bersonol o'r Corff' (Gwelliannau 89, 90, 91, 92)  
Group 24: Meaning of 'Intimate Piercing' (Amendments 89, 90, 91, 92)
- 141 Grŵp 25: Intimate Piercing—Enforcement (Gwelliannau 93, 208, 209, 210)  
Group 25: Rhoi Twll mewn Rhan Bersonol o'r Corff—Gorfodi (Amendments 93, 208, 209, 210)
- 143 Grŵp 26: Pharmaceutical Services (Gwelliannau 140, 141)  
Group 26: Gwasanaethau Fferyllol (Amendments 140, 141)

Cofnodir y trafodion yn yr iaith y llefarwyd hwy ynnddi yn y pwyllgor. Yn ogystal, cynhwysir trawsgrifiad o'r cyfieithu ar y pryd.

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

**Aelodau'r pwyllgor yn bresennol**  
**Committee members in attendance**

Alun Davies	Llafur Labour
John Griffiths	Llafur Labour
Altaf Hussain	Ceidwadwyr Cymreig Welsh Conservatives
Elin Jones	Plaid Cymru The Party of Wales
Darren Millar	Ceidwadwyr Cymreig Welsh Conservatives
Lynne Neagle	Llafur Labour
Gwyn R. Price	Llafur Labour
David Rees	Llafur (Cadeirydd y Pwyllgor) Labour (Committee Chair)
Lindsay Whittle	Plaid Cymru The Party of Wales
Kirsty Williams	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats

**Eraill yn bresennol**  
**Others in attendance**

Mark Drakeford	Aelod Cynulliad, Llafur (y Gweinidog Iechyd a Gwasanaethau Cymdeithasol) Assembly Member, Labour (Minister for Health and Social Services)
Dr Ruth Hussey	Prif Swyddog Meddygol, Llywodraeth Cymru Chief Medical Officer, Welsh Government
Dewi Jones	Cyfreithiwr, Llywodraeth Cymru Lawyer, Welsh Government

**Swyddogion Cynulliad Cenedlaethol Cymru yn bresennol**  
**National Assembly for Wales officials in attendance**

Sian Giddins	Dirprwy Glerc
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	Deputy Clerk
Gareth Howells	Cynghorydd Cyfreithiol
	Legal Adviser
Cath Hunt	Ail Glerc
	Second Clerk
Llinos Madeley	Clerc
	Clerc
Rhys Morgan	Dirprwy Glerc
	Deputy Clerk

*Dechreuodd y cyfarfod am 09:33.  
The meeting began at 09:33.*

### **Cyflwyniadau, Ymddiheuriadau a Dirprwyon Introductions, Apologies and Substitutions**

[1] **David Rees:** Good morning. Can I welcome Members of the public and of the committee to this morning's meeting of the Health and Social Care Committee? Just some housekeeping before we start: can I remind Members everything is bilingual and that if you wish to have translation from Welsh to English, that is available on the headphones via channel 1? If you require amplification, that's on the headphones via channel 2. Can I remind Members to turn their mobile phones off or on 'silent' please, and other electronic equipment that may interfere with the broadcasting equipment? There are no scheduled fire alarms this morning, so, if one does occur, please follow the directions of the ushers. We haven't received any apologies this morning.

09:34

### **Bil Iechyd y Cyhoedd (Cymru): Cyfnod 2—Trafod y Gwelliannau Public Health (Wales) Bill: Stage 2—Consideration of Amendments**

[2] **David Rees:** So, we move on to item 2 of our agenda, which is the consideration of amendments at Stage 2 of the Public Health (Wales) Bill. In line with the deadlines set by the Business Committee, we are required to complete Stage 2 by 5 February, and we have allocated two meetings for the consideration of the amendments. If we do not conclude our business today, we will continue disposing of the amendments at our meeting on Wednesday, 3 February.

[3] Can I welcome the Minister, Mark Drakeford, to this morning's meeting? Would you like to introduce your officials, Minister?

[4] **The Minister for Health and Social Services (Mark Drakeford):** Thank you, Chair. So, I'm joined this morning by Dr Ruth Hussey, the Chief Medical Officer for Wales and Dewi Jones from legal services, who's been advising me on the legal aspects of the Bill.

[5] **David Rees:** Thank you, Minister. Members should have before them a copy of the Bill, a copy of the marshalled list of amendments, and the groupings of the amendments for debate this morning. As agreed by the committee on 14 January, the order of consideration will be outlined as on the agenda. The amendments have been grouped to facilitate debate, and each group of amendments will be debated in turn. The groupings are not necessarily in line with chapters, per se—several groups may be found within a chapter. But the order in which amendments will be decided upon and moved for decision will be dictated by the marshalled list.

[6] The debate in each group will follow the same structure. I will first call the proposer of the lead amendment in the group, who should move the lead amendment and then speak to that amendment and other amendments in that group. I will then call other Members who wish to speak to amendments in that group. I will then call the Member with the lead amendment to reply to the debate. In those groups where the Minister is not the proposer of the lead amendment, I will call him as the penultimate speaker in the debate on that group.

[7] Following each debate, I will ask the Member who has moved the lead amendment to confirm whether they wish to press the amendment to a decision. If not, the Member may seek the permission of the committee to withdraw the amendment. If the amendment is not withdrawn, I will put the question on the lead amendment and ask whether any Member objects to the amendment being agreed to. If there is no objection, the amendment will be deemed agreed in accordance with Standing Order 17.34. If a member of the committee objects, I will call for a vote by show of hands. The vote will be recorded in the minutes. Please keep your hands raised until the clerks have recorded the vote. In accordance with Standing Orders 17.37 and 6.20, if there's a tied vote, as Chair, I will exercise my casting vote against the amendment.

[8] I will call on the proposers of other amendments in each group to



move their amendments at the appropriate time in accordance with the marshalled list. If you do not wish to move your amendment, you should say so clearly at the appropriate time. For the record, only committee members can move amendments. Therefore, in accordance with the convention agreed by the Business Committee, as Chair, I will move the amendments tabled in the name of the Minister, and, for expediency, I will assume the Minister wishes me to move all of his amendments unless otherwise indicated. I do not intend to use the words ‘formally move’ on each occasion, but Members may take my putting the question as an indication of each amendment being formally moved. Minister, if you don’t wish a particular amendment to be moved, please indicate and let me know as soon as possible at the relevant point in proceedings.

[9] As is the usual practice, advisers to the committee or the Minister are not expected to provide advice on the record. If Members need to seek legal advice during proceedings, please do so by passing a note to the relevant adviser, or by requesting an adjournment of the proceedings. We will break at some point during the morning, and for lunch, and that is dictated by the process and progress we make. Are there any questions?

[10] I think we’re therefore clear. We’ll move on to the business of the day.

**Grŵp 1: Y Defnydd o Ddyfeisiau Mewnanadlu Nicotin—Cyffredinol**  
**(Gwelliannau 4, 145, 146, 147, 5, 148, 11, 12, 13, 15, 16, 143, 2, 3, 1)**  
**Group 1: Use of Nicotine Inhaling Devices—General (Amendments 4, 145,**  
**146, 147, 5, 148, 11, 12, 13, 15, 16, 143, 2, 3, 1)**

[11] **David Rees:** In that case, I will start with the first group of amendments, which relates to the use of nicotine inhaling devices. The lead amendment in this group is amendment 4 in the name of Kirsty Williams. So, I call on Kirsty Williams to move the amendment and speak to the other amendments in this group. Kirsty.

*Cynigiwyd gwelliant 4 (Kirsty Williams, gyda chefnogaeth Darren Millar).*  
*Amendment 4 (Kirsty Williams, supported by Darren Millar) moved.*

[12] **Kirsty Williams:** Thank you, Chair. I formally move amendment 4, which is the lead amendment in this group, but also speak to amendments 5, 11, 12, 13, 15, 16, 2, 3 and 1, the purposes of which are to remove provisions in the draft Bill that relate to the banning of the use of nicotine inhaling devices. It seems to me that, when considering the legislation before

us, its primary purpose is to enhance concepts of public health and to deliver better health outcomes for the people of Wales, one which I'm sure everybody in this committee agrees with. So, the question for me is: do the measures contained within the legislation deliver on the Government's stated goals and aims, and, where it seeks to impose restrictions, additional regulations, on either individuals or businesses, or traders, are those measures proportional and fair?

[13] Obviously, committee members will be well aware of my longstanding concerns around the approach that the Welsh Government has taken to the use of nicotine inhaling devices. My amendments here today seek to remove those provisions completely from the Bill, and I do that because, over the course of the deliberations of this committee, I have not been convinced that the measures proposed will enhance the health of the people of Wales and I do not believe, on the basis of the evidence before us, that the measures are proportional to the impact they have on individuals.

[14] I know that the Minister takes exception when opponents to these measures say that there is no evidence to support the ban, and I agree that, at this stage, evidence for both sides of the arguments is limited. But what evidence I have heard and I have been persuaded by is that of those people who believe that, actually, the use of nicotine inhaling devices in itself is a way that can be used to deliver better health outcomes for the people of Wales: i.e. if we can persuade people who smoke traditional cigarettes to use these devices, we could prevent a number of premature deaths due to smoking.

[15] We also heard that equating traditional cigarettes and nicotine inhaling devices in the same way potentially has the effect of stopping people making that choice to move away from traditional tobacco—a substance that we all know is incredibly harmful to human health and has blighted the health of this population over many, many decades.

[16] It seems to me that what we're in danger of doing is, actually, rather than delivering better public health, putting a barrier in the way of achieving that for a cohort of the population. Just because maybe some of us don't like them or consider them vulgar—and I certainly have heard from people in my constituency and in other places that they don't like them—that, in itself, I don't believe is reason enough to ban them or restrict their use in the way that the Government seeks to do.

[17] There may be a time in future years where the evidence and the research around these products will be greater, and we will have a better picture of their effects. And I certainly believe and will support measures in this Bill to improve the regulation of these products, so that people buying them know what they're getting. I certainly believe in restricting their sale to minors and young people; I agree with all those provisions. But, for me, from the very outset, I have been concerned that, as I said, rather than promoting and delivering greater public health, we're in danger of removing from a cohort of people an opportunity that they're finding incredibly useful to stop smoking traditional cigarettes.

[18] I note that the Minister has taken a different approach in the amendments that he's brought forward today that certainly treats traditional cigarettes and nicotine inhaling devices in a slightly different way, and I recognise that in the amendments before us. But the list of restrictions is still incredibly comprehensive, and, in many ways, still equates to a ban on using those products in open spaces.

[19] Chair, we have a long agenda in front of us. The arguments have been made on many occasions within the committee; colleagues are well aware of them. On that basis, I will complete my remarks at this time.

[20] **David Rees:** Thank you, Kirsty. Does any other Member wish to speak to this point?

[21] **Darren Millar:** Can I speak briefly, Chair?

[22] **David Rees:** Darren.

[23] **Darren Millar:** I just wanted to speak in support of the amendments tabled in the name of Kirsty Williams. Like Kirsty, I believe that these measures, at the current time, are unnecessary, and that the evidence base is weighted in support of those who argue that the availability of e-cigarettes is actually reducing public harm, and that the measures which the Minister has brought forward on the face of the Bill may actually undermine the public benefit that e-cigarettes are bringing to those people who are making the switch from smoking to e-cigarettes.

[24] These are not just, obviously, the views of members of this committee. We've heard lots of evidence, particularly from those charitable organisations that have campaigned tirelessly to reduce harm from tobacco—ASH Wales,

Cancer Research UK, Tenovus Cancer Care, British Heart Foundation and many, many others who have brought evidence to this committee in support of the position that Kirsty and I have taken as a result of that evidence.

09:45

[25] I think that it's very important that we do everything that we can to encourage people to take up e-cigarettes and make the switch in order to wean themselves off tobacco. I think it's manifestly the case that, if the draconian measures set out in this Bill are put into place across Wales, then people will be discouraged from doing so and they will be getting a mixed message from the Government about the opportunity that e-cigarettes provide for people to reduce harm to their health. So, I fully support the amendments that have been tabled.

[26] **David Rees:** Thank you. Elin.

[27] **Elin Jones:** Gadeirydd, diolch, a byddaf yn gwneud rhai sylwadau cyffredinol yn fy nghyfraniad cyntaf bore yma, ac nid wyf yn bwriadu eu hailadrodd nhw wrth inni fynd ymlaen ag ystyried y gwelliannau unigol. Rwyf yn dal o'r farn y byddai hi wedi bod yn well pe byddai'r Llywodraeth wedi cynnig dau ddarn o ddeddfwriaeth ar wahân: un ar ysmegu a dyfeisiadau mewnanadlu nicotin ar wahân i weddill y Mesur o'n blaenau ni heddiw ar iechyd y cyhoedd. Byddwn wedi gwerthfawrogi gweld y ddau faes yma'n cael eu rhannu. Nid yw'r Llywodraeth o'r farn honno, ac felly nid dyna beth yr ydym ni'n ei ystyried bellach.

**Elin Jones:** Chair, thank you, and I'll make a few general comments in my first contribution this morning, and I don't intend to repeat them as we proceed to consider the individual amendments. I am still of the opinion that it would've been better if the Government had proposed two pieces of separate legislation: one on smoking and nicotine inhaling devices separate to the remainder of the Bill in front of us today on public health. I would have appreciated seeing these two areas being separated. The Government is not of that view, and so that is not what we are considering now.

[28] Rwyf i hefyd wedi cael fy argyhoeddi yn ystod y cyfnod o gymryd tystiolaeth na ddylid cyflwyno gwaharddiad llawn ar ddefnyddio dyfeisiadau mewnanadlu I have also been convinced, during the taking of evidence, that a full ban should not be introduced on using nicotine inhaling devices in public places that would be exactly the

nicotin mewn mannau cyhoeddus byddai yn union yr un fath â'r gwaharddiad ar ysmegu sigarêts traddodiadol, a bod angen trin sigarêts traddodiadol a dyfeisiadau mewnanadlu nicotin mewn ffordd wahanol, oherwydd bod eu niwed nhw yn wahanol a'u heffeithiau nhw ar y cyhoedd yn wahanol. Ond rwyf wedi cael fy argyhoeddi yn ystod cymryd tystiolaeth fod yna risg i ail-normaleiddio'r weithred o ysmegu neu fewnanadlu drwy ddefnyddio dyfeisiadau mewnanadlu nicotin mewn rhai mannau cyhoeddus, yn enwedig lle mae plant a phobl ifanc yn bresennol.

[29] Felly, fe fyddaf i yn pleidleisio heddiw i gefnogi'r gwelliannau hynny, ac i ganiatáu'r gwelliannau hynny, sy'n tynnu'r gwaharddiad llawn o ddefnydd o ddyfeisiadau mewnanadlu nicotin mewn mannau cyhoeddus, ond hefyd yn cefnogi'r gwelliannau sydd wedi cael eu cyflwyno gan y Llywodraeth i gyflwyno gwaharddiadau rhannol mewn llefydd penodol o ddefnydd o ddyfeisiadau mewnanadlu nicotin. Rwyf wedi cael fy mherswadio ei bod hi'n bwysig i fod yn cyflwyno, drwy ddeddfwriaeth, gwaharddiad mewn lleoedd penodol, ac rwy'n gwerthfawrogi'n fawr fod y Llywodraeth wedi symud ei safbwynt o'i safbwynt cychwynol i dderbyn y ffaith y dylid edrych ar waharddiadau gwahanol ar gyfer sigarêts traddodiadol i'r dyfeisiadau mewnanadlu nicotin.

same as the ban on smoking traditional cigarettes, and that there is a need to treat traditional cigarettes and nicotine inhaling devices in a different manner, because their harm is different and their effects on the public are different. But I have been convinced during evidence sessions that there is a risk of renormalizing the act of smoking or inhaling through the use of nicotine inhaling devices in some public places, in particular where children and young people are present.

Therefore, I will be voting today to support those amendments, and to allow those amendments, that remove the full ban on the use of nicotine inhaling devices in public places, but also will support the amendments that have been presented by the Government to introduce partial bans in specific areas on the use of nicotine inhaling devices. I have been persuaded that it is important to introduce, through legislation, a ban in specific places, and I greatly appreciate the fact that the Government has moved from its initial position to accept the fact that different bans should be looked at in relation to smoking traditional cigarettes and nicotine inhaling devices.

[30] **David Rees:** Thank you. Lindsay.

[31] **Lindsay Whittle:** Thank you, Chair. We have heard some very compelling evidence throughout this entire inquiry, and I have to say that this is a very good public health Bill. I do think, however, that this priority is, perhaps, not my top priority. I have been persuaded by the evidence we've heard from those people who inform us that these e-cigarettes are helping people come away from tobacco. I'm not a smoker; I've never smoked and I despise the habit, if I'm being honest, but I think this is a bit of a sledgehammer to crack a nut. For those reasons, that'll be the reason why I'm not supporting the Minister on this particular amendment that Kirsty Williams has put forward.

[32] I have to say I've also been persuaded by the very many e-mails, letters and telephone calls I've received from constituents who tell me that, since they have been on e-cigarettes, they feel much healthier, they're able to walk further, and I have a very sneaking suspicion that, in five, 10, 15 years' time—I don't know what the date will be because I'm not an expert—we will see a peak in those people suffering from cancer in this country, and I think it will be down to e-cigarettes. I could never predict when there will be a downturn in those suffering from cancer, but I believe that this will help a lot of people come off tobacco, which is an evil substance, and for that reason I'm supporting Kirsty Williams.

[33] **David Rees:** Thank you, Lindsay. Lynne.

[34] **Lynne Neagle:** Thanks, Chair. As members of the committee know, I shared many of the serious concerns about placing e-cigarettes on the same basis as tobacco cigarettes on the basis of the evidence that we received. But, like Elin, I am also very concerned about the risks of normalising the use of nicotine inhaling devices, particularly in environments where there are lots of children. So, for that reason, I very much welcome the measures that the Minister is bringing forward today, which are a good compromise, I think, that will allow us to ensure that children are protected, but also enable people to continue to use these devices to give up smoking.

[35] **David Rees:** Thank you. Alun.

[36] **Alun Davies:** I share some of the points that have been made by Members on different sides of the argument, in fact. I think that e-cigarettes

do help people give up smoking, and there has been, as Lindsay's indicated, an improvement—anecdotally, we've seen an improvement—in the health of people, and certainly their reported health, as a consequence of giving up tobacco. My concern is that we do not go back, as Lynne has said, and I think as Elin has said, down the road where we re-normalise smoking tobacco as a publicly acceptable activity within enclosed spaces and within areas where children and young people will pick up the habit. So, I think we do need to ensure that we walk away from our past, and ensure that we do put in place a regulatory and statutory regime that does prevent re-normalisation of smoking in society.

[37] My concern with amendment 4, which is being proposed by Kirsty Williams, is that that amendment, if passed this morning, would not allow us to put any regulatory regime in place. It would take away all opportunities for us to have further discussions on where that regulation takes place, and in what places that regulation takes place. So, I think, from my perspective, if you're looking for a richer debate, if you like, about where and when we would regulate the use of e-cigarettes, amendment 4 would preclude and prevent that debate from taking place. So, I will certainly be supporting the Government in voting down amendment 4.

[38] **David Rees:** Do any other Members wish to speak? No. Then, Minister.

[39] **Mark Drakeford:** Chair, thank you very much. As this is the first group of amendments, can I begin by thanking members of the committee and other committees who considered the Bill at Stage 1, and for the very useful reports that emanated from those considerations? The vast bulk of amendments that the Government will propose this morning fall into two categories. Either we are bringing amendments before you that respond directly to recommendations made in those reports, or we are proposing amendments of a relatively technical and tidying-up nature.

[40] Can I thank Kirsty Williams for the way she introduced her amendments? I thought it was a sober account of where she has come to in the debate. I differ from her. As she said, there is evidence on different sides of the argument in relation to nicotine inhaling devices. The Government's position throughout has been to preserve the potential health gain that can come from them, and there's nothing in this Bill that prevents people from using e-cigarettes in the bulk of places where they would wish to use them. But there are potential harms with e-cigarettes as well, in re-normalising the use of conventional tobacco, in acting as a gateway product for young

people, and making the enforcement of the very successful tobacco regime we have instituted in Wales more difficult.

[41] Our amendments are designed, therefore, to allow the advantage that may be there from e-cigarettes to go on being obtained while preventing harm that need never happen. As I've said repeatedly in this debate, as the Minister with the responsibility for the health of people in Wales, I am not prepared to sit back and hope that, in five or 10 years' time, the evidence will have emerged that harm hasn't happened. I would not want to be sitting here when people are asking us why, when we had the chance to act to prevent harm, we failed to take it, and that's what the Government amendments are about today.

[42] So, to turn to the detail of them, Chair, as you've heard, there are three potential different regimes in relation to nicotine inhaling devices in front of the committee today. There is the original set of proposals, as in the Bill as first brought before you. Secondly, there is a regime that amends the Bill in response to a suggestion from some members of this committee that chapter 1 of Part 2 of the Bill is amended to treat e-cigarettes and tobacco cigarettes differently. Then, there is the third potential regime—the position proposed by Kirsty Williams—which would be to impose no restrictions at all on the use of e-cigarettes in public places in Wales.

[43] The Government amendments seek to create the second of those possibilities and the revised Government approach is immediately apparent from the changes to the very first section of the Bill. My amendment 143 makes it clear in the overview section of the Bill that nicotine inhaling devices are to be treated separately to smoking. This means that, while smoking is restricted in all public places and workplaces, nicotine inhaling device use is to be restricted only in specific premises and vehicles, and those will be the places where the risk is highest of renormalisation of smoking for children and young people. This amendment is essential for the introduction of the proposed new regime, in which premises where the use of nicotine inhaling devices is restricted will be listed on the face of the Bill.

[44] By contrast, non-Government amendments 1 to 3 remove all references to NIDs from the overview and the long title of the Bill, and amendments 4, 5 and 11 to 16 remove all mention of them from other sections. The effect, as we would have heard, will be to allow the use of e-cigarettes anywhere and everywhere, and that approach will be opposed by the Government today.



[45] Amendments 145, 146 and 147, tabled in my name, provide clarity on the definition of a nicotine inhaling device and what is meant by 'using a nicotine inhaling device'. Specifically, amendment 145 makes it clear that devices that are used for the inhalation of nicotine, or can be adapted for such a purpose, are captured by the provisions. Refillable nicotine inhaling devices are therefore captured, whether or not they are filled with liquid containing nicotine.

[46] Amendments 146 and 147 provide further clarity to definitions within the Bill. Amendment 146 makes it clear that any devices actually being used for smoking are excluded from the definition of a nicotine inhaling device. Amendment 147 ensures that a person will be considered to be using such a device when the nicotine inhaling device creates a vapour or an aerosol.

[47] Amendment 148 will allow the Welsh Ministers, when specifying further inhaling devices as falling within the definition of a 'nicotine inhaling device', to make different provision for different types of substances. If Welsh Ministers wish to use those powers, it will be through regulations that will be made under the affirmative procedure.

[48] Chair, the Government amendments in this group start the transition to a revised approach to nicotine inhaling devices in the Bill. They are essential to the creation of that new regime, which we will reach in detail in group 6 today. I ask Members to support the Government amendments.

[49] **David Rees:** Thank you, Minister. I call on Kirsty Williams to reply to the debate.

[50] **Kirsty Williams:** Thank you very much and could I thank Members for their comments this morning? Could I say, I agree with Elin Jones?

10:00

[51] It would have been preferable to me if the Government had decided to remove these provisions around nicotine inhaling devices from the Bill and sought to bring forward a separate piece of legislation. I think that would have been a better approach from the Government. There is much in the Bill that I support, but the inclusion of these particular measures, I think, has the potential to jeopardise the whole piece of legislation, and I think that would be regrettable.

[52] Can I thank Darren Millar and Lindsay Whittle for their support, and echo what Lindsay said about the lived experience of people who use these devices? The ones whom I have spoken to have said that it has enabled them to stop smoking traditional tobacco products, often after many failed attempts to do that. They have been able to successfully use these products to do that and, interestingly, have also used these products to reduce the amount of nicotine they actually take. I think that is to be welcomed.

[53] The Minister says—and I said—that there are arguments on both sides, but what I believe is that the weight of those arguments is significantly different, and it's not fair to equate the weight of the arguments on both sides and the evidence on both sides as, somehow, being equal. That was not the experience of this committee. I'm sure, even if you take a different stance on my amendments, Members would agree on that.

[54] Like Elin and Lynne and the Minister said, we should always be aware of the potential renormalisation of smoking, and we should take every step that we can to ensure that people don't take up traditional tobacco smoking habits. But, in doing that, again, we have to look at the evidence, which did not suggest that these products were a gateway for young people into smoking traditional cigarettes. It simply was not what we were told, and the committee worked very, very hard to try and find that evidence. It simply was not there in a meaningful way to make those arguments.

[55] The Minister says it's his job as the health Minister to prevent harm to the health of the people of Wales. My concern is, in taking the approach that the Minister has towards e-cigarettes and equating them with traditional tobacco products, he will do just that.

[56] **Darren Millar:** Will you take an intervention?

[57] **Kirsty Williams:** Yes. Am I allowed?

[58] **Darren Millar:** Yes, she is allowed, isn't she?

[59] **David Rees:** You are allowed, yes.

[60] **Darren Millar:** I just want to briefly make an intervention because I think this is the integral point, really, to this whole argument. The Minister has tried to present an argument that e-cigarettes may offer a gateway into

smoking. The reality is that, for most people, they're actually a gateway out of smoking, and we could not find any evidence of people starting on e-cigarettes and then taking up smoking as a result.

[61] **David Rees:** That's not an intervention, but a statement.

[62] **Kirsty Williams:** Thank you, Chair. There wasn't the evidence to be seen, and Darren's right: these are a gateway out of harm rather than a gateway into harm. In taking what the Minister says is the precautionary principle, there is a precautionary principle also to be taken to losing out on the opportunity afforded by these products to reduce harm from traditional tobacco. That is my great fear. As I said in the opening group of these amendments, I do not believe the measures contained within this Bill at present, or indeed the measures put forward by the Minister in his amendments to create a different regime, will actually enhance health. It has the potential, actually, to harm health. Just because the Minister has created a separation within law between traditional tobacco cigarettes and nicotine inhaling devices does not mean that that's how the public will view it. What is absolutely important is the perception that people have about these products. Any suggestion that these are the same as tobacco products or as dangerous as tobacco products, we know, will actually affect their take-up and usage. That will lead then to the missed opportunity of securing improvements because we're cutting down on tobacco.

[63] But I'm grateful for the Minister's acknowledgement that they cannot be treated the same, but just because it's written in law it doesn't mean that the public will view it that way. I move the amendments, Chair.

[64] **David Rees:** Thank you, Kirsty. You have confirmed that you wish to move the amendment. So, before we move on to vote on amendment 4, Members will wish to be aware that, if amendment 4 is agreed, then amendments 145, 146 and 147 will fall. So, the question is that amendment 4 be agreed. Does any Member object? [*Objection.*] I have an objection. Therefore, we'll take a vote by a show of hands. Can those in favour of amendment 4 please raise your hands? Thank you. Those against, please raise your hands. Thank you. Abstentions. Thank you. There being five against, four in favour and one abstention, the amendment is not agreed.

*Gwelliant 4: O blaid 4, Yn erbyn 5, Ymatal 1.  
Amendment 4: For 4, Against 5, Abstain 1.*

O blaid:  
For:

Yn erbyn:  
Against:

Ymatal:  
Abstain:

Hussain, Altaf  
Millar, Darren  
Whittle, Lindsay  
Williams, Kirsty

Davies, Alun  
Griffiths, John  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David

Jones, Elin

*Gwrthodwyd gwelliant 4.  
Amendment 4 not agreed.*

*Cynigiwyd gwelliant 145 (Mark Drakeford).  
Amendment 145 (Mark Drakeford) moved.*

[65] **David Rees:** Therefore, we move on to the next amendment. The question is that amendment 145 be agreed to. Does any Member object? [*Objection.*] We have an objection to that. Can we therefore take a vote by show of hands? Can those in favour of amendment 145 please raise your hands? Thank you. Those against. Thank you. In relation to amendment 145, there voted seven in favour and three against. Therefore, the amendment is agreed.

*Gwelliant 145: O blaid 7, Yn erbyn 3, Ymatal 0.  
Amendment 145: For 7, Against 3, Abstain 0.*

O blaid:  
For:

Yn erbyn:  
Against:

Ymatal:  
Abstain:

Davies, Alun  
Griffiths, John  
Jones, Elin  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David  
Whittle, Lindsay

Hussain, Altaf  
Millar, Darren  
Williams, Kirsty

*Derbyniwyd gwelliant 145.  
Amendment 145 agreed.*

*Cynigiwyd gwelliant 146 (Mark Drakeford).  
Amendment 146 (Mark Drakeford) moved.*

[66] **David Rees:** The question is that amendment 146 be agreed to. Does

any Member object? [*Objection.*] I have an objection. Therefore, I'll take a vote by show of hands. Can those in favour of amendment 146 please raise your hands? Thank you. Can those against please raise your hands? Thank you. We have in favour seven and against three, and therefore amendment 146 is agreed.

*Gwelliant 146: O blaid 7, Yn erbyn 3, Ymatal 0.  
Amendment 146: For 7, Against 3, Abstain 0.*

O blaid:	Yn erbyn:	Ymatal:
For:	Against:	Abstain:
Davies, Alun	Hussain, Altaf	
Griffiths, John	Millar, Darren	
Jones, Elin	Williams, Kirsty	
Neagle, Lynne		
Price, Gwyn R.		
Rees, David		
Whittle, Lindsay		

*Derbyniwyd gwelliant 146.  
Amendment 146 agreed.*

*Cynigiwyd gwelliant 147 (Mark Drakeford).  
Amendment 147 (Mark Drakeford) moved.*

[67] **David Rees:** The question is that amendment 147 be agreed to. Does any Member object? There is no objection—[*Objection.*]

[68] **Kirsty Williams:** I'm sorry, Chair. I told you to go slow—I told you to go very slow. [*Laughter.*]

[69] **David Rees:** I'll let you off. There has been an objection. Therefore, I'll take a vote by a show of hands. Can those in favour of amendment 147 please raise your hands? Thank you. Can those against please raise your hands? Thank you. In relation to amendment 147, there voted seven in favour and three against, and therefore the amendment is agreed.

*Gwelliant 147: O blaid 7, Yn erbyn 3, Ymatal 0.  
Amendment 147: For 7, Against 3, Abstain 0.*

O blaid:	Yn erbyn:	Ymatal:
For:	Against:	Abstain:

Davies, Alun  
Griffiths, John  
Jones, Elin  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David  
Whittle, Lindsay

Hussain, Altaf  
Millar, Darren  
Williams, Kirsty

*Derbyniwyd gwelliant 147.  
Amendment 147 agreed.*

[70] **David Rees:** Kirsty, would you like to move amendment 5?

*Cynigiwyd gwelliant 5 (Kirsty Williams, gyda chefnogaeth Darren Millar).  
Amendment 5 (Kirsty Williams, supported by Darren Millar) moved.*

[71] **Kirsty Williams:** I move.

[72] **David Rees:** Thank you. Before we vote on amendment 5, Members should be aware that, if amendment 5 is agreed, then amendment 148 will fall. So, the question is that amendment 5 be agreed to. Does any Member object? [*Objection.*] I have an objection. Therefore, I'll take a vote by a show of hands again. Those in favour of amendment 5, please raise your hands. Thank you. Those against, please raise your hands. Thank you. Abstentions, please. Thank you. In relation to amendment 5, there voted four in favour, five against and one abstention. Therefore, amendment 5 is not agreed.

*Gwelliant 5: O blaid 4, Yn erbyn 5, Ymatal 1.  
Amendment 5: For 4, Against 5, Abstain 1.*

O blaid:  
For:

Yn erbyn:  
Against:

Ymatal:  
Abstain:

Hussain, Altaf  
Millar, Darren  
Whittle, Lindsay  
Williams, Kirsty

Davies, Alun  
Griffiths, John  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David

Jones, Elin

*Gwrthodwyd gwelliant 5.  
Amendment 5 not agreed.*

*Cynigiwyd gwelliant 148 (Mark Drakeford).*

*Amendment 148 (Mark Drakeford) moved.*

[73] **David Rees:** The question is that amendment 148 be agreed to. Does any Member object? [*Objection.*] I have an objection. Therefore, we'll take a vote by a show of hands. Can those in favour of amendment 148 please raise your hands? Thank you. Those against, please raise your hands. Thank you. In relation to amendment 148, there voted seven in favour, three against and therefore amendment 148 is agreed.

*Gwelliant 148: O blaid 7, Yn erbyn 3, Ymatal 0.*

*Amendment 148: For 7, Against 3, Abstain 0.*

O blaid:

Yn erbyn:

Ymatal:

For:

Against:

Abstain:

Davies, Alun

Hussain, Altaf

Griffiths, John

Millar, Darren

Jones, Elin

Williams, Kirsty

Neagle, Lynne

Price, Gwyn R.

Rees, David

Whittle, Lindsay

*Derbyniwyd gwelliant 148.*

*Amendment 148 agreed.*

**Grŵp 2: Troseddau sy'n Ymwneud â'r Defnydd o Ddyfeisiau Mewnanadlu Nicotin mewn Mangroedd a Cherbydau (Gwelliannau 6, 149, 7, 8, 9, 10, 150)**

**Group 2: Offences Relating to the Use of Nicotine Inhaling Devices in Premises and Vehicles (Amendments 6, 149, 7, 8, 9, 10, 150)**

[74] **David Rees:** At this point, we've now reached the amendments in group 2, and group 2 is about offences relating to the use of nicotine inhaling devices in premises and vehicles. The lead amendment in this group is amendment 6 in the name of Kirsty Williams, and I call on Kirsty Williams to move amendment 6 and to speak to the amendments this group.

*Cynigiwyd gwelliant 6 (Kirsty Williams, gyda chefnogaeth Darren Millar).*

*Amendment 6 (Kirsty Williams, supported by Darren Millar) moved.*

[75] **Kirsty Williams:** Thank you, Chair. I formally move the lead amendment in this group, No. 6, and my other amendments in the group are 7, 8, 9 and

10. Once again, the purpose of my amendments is to remove the provisions around nicotine inhaling devices from this legislation. In trying not to repeat the arguments, in the specifics here, we're creating a criminal regime for people, and I think this goes to the heart of my concerns about sending a message to potential users of these devices that what they're doing is a harmful activity—there's something wrong about it. And that, we have seen from some evidence, does have the effect of people not making a choice to switch to different devices because the connotations of having a law that restricts them from doing that send a message to users, we've heard from people who have studied this, and make them feel that the products are equally dangerous and bad, and, therefore, there is no advantage to be gained from moving from one to another.

[76] The other issue I would seek clarity from the Minister—we were told of the fact that, often, people using these devices move down the nicotine chain and have a different nicotine content that lowers as they try to wean themselves off. Actually, you can get to a situation where people are not inhaling nicotine at all, but simply inhaling a vapour, which, they find, addresses their habitual need for the actions of smoking rather than the actual inhaling of nicotine itself. I'm concerned about, in terms of creating a criminal regime, which the amendments from the Government do, how one is to make a distinction between devices.

[77] When we discussed restricting traditional tobacco smoking in public places, it was done on the basis of clear evidence of a harmful impact on the health of a bystander. As individuals, we have the free will to ruin our own health, but the argument was that we did not have the free will to impact upon the health of others. I have always supported legislation in this particular area. If there was scant evidence with regard to the harmful effects of e-cigarettes on people who use them, there is even less evidence to suggest that we are harming the health of people who choose not to do this. For me, it is a very worrisome approach that a Government would seek to try and equate the arguments, the reasons, for banning tobacco and these devices in the same way, when there is no evidence that we have seen during this deliberation that these products are harmful to bystanders, to people in the vicinity. For me, that is a step too far for a Government to take. Therefore, I once again would seek to remove provisions around the restriction of these products out of the legislation completely.

[78] **David Rees:** Thank you. Does any other Member wish to speak on this group of amendments? Darren.



[79] **Darren Millar:** Can I speak in support of the amendments that have been tabled by Kirsty Williams? As I understand it, this group also touches on enforcement-related discussions that we've had at Stage 1 as a committee. Initially, the Minister attempted to provide powerful arguments that it was very difficult to distinguish between an e-cigarette and a traditional cigarette, and that was one of the reasons why the Minister was bringing forward the legislation. But we do know that, increasingly, e-cigarettes are looking very different, now, than the first generation of e-cigs, which were made deliberately to look like tobacco cigarettes. As time has moved on, they're looking more and more—it's much easier to distinguish between the two. So, I do support the amendments that have been tabled in the name of Kirsty Williams, because they reflect that advice that the committee received. So, I support the amendments that have been tabled by Kirsty.

[80] **David Rees:** Does any other Member wish to speak? No. Then I call on the Minister to speak.

[81] **Mark Drakeford:** Thank you, Chair. Once we've moved away from a regime in which restrictions on e-cigarettes and conventional cigarettes are identical, then it becomes necessary to have two separate regimes in relation to offences. Under the revised structure I'm proposing today, the offence of using a nicotine inhaling device in nicotine inhaling device-free premises or vehicles, and the offence of failing to take reasonable steps to prevent the use of such a device in premises or vehicles, will be dealt with separately to the equivalent smoking-related offences.

[82] The specific nicotine inhaling device-free premises that this regime will introduce will be listed in a new Schedule, which will be discussed later as part of group 6 amendments. In this group, amendment 149 creates the offence of using a device in nicotine inhaling device-free premises or vehicles. Offences committed under this new offence will be punishable by a fine not exceeding level 1 on the standard scale; they can also be dealt with by a fixed penalty notice. Amendment 150 creates the offence of failing to take reasonable steps to prevent use of a nicotine inhaling device in nicotine inhaling device-free premises. Offences committed under this new offence would be punishable by a fine not exceeding level 3 on the standard scale.

10:15

[83] Both amendments 149 and 150 provide for defences where the

relevant person did not know, and could not reasonably have been expected to know, that the premises in question were NID-free, or that the relevant person was using a nicotine inhaling device.

[84] Amendment 150 also provides Welsh Ministers with a power to make regulations by the affirmative procedure to place a duty on a person specified in the regulations to prevent the use of a nicotine inhaling device in a nicotine inhaling device-free vehicle.

[85] These amendments create the structure necessary for enforcement action relating to the revised nicotine inhaling device-free premises and vehicle regime proposed by the Government and I ask Members to vote for the Government amendments.

[86] **David Rees:** Thank you, Minister. I call on Kirsty to reply to the debate.

[87] **Kirsty Williams:** Just to thank Darren Millar for his support. I accept that the Minister is trying to create a separate regime, but would repeat the argument that just because it's separate here in a piece of paper, that's not how users of these products will understand that. Therefore, I cannot support them. Thank you.

[88] **David Rees:** Could you just confirm that you wish to proceed to the vote?

[89] **Kirsty Williams:** Yes, please.

[90] **David Rees:** Thank you. The question is that amendment 6 be agreed to. Does any Member object? There are no objections, therefore amendment 6 is agreed.

*Derbyniwyd gwelliant 6 yn unol â Rheol Sefydlog 17.34.*

*Amendment 6 agreed in accordance with Standing Order 17.34.*

**Grŵp 3: Cyfyngiad ar Ysmygu mewn Mannau Chwarae Plant, ar Dir Ysbytai a Thir Ysgolion (Gwelliannau 134, 135, 136, 137, 138, 139, 229)**

**Group 3: Restriction on Smoking in Children's Play Areas, Hospital Grounds and School Grounds (Amendments 134, 135, 136, 137, 138, 139, 229)**

[91] **David Rees:** We move on now to the next amendment on the list, which is in Group 3. Group 3 relates to restricting smoking in children's play

areas, hospital grounds and school grounds. The lead amendment in this group is amendment 134 in the name of Darren Millar. I call on Darren Millar to move amendment 134 and to speak to the amendment and other amendments in this group. Darren.

*Cynigiwyd gwelliant 134 (Darren Millar).*

*Amendment 134 (Darren Millar) moved.*

[92] **Darren Millar:** Thank you, Chair. I move amendment 134 and want to speak to the other amendments which have been tabled in my name, namely 135, 136, 137, 138, 139 and 229.

[93] The primary amendment in this group is amendment 137, which would place a ban on smoking tobacco in children's play areas, hospital grounds and school grounds onto the face of the Bill. I've tabled this after listening to evidence from key stakeholders. The directors of public protection in Wales said that they would be very welcoming of the inclusion of such provisions on the face of the Bill, saying that regulations in playgrounds and children's play areas were critical, really, to the Bill so as not to indicate to our young people that smoking is the norm or acceptable. Of course, that evidence was also supported by Dr Sara Hayes who was here in her capacity as director of public health in Abertawe Bro Morgannwg university health board, and said that she wanted the provisions on the face of the Bill to be extended to smoke-free areas and indeed anywhere where children congregate.

[94] The other amendments in the group, in addition to 137, are simply consequential to that amendment. I do note that the Minister has indicated to the committee that he does intend to bring forward restrictions on tobacco smoking in these areas via regulations, and I do accept that the Bill has regulation-making powers to do that. But given that we're all convinced, given that the committee was convinced—and we set that out in our Stage 1 report—that this is a sensible thing to do, I can see no reason why these restrictions should not be placed onto the face of the Bill. So, I do hope that the Minister will reflect on the position that he's already outlined and that we can agree today that these are places where there ought to be a ban on the face of legislation in this Assembly.

[95] **David Rees:** Thank you, Darren. Are there any other Members who wish to speak on this group of amendments? No. Then I call the Minister.

[96] **Mark Drakeford:** Thank you, Chair. I'll start by saying that I agree entirely with Darren Millar that the open spaces that he's identified should be smoke free and that children should not be exposed to smoking in these areas. As Darren acknowledged, I've been clear throughout the passage of the Bill that it's been my intention to bring forward regulations to prevent smoking in certain non-enclosed spaces, and I provided this committee with drafts of the regulations that I propose to bring forward for illustrative purposes during Stage 1.

[97] Now, while I support the principle behind the amendments, I can't ask Members to support them today, as, in the way that they're drafted, there is no acceptable definition of 'children's play areas', there is no definition, as drafted, of 'play facilities', there is no reference in them to the boundaries of any play area, and, in effect, as drafted, the provisions are unworkable. However, I have listened carefully to what the Member and others have said and am willing to consider bringing forward Government amendments at Stage three. I have to be clear with Members that those Government amendments would make these areas both smoking free and nicotine inhaling device free, because, if the argument that we are advancing today is that the protection of children from the impact of renormalisation is key to all of this, then you certainly would not want to see them being freely used in children's play areas and on school grounds. I'm happy to work with the Member on an amendment for Stage 3, but I just wanted to make clear the basis on which the Government will be taking this forward.

[98] **David Rees:** Thank you, Minister. Darren, do you wish to reply to the debate?

[99] **Darren Millar:** Yes. I'm grateful for the Minister setting out clearly what the Government's position is, and I'm also grateful to him for suggesting that he may be prepared to bring amendments forward at Stage 3 that address my concerns in relation to the smoking of tobacco. I'm disappointed that he wants to extend those provisions that he intends to bring forward to nicotine inhaling devices, for many of the reasons that have already been set out today before the committee. I'm not persuaded by the Government's arguments in relation to nicotine inhaling devices.

[100] I do accept that, perhaps, further definitions could be added, but these can, of course, be added at Stage 3 also. So, I do want to encourage Members to support my amendments and want to put them to the vote today.

[101] **David Rees:** Okay, thank you, Darren. You've clearly confirmed that you wish to move to a vote on amendment 134. So, the question is that amendment 134 be agreed to. Does any Member object? [*Objection.*] I have an objection. Therefore, I will take a vote by a show of hands. Can those in favour of amendment 134 please raise your hands? Thank you. Those against, please raise your hands. Thank you. As there is a tied vote, I use my casting vote in the negative, against the amendment, in accordance with Standing Order 6.20, and, therefore, amendment 134 is not agreed.

*Gwelliant 134: O blaid 5, Yn erbyn 5, Ymatal 0.  
Amendment 134: For 5, Against 5, Abstain 0.*

O blaid:  
For:

Yn erbyn:  
Against:

Ymatal:  
Abstain:

Altaf Hussain  
Elin Jones  
Darren Millar  
Lindsay Whittle  
Kirsty Williams

Alun Davies  
John Griffiths  
Lynne Neagle  
Gwyn R. Price  
David Rees

*Gan fod nifer y pleidleisiau yn gyfartal, defnyddiodd y Cadeirydd ei bleidlais fwrw yn unol â Rheol Sefydlog 6.20(ii).*

*As there was an equality of votes, the Chair used his casting vote in accordance with Standing Order 6.20(ii).*

*Gwrthodwyd gwelliant 134.  
Amendment 134 not agreed.*

*Cynigiwyd gwelliant 149 (Mark Drakeford).  
Amendment 149 (Mark Drakeford) moved.*

[102] **David Rees:** The question is that amendment 149 be agreed to. Does any Member object? [*Objection.*] I have an objection. Therefore, I'll take a vote by a show of hands. Can those in favour of amendment 149 please raise your hands? Thank you. Those against, please raise your hands. Thank you. In relation to amendment 149, there voted seven in favour and three against. Therefore, the amendment is agreed.

*Gwelliant 149: O blaid 7, Yn erbyn 3, Ymatal 0.  
Amendment 149: For 7, Against 3, Abstain 0.*

O blaid:  
For:

Yn erbyn:  
Against:

Ymatal:  
Abstain:

Davies, Alun  
Griffiths, John  
Jones, Elin  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David  
Whittle, Lindsay

Hussain, Altaf  
Millar, Darren  
Williams, Kirsty

*Derbyniwyd gwelliant 149.  
Amendment 149 agreed.*

[103] **David Rees:** Darren, amendment 135.

*Cynigiwyd gwelliant 135 (Darren Millar).  
Amendment 135 (Darren Millar) moved.*

[104] **Darren Millar:** I move.

[105] **David Rees:** Thank you. The question is that amendment 135 be agreed to. Does any Member object? [*Objection.*] I have an objection. Therefore, I'll take a vote by a show of hands. Can those in favour of amendment 135 please raise your hands? Thank you. Can those against please raise your hands. Thank you. Are there any abstentions? [*Interruption.*] In relation to amendment 135, there happened to be four in favour and five against. Therefore, the amendment is not agreed. I appreciate the situation.

*Gwelliant 135: O blaid 4, Yn erbyn 5, Ymatal 0.  
Amendment 135: For 4, Against 5, Abstain 0.*

O blaid:  
For:

Yn erbyn:  
Against:

Ymatal:  
Abstain:

Hussain, Altaf  
Millar, Darren  
Whittle, Lindsay  
Williams, Kirsty

Davies, Alun  
Griffiths, John  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David

*Gwrthodwyd gwelliant 135.*

*Amendment 135 not agreed.*

[106] **David Rees:** Kirsty, amendment 7.

*Cynigiwyd gwelliant 7 (Kirsty Williams, gyda chefnogaeth Darren Millar).  
Amendment 7 (Kirsty Williams, supported by Darren Millar) moved.*

[107] **Kirsty Williams:** I move.

[108] **David Rees:** The question is that amendment 7 be agreed to. Does any Member object? There are no objections. Therefore, amendment 7 is agreed.

*Derbyniwyd gwelliant 7 yn unol â Rheol Sefydlog 17.34.  
Amendment 7 agreed in accordance with Standing Order 17.34.*

[109] **David Rees:** Darren, would you like to move amendment 136?

*Cynigiwyd gwelliant 136 (Darren Millar).  
Amendment 136 (Darren Millar) moved.*

[110] **Darren Millar:** Moved.

[111] **David Rees:** The question is that amendment 136 be agreed to. Does any Member object? [*Objection.*] We have an objection. Therefore, I'll take a vote by a show of hands. Can those in favour of amendment 136 please raise your hands? Thank you. Those against, please raise your hands. Thank you. As it's a tied vote, I use my casting vote against the amendment in accordance with Standing Order 6.20. Therefore, the amendment is not agreed.

*Gwelliant 136: O blaid 5, Yn erbyn 5, Ymatal 0.  
Amendment 136: For 5, Against 5, Abstain 0.*

O blaid:  
For:

Hussain, Altaf  
Jones, Elin  
Millar, Darren  
Whittle, Lindsay  
Williams, Kirsty

Yn erbyn:  
Against:

Davies, Alun  
Griffiths, John  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David

Ymatal:  
Abstain:

*Gan fod nifer y pleidleisiau yn gyfartal, defnyddiodd y Cadeirydd ei bleidlais fwrw yn unol â Rheol Sefydlog 6.20(ii).*

*As there was an equality of votes, the Chair used his casting vote in accordance with Standing Order 6.20(ii).*

*Gwrthodwyd gwelliant 136.*

*Amendment 136 not agreed.*

[112] **David Rees:** Kirsty, would you like to move amendment 8?

*Cynigiwyd gwelliant 8 (Kirsty Williams, gyda chefnogaeth Darren Millar).*

*Amendment 8 (Kirsty Williams, supported by Darren Millar) moved.*

[113] **Kirsty Williams:** I move.

[114] **David Rees:** The question is that amendment 8 be agreed to. Does any Member object? There are no objections, therefore amendment 8 is agreed.

*Derbyniwyd gwelliant 8 yn unol â Rheol Sefydlog 17.34.*

*Amendment 8 agreed in accordance with Standing Order 17.34.*

[115] **David Rees:** Kirsty, amendment 9.

*Cynigiwyd gwelliant 9 (Kirsty Williams, gyda chefnogaeth Darren Millar).*

*Amendment 9 (Kirsty Williams, supported by Darren Millar) moved.*

[116] **Kirsty Williams:** I move.

[117] **David Rees:** The question is that amendment 9 be agreed to. Does any Member object? There are no objections, therefore amendment 9 is agreed.

*Derbyniwyd gwelliant 9 yn unol â Rheol Sefydlog 17.34.*

*Amendment 9 agreed in accordance with Standing Order 17.34.*

[118] **David Rees:** Kirsty, amendment 10.

*Cynigiwyd gwelliant 10 (Kirsty Williams, gyda chefnogaeth Darren Millar).*

*Amendment 10 (Kirsty Williams, supported by Darren Millar) moved.*

[119] **Kirsty Williams:** I move.



[120] **David Rees:** The question is that amendment 10 be agreed to. Does any Member object? There are no objections, therefore amendment 10 is agreed.

*Derbyniwyd gwelliant 10 yn unol â Rheol Sefydlog 17.34.  
Amendment 10 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 150 (Mark Drakeford).  
Amendment 150 (Mark Drakeford) moved.*

[121] **David Rees:** The question is that amendment 150 be agreed to. Does any Member object? [*Objection.*] I have an objection, therefore I will take a vote by show of hands. Can those in favour of amendment 150, please raise your hands? Thank you. Those against, please raise your hands. Thank you. In relation to amendment 150, there voted seven in favour and three against and therefore, the amendment is agreed.

*Gwelliant 150: O blaid 7, Yn erbyn 3, Ymatal 0.  
Amendment 150: For 7, Against 3, Abstain 0.*

O blaid:	Yn erbyn:	Ymatal:
For:	Against:	Abstain:
Davies, Alun	Hussain, Altaf	
Griffiths, John	Millar, Darren	
Jones, Elin	Williams, Kirsty	
Neagle, Lynne		
Price, Gwyn R.		
Rees, David		
Whittle, Lindsay		

*Derbyniwyd gwelliant 150  
Amendment 150 agreed.*

**Grŵp 4: Ysmygu a'r Defnydd o Ddyfeisiau Mewnanadlu Nicotin—Dehongli  
(Gwelliannau 151, 152, 153, 27, 170, 171, 172, 28, 29 a 173)  
Group 4: Smoking and Use of Nicotine Inhaling Devices—Interpretation  
(Amendments 151, 152, 153, 27, 170, 171, 172, 28, 29 and 173)**

[122] **David Rees:** That moves us on to group 4, which is about the interpretation of provisions relating to nicotine inhaling devices. The lead amendment in this group is amendment 151 in the name of the Minister. I move amendment 151 in the name of the Minister and call on the Minister to

speak to the amendments in this group.

*Cynigiwyd gwelliant 151 (Mark Drakeford).*

*Amendment 151 (Mark Drakeford) moved.*

[123] **Mark Drakeford:** Thank you, Chair. This is a further group of amendments that lays the ground for the new regime being advanced by the Government today and which we will come to in group 6. This group of amendments is mainly technical in nature. They aim to provide further clarity to the meaning of particular terms applying to both smoke-free and nicotine inhaling device-free provisions and so aid in the administration of them.

[124] Amendment 27 provides a definition of a 'partnership', which ensures that limited liability partnerships are not captured within the definition of 'partnership' in relation to the issuing of fixed penalty notices. The significant difference between a 'partnership' and 'limited liability partnership' is that the partners in a limited liability partnership are not personally liable for debts that the business cannot pay. Their liability is limited to the amount of money they invest in their business. General partners that form a business partnership can be personally liable for all of the partnerships' debts. Limited liability partnerships may be issued with fixed penalty notices by virtue of being a person.

[125] Amendment 170 defines a 'child' as meaning a person under the age of 18 and amendment 171 provides additional clarity about the meaning of the term 'school', which is consistent with that in the Education Act 1996. Amendments 28, 29 and 173 provide clarity to some definitions, specifically that references in chapter 1 of Part 2 to premises or vehicles that are not smoke free are to premises that are not smoke free by virtue of that chapter.

[126] Amendment 151 removes the power to make regulations to define what is meant by 'enclosed' and 'substantially enclosed' in section 6 and this is inserted more appropriately elsewhere by amendment 173, which is also in this group.

[127] Amendment 152 removes the definition of 'vehicle' from section 9 and that again is inserted more appropriately elsewhere by amendment 172 in this group, and the term 'vehicle' includes trains, trams, vessels, hovercraft and aircraft. I ask Members to support these amendments.

[128] **David Rees:** Thank you, Minister. Does any Member wish to speak on

these amendments? I have no speakers. Therefore, Minister, I don't think you wish to say anything else.

[129] **Mark Drakeford:** No.

[130] **David Rees:** Therefore we move to a vote on amendment 151. The question is that amendment 151 be agreed. Does any Member object? [*Objection.*] I have an objection, therefore we will take a vote by show of hands. Those in favour of amendment 151, please raise your hands. Thank you. Those against, please raise your hands. Thank you. In relation to amendment 151, there voted seven in favour and three against. Therefore the amendment is agreed.

*Gwelliant 151: O blaid 7, Yn erbyn 3, Ymatal 0.  
Amendment 151: For 7, Against 3, Abstain 0.*

O blaid:  
For:

Yn erbyn:  
Against:

Ymatal:  
Abstain:

Davies, Alun  
Griffiths, John  
Jones, Elin  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David  
Whittle, Lindsay

Hussain, Altaf  
Millar, Darren  
Williams, Kirsty

*Derbyniwyd gwelliant 151  
Amendment 151 agreed.*

[131] **David Rees:** We now move back to the marshalled list. Darren, would you like to move amendment 137?

*Cynigiwyd gwelliant 137 (Darren Millar).  
Amendment 137 (Darren Millar) moved.*

[132] **Darren Millar:** I move.

[133] **David Rees:** The question is that amendment 137 be agreed to. Does any Member object? [*Objection.*] I have an objection, therefore I will take a vote by show of hands. Those in favour of amendment 137, please raise your hands. Thank you. Those against, please raise your hands. Thank you. As there is a tied vote, I use my casting vote in the negative against the

amendment in accordance with Standing Order 6.20 and therefore amendment 137 is not agreed.

*Gwelliant 137: O blaid 5, Yn erbyn 5, Ymatal 0.  
Amendment 137: For 5, Against 5, Abstain 0.*

O blaid:	Yn erbyn:	Ymatal:
For:	Against:	Abstain:
Hussain, Altaf	Davies, Alun	
Millar, Darren	Griffiths, John	
Jones, Elin	Neagle, Lynne	
Whittle, Lindsay	Price, Gwyn R.	
Williams, Kirsty	Rees, David	

*Gan fod nifer y pleidleisiau yn gyfartal, defnyddiodd y Cadeirydd ei bleidlais fwrw yn unol â Rheol Sefydlog 6.20(ii).  
As there was an equality of votes, the Chair used his casting vote in accordance with Standing Order 6.20(ii).*

*Gwrthodwyd gwelliant 137.  
Amendment 137 not agreed.*

[134] **David Rees:** Darren, amendment 138.

*Cynigiwyd gwelliant 138 (Darren Millar).  
Amendment 138 (Darren Millar) moved.*

[135] **Darren Millar:** I move.

[136] **David Rees:** The question is that amendment 138 be agreed to. Does any Member object? [*Objection.*] I have an objection, therefore I will take a vote by show of hands. Can those in favour of amendment 138, please raise your hands? Thank you. Those against, please raise your hands. Thank you. As there is a tied vote, I use my casting vote in the negative against the amendment in accordance with Standing Order 6.20 and therefore amendment 138 is not agreed.

*Gwelliant 138: O blaid 5, Yn erbyn 5, Ymatal 0.  
Amendment 138: For 5, Against 5, Abstain 0.*

O blaid:	Yn erbyn:	Ymatal:
For:	Against:	Abstain:

Altaf Hussain  
Darren Millar  
Elin Jones  
Lindsay Whittle  
Kirsty Williams

Alun Davies  
John Griffiths  
Lynne Neagle  
Gwyn Price  
David Rees

*Gan fod nifer y pleidleisiau yn gyfartal, defnyddiodd y Cadeirydd ei bleidlais fwrw yn unol â Rheol Sefydlog 6.20(ii).*

*As there was an equality of votes, the Chair used his casting vote in accordance with Standing Order 6.20(ii).*

*Gwrthodwyd gwelliant 138.*

*Amendment 138 not agreed.*

**Grŵp 5: Smoke-free Premises and Vehicles (Gwelliannau 18, 19, 20, 21, 22)**

**Group 5: Mangroedd a Cherbydau Di-fwg (Amendments 18, 19, 20, 21, 22)**

[137] **David Rees:** We now move on to group 5, which relates to smoke-free premises and vehicles. The lead amendment in this group is amendment 18 in the name of the Minister. I move amendment 18 in the name of the Minister and call on the Minister to speak to amendment 18 and to the other amendments in this group.

10:30

*Cynigiwyd gwelliant 18 (Mark Drakeford).*

*Amendment 18 (Mark Drakeford) moved.*

[138] **Mark Drakeford:** Thank you, Chair. The Bill restates the smoke-free provisions of the Health Act 2006 insofar as it applies to Wales, and there's been widespread acknowledgment of the success of these provisions. In restating the provisions in this Bill, we are taking the opportunity to bring in front of the committee a small number of largely technical amendments, which will refine and provide further clarity to the smoke-free requirements. So, there are no nicotine-inhaling-device amendments in this group; they are simply in relation to smoke-free provisions.

[139] Amendment 20 provides that the Welsh Ministers may make regulations to designate the non-enclosed parts of dwellings as being smoke-free, but only in limited circumstances. Any regulations brought forward will be subject to the affirmative procedure. Those circumstances

could be where the gardens or grounds are work places or are open to the public. Further, the regulations must provide that the gardens or grounds are only smoke-free when they are used as work places or are open to the public, and then only when a child is present. The Welsh Ministers may not designate any other parts of private dwellings as additional smoke-free premises. The power may be used, for example, to designate the garden of a dwelling being used for the purposes of professional childcare as smoke free, but only when childcare is being provided.

[140] Amendment 18 refers to additional smoke-free premises and clarifies that regulations may provide for a conditional exemption from the smoke-free requirements, and that one of the conditions may be that it is imposed that the manager of the premises designates an area in which smoking is permitted. Amendment 21 makes similar provision to amendment 18. Amendment 22 relates to the signage requirements of any places designated for smoking within smoke-free premises and vehicles and additional smoke-free premises. It sets out that signage may be required to indicate clearly that smoking is permitted within the designated place. For example, were a designated place to be identified within hospital grounds by a manager of those premises, the signs would make it clear that smoking is allowed in that designated area. That will provide clarity for the public and for those responsible for the enforcement of the provisions.

[141] These amendments are drafting changes that add additional clarity to the nature of conditional exemptions, which are already provided for in the Health Act 2006, and I ask Members to support them.

[142] **David Rees:** Thank you, Minister. Are there any other Members who wish to speak? Darren.

[143] **Darren Millar:** Can I briefly speak? It's just to ask for further clarification from the Minister when he sums up this debate. I've listened to what you've said about people's place of work, an individual's home. I just want to clarify: the Minister has suggested, in an example that he provided about a childcare business operating from somebody's home, that the smoke-free regulations may only apply when children are present. Does he acknowledge though that there is residual harm from tobacco in the atmosphere after smoking has taken place for what can be quite a lengthy period of time, depending on the tobacco that has been burnt? Therefore, will he clarify the Government's position on that because I'm not sure I'm persuaded by his arguments?

[144] **David Rees:** Okay; thank you, Darren. Are there any other Members who wish to speak? No. Minister, if you'd like to reply.

[145] **Mark Drakeford:** Thank you, Chair. So, to reply to Darren's point directly, to be clear, the additional smoke-free place that I'm referring to does not cover all those that are already covered, because anything that's enclosed, or substantially enclosed, is already covered. This will be extending the ban to an open space. I acknowledge that, even in open spaces, the harm that can be created by tobacco smoke lingers in the atmosphere, but, of course, it is to a much lesser extent than in an enclosed space. What we run into here are arguments around human rights compliance and the balancing of competing rights, which we've rehearsed many times in the Bill. We think that our proposals strike a proportionate balance. It guarantees that the harm that Darren pointed to could not occur when children are present because they are more vulnerable even to remaining smoke. But, when children are not present and when premises are not being used for work purposes, then the human rights arguments tend to sway back towards the rights of the dweller—the person whose house this is and who is living there—and there would be no restrictions that this Bill could impose on people from using a tobacco cigarette in the garden once work and children were not part of that regime.

[146] **David Rees:** Thank you, Minister. Minister, do you wish to proceed to a vote on amendment 18?

[147] **Mark Drakeford:** Please, Chair.

[148] **David Rees:** Thank you. The question is that amendment 18 be agreed to. Does any Member object? There are no objections, therefore amendment 18 is agreed.

*Derbyniwyd gwelliant 18 yn unol â Rheol Sefydlog 17.34.*

*Amendment 18 agreed in accordance with Standing Order 17.34.*

[149] **David Rees:** We now move back to the marshalled list. Kirsty, would you like to move to a vote on amendment 11?

*Cynigiwyd gwelliant 11 (Kirsty Williams gyda chefnogaeth Darren Millar).*

*Amendment 11 (Kirsty Williams supported by Darren Millar) moved.*

[150] **Kirsty Williams:** I move.

[151] **David Rees:** The question is that amendment 11 be agreed to. Does any Member object? There are no objections, therefore amendment 11 is agreed.

*Derbyniwyd gwelliant 11 yn unol â Rheol Sefydlog 17.34.*

*Amendment 11 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 19 (Mark Drakeford).*

*Amendment 19 (Mark Drakeford) moved.*

[152] **David Rees:** The question is that amendment 19 be agreed to. Does any Member object? No objections, therefore amendment 19 is agreed.

*Derbyniwyd gwelliant 19 yn unol â Rheol Sefydlog 17.34.*

*Amendment 19 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 20 (Mark Drakeford).*

*Amendment 20 (Mark Drakeford) moved.*

[153] **David Rees:** The question is that amendment 20 be agreed to. Does any Member object? No objections, therefore amendment 20 is agreed.

*Derbyniwyd gwelliant 20 yn unol â Rheol Sefydlog 17.34.*

*Amendment 20 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 152 (Mark Drakeford).*

*Amendment 152 (Mark Drakeford) moved.*

[154] **David Rees:** The question is that amendment 152 be agreed to. Does any Member object? No objections, therefore amendment 152 is agreed.

*Derbyniwyd gwelliant 152 yn unol â Rheol Sefydlog 17.34.*

*Amendment 152 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 153 (Mark Drakeford).*

*Amendment 153 (Mark Drakeford) moved.*

[155] **David Rees:** The question is that amendment 153 be agreed to. Does any Member object? No objections, therefore amendment 153 is agreed.



*Derbyniwyd gwelliant 153 yn unol â Rheol Sefydlog 17.34.  
Amendment 153 agreed in accordance with Standing Order 17.34.*

[156] **David Rees:** Darren, amendment 139.

*Cynigiwyd gwelliant 139 (Darren Millar).  
Amendment 139 (Darren Millar) moved.*

[157] **Darren Millar:** I move.

[158] **David Rees:** The question is that amendment 139 be agreed to. Does any Member object? [*Objection.*] I have an objection, therefore I'll take a vote by show of hands. Can those in favour of amendment 139 please raise your hands? Thank you. And those against, please raise your hands. Thank you. As there's a tied vote, I use my casting vote in the negative against the amendment in accordance with Standing Order 6.20, and therefore amendment 139 is not agreed.

*Gwelliant 139: O blaid 5, Yn erbyn 5, Ymatal 0.  
Amendment 139: For 5, Against 5, Abstain 0.*

O blaid:  
For:

Yn erbyn:  
Against:

Ymatal:  
Abstain:

Hussain, Altaf  
Jones, Elin  
Millar, Darren  
Whittle, Lindsay  
Williams, Kirsty

Davies, Alun  
Griffiths, John  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David

*Gan fod nifer y pleidleisiau yn gyfartal, defnyddiodd y Cadeirydd ei bleidlais  
fwrw yn unol â Rheol Sefydlog 6.20(ii).  
As there was an equality of votes, the Chair used his casting vote in  
accordance with Standing Order 6.20(ii).*

*Gwrthodwyd gwelliant 139.  
Amendment 139 not agreed.*

*Cynigiwyd gwelliant 21 (Mark Drakeford).  
Amendment 21 (Mark Drakeford) moved.*

[159] **David Rees:** The question is that amendment 21 be agreed to. Does any Member object? No objections, therefore amendment 21 is agreed.

*Derbyniwyd gwelliant 21 yn unol â Rheol Sefydlog 17.34.  
Amendment 21 agreed in accordance with Standing Order 17.34.*

[160] **David Rees:** Kirsty, amendment 12.

*Cynigiwyd gwelliant 12 (Kirsty Williams gyda chefnogaeth Darren Millar).  
Amendment 12 (Kirsty Williams supported by Darren Millar) moved.*

[161] **Kirsty Williams:** I move.

[162] **David Rees:** The question is that amendment 12 be agreed to. Does any Member object? No objections, therefore amendment 12 is agreed.

*Derbyniwyd gwelliant 12 yn unol â Rheol Sefydlog 17.34.  
Amendment 12 agreed in accordance with Standing Order 17.34.*

[163] **David Rees:** Kirsty, amendment 13.

*Cynigiwyd gwelliant 13 (Kirsty Williams gyda chefnogaeth Darren Millar).  
Amendment 13 (Kirsty Williams supported by Darren Millar) moved.*

[164] **Kirsty Williams:** Move.

[165] **David Rees:** The question is that amendment 13 be agreed to. Does any Member object? No objections, therefore amendment 13 is agreed.

*Derbyniwyd gwelliant 13 yn unol â Rheol Sefydlog 17.34.  
Amendment 13 agreed in accordance with Standing Order 17.34.*

**Grŵp 6: Mangreoedd a Cherbydau Di-ddyfais Mewnanadlu Nicotin  
(Gwelliannau 154, 221, 155, 156, 157, 158)**

**Group 6: Nicotine Inhaling Device-free Premises and Vehicles (Amendments  
154, 221, 155, 156, 157, 158)**

[166] **David Rees:** That moves us on to group 6, and group 6 relates to nicotine inhaling device-free premises and vehicles. The lead amendment in this group is amendment 154 in the name of the Minister. I move amendment 154 in the name of the Minister, and call on the Minister to

speak to this amendment and others in the group. Minister.

*Cynigiwyd gwelliant 154 (Mark Drakeford).*

*Amendment 154 (Mark Drakeford) moved.*

[167] **Mark Drakeford:** Thank you, Chair. In this group, we come to the heart of the new, more focused and precise regime that the Bill now aims to establish in relation to restrictions on the use of nicotine inhaling devices. If these amendments succeed today, it's my intention to bring further amendments forward at Stage 3 to complete the new approach on which the Government is now embarked.

[168] Chair, I hope the committee will understand that because this is such a fundamental part of the Bill, I'm going to explain it in more detail than I otherwise would, because it is new, it's in front of you for the first time and I want to do my best to make sure that I'm setting out for you the way in which the new regime is intended to work.

[169] So, the amendments in this group provide details of the premises in which the use of a nicotine inhaling device would now be prohibited. The relevant NID-free premises are listed in a new Schedule that is created by the amendments. This sets out clearly the revised approach to the use of nicotine inhaling devices in public places in Wales, as advocated by some members of the committee. The premises identified in the Schedule as being free of nicotine inhaling devices are those public places where children are most likely to be present on a regular basis, and where smoking has already been de-normalised due to the smoke-free requirements. Restricting the use of NIDs in these premises therefore meets the objective of the alternative approach of reducing the risk of re-normalising smoking for children and young people.

[170] In identifying the premises listed in the Schedule, careful consideration has been given to the types of premises identified and whether the managers of those premises should be able to designate areas in which the use of a nicotine inhaling device may still be permitted. Consideration was also given to whether any particular types of premises should not be required to be free of nicotine inhaling devices because children are not permitted to enter the premises, or because the likelihood of children being present is very low. Where we have identified premises that fall within that category, an exemption has been provided for them.

[171] Amendment 154 inserts a new section to introduce the Schedule of NID-free premises and amendment 221 inserts the new Schedule. The Schedule has four Parts. Part 1 lists those premises that are to be nicotine inhaling device-free and the extent to which they are to be so free. The premises included in Part 1 as a result of these amendments are premises that provide childcare, premises that are those of schools and further education institutions, food establishments and public transport facilities. It's my intention, as I said, to bring forward further amendments at Stage 3 to add to this part of the Schedule. But, for this morning, I will just briefly explain some detail in relation to each of those four categories of premises. All of these premises are listed within Part 1 of the Schedule.

[172] First of all, premises that provide childcare are to be NID-free, but only in those parts of the premises that are enclosed or substantially enclosed and are used for the provision of childcare. They are only to be free of nicotine inhaling devices for the duration that childcare is being provided. Schools and FE institutions are to be NID-free, but only in the enclosed and substantially enclosed areas of those premises, and only when they are being used for the provision of education. Food establishments are to be required to be nicotine inhaling device-free, but only in the enclosed and substantially enclosed areas of those premises and only those areas that are open to the public, and only when open to the public. Premises licensed for the sale of alcohol, but from which unaccompanied children are prohibited—so-called 'wet-only pubs'—are not captured by these definitions. Public transport facilities are required to be NID-free, but only in the areas that are open to the public and only when open to the public. That completes the list that these amendments bring forward in Part 1 of the Schedule.

[173] Part 2 of the Schedule lists those premises that are to be free of nicotine inhaling devices, but where the managers may designate an area where NID use may be permitted. Hospitals are inserted in this part of the Schedule by these amendments.

[174] Amendment 155 therefore provides that a manager of the NID-free premises listed in Part 2 of the Schedule is able to designate an area within their premises where nicotine inhaling devices could be permitted, for example, for smoking cessation purposes. That's why hospitals are identified in Part 2 of the Schedule. The Welsh Ministers are provided with the power to specify in regulations, subject to the affirmative procedure, the conditions that should be met in order for a designation to be a valid one.

[175] Part 3 of the Schedule lists those premises that are provided with a general exemption to the NID-free requirement. So these are places where there will be no restrictions on the use of a nicotine inhaling device. Adult hospices and adult care homes are listed in this part of the Schedule. A general exemption in Part 3 has been provided for dwellings, unless those dwellings are being used for professional childcare. This reflects the concern of some committee members in the Stage 1 report that restricting the use of e-cigarettes in a dwelling that is a workplace goes beyond the Assembly's margin of appreciation. Dwellings from which professional childcare services are provided have been excluded from the general exemption, but only when, and in the parts where, those services are provided. I believe that this now strikes the right balance between the right to use an e-cigarette in someone's own home and the need to protect children.

[176] Part 4 of the Schedule provides additional clarity by defining terms used in the Schedule that are not defined elsewhere in the Bill.

[177] Chair, the new section inserted by amendment 154 also gives the Welsh Ministers the powers to make regulations to add, remove or vary references to premises in the Schedule. But these regulations will be subject to the affirmative procedure and will allow them full consideration by the National Assembly.

10:45

[178] In any case, premises may only be added to the Schedule if they are already smoke-free premises—they can't go beyond places where smoke-free premises are already created—and Welsh Ministers will have to be satisfied that in doing so, creating a restriction would be likely to contribute towards the health of the people of Wales.

[179] Restrictions on the use of a nicotine inhaling device in vehicles used for public and school transport are addressed by Amendment 156. Amendment 157 inserts a new section that provides the Welsh Ministers with the power to make regulations by the affirmative procedure to specify additional vehicles in which the use of a nicotine inhaling device is prohibited. But there again, additional vehicles may only be made NID-free if they are already smoke-free vehicles, and, again, Welsh Ministers would have to be satisfied that in doing so such additional prohibition would be likely to contribute towards the health of the people of Wales.

[180] Nicotine inhaling device-free signage is addressed by amendment 158. It inserts a new section that places a duty on managers of nicotine inhaling device-free premises to display signs to identify the premises as being so free, in accordance with regulations to be made, again, under the affirmative procedure. The Welsh Ministers are also given powers in this amendment to specify in those regulations the technical requirements of the signs, and may extend the duty to nicotine inhaling device-free vehicles. Failing to display such signs becomes a criminal offence and is punishable with a maximum fine of level 3 on the standard scale.

[181] Chair, thank you for your patience in allowing me to set this part of the Bill out in detail. This is the heart of the new regime that the Bill now seeks to create, and I ask Members to support these amendments.

[182] **David Rees:** Thank you, Minister. It is important that we get clarification as to the new regime, so your time is appreciated. Does any Member wish to speak? Lindsay.

[183] **Lindsay Whittle:** I just wanted to ask a question, Chair, to the Minister. Thank you, Minister, for explaining that. I've got an issue with the list that you provide us. I don't, with the greatest of respect, see a reason to ban e-cigarettes in major bus stations, train stations—there are many bus stations next to train stations next to taxi ranks, where there is so much in the atmosphere that one small inhaling device is hardly going to kill anyone, with respect. It's probably the fumes from the trains, buses and taxis that are more dangerous. You've certainly got me as far as the places with children are concerned. I'm with you there. But I would like to see a split in that list before I could support you, because I think that you would have the support of everyone in your protection for children. But let's be honest, in these major bus, train and taxi areas, no. Let's be honest, any Heads of the Valleys-type train station at the top end of Upper Cwmsgwt, if you're smoking at the end of a platform where the wind is howling on a July day, it's not going to matter.

[184] Also, I want to ask a question about the manager. You say it's up to the manager. What happens if the manager changes? How does the legislation cope there? One manager may be in favour, and one manager may be against.

[185] **David Rees:** Darren.

[186] **Darren Millar:** Thank you, Minister, for taking some time to go through this, because it is a significant change and departure. That's why I personally feel as though there should have been a separate piece of legislation in the same way that Elin Jones and Kirsty Williams have set out, because we have taken no evidence whatsoever on this whole new section. It's significant. I suspect that there's been some limited consultation undertaken by the Welsh Government in the very short period of time that they have had between the publication of our Stage 1 report and now, but I strongly suspect also that not all of the industries that might be affected have been able to respond in a meaningful way to the consultation, which may or may not have been undertaken.

[187] I want to know whether there may be some unintended consequences in relation to this, so I'm not prepared to support these significant amendments at this time because—and I have some sympathy with some of the points in terms of childcare premises and schools, in the same way that Lindsay Whittle does—until we've taken some evidence as a committee, I don't feel that it's appropriate to have such significant amendments this late in the day being brought to us, which we are required to give our informed opinion on. We can't have an informed opinion on these because we haven't taken any evidence at all.

[188] Can I just ask in respect of the pub trade? The Minister has set out—he was looking in my direction, so I assume it was for me—that the wet pub trade will deliberately be excluded from the NID—which seems to be the phrase that everybody is using—ban. Many wet pubs, as the Minister would like to describe them, serve pickled eggs, pork scratchings and packets of crisps. They'll leave a few peanuts as well on the bar. Are these places also to be included within the NID ban or not? It's not clear, certainly from the amendments that have been tabled, whether that would be the case. I have to say that I'm yet to find a single pub that doesn't have some element of people being able to munch their way through some sort of snack while they are enjoying a pint or any other sort of drink.

[189] So, I'm not convinced that these significant changes to the Bill should have been brought forward at this time when we, as a committee, have taken no evidence, and when the Government itself has had very limited time to engage with the different trades and sectors that are represented in it. At present, I cannot support these amendments and I would encourage Members to oppose. But I would like some clarity on what consultation and engagement has taken place by the Welsh Government to date and whether

the Government is prepared to publish the responses to any consultation that it has undertaken, so that they can be in the public domain. From a transparency point of view, it's very important that we're able to see this, and that members of the public are able to see them, too. Specifically, in terms of the wet trade in pubs, will those places that provide small snacks, such as a bowl of peanuts on the counter, a packet of peanuts that people can buy, or pork scratchings et cetera, be included or excluded under the terms of these provisions?

[190] **David Rees:** Kirsty.

[191] **Kirsty Williams:** Thank you, Chair. For anybody who has followed this debate, it is clear why we end up in the situation that we end up in today, where the Minister is scrabbling to save the legislation by responding to the recommendations in the report. Therefore, despite his best efforts to lay it all out on the record here this morning, it's about as clear as mud. If you're a member of the public trying to watch this debate today, I think it would be highly confusing to many members of the public about where they can, and where they will or will not be able to use nicotine inhaling devices in the future.

[192] One of the issues that greatly troubled the Minister in bringing forward legislation was around enforcement of the existing nicotine ban. These products were supposedly making that more difficult, although we never saw any evidence that they were making it more difficult. Here, you are going to have a situation where it's going to be, I would suggest, even more difficult to get compliance and enforcement right because it is so complex.

[193] Now, Darren, it's not the fault of the Minister that he finds himself in the situation that he is in, and he's trying to respond to that, but, you know, we've had no time to test the validity of these exemptions, whether they're the right ones, whether they're the wrong ones. We are doing this in a vacuum. People haven't had an opportunity to properly consider and respond to this, which is deeply troubling. As the Minister explained, it sets up a regime that allows future Ministers to add to this list without—yes, the affirmative procedure, but I would suggest, without the full spotlight of scrutiny that this piece of legislation has certainly had, and I find that deeply worrying and concerning. I think, again, this is just further evidence of why the Government should have taken the approach of removing this section from the legislation and bringing this legislation back properly, as a stand-alone piece of legislation, so that we would have had proper time to consider



whether the list of exemptions we have now before us are the right ones, appropriate, effective and are clearly going to be understood by the public who are affected by these laws and the people who are expected to enforce these laws.

[194] **David Rees:** Elin.

[195] **Elin Jones:** Diolch, Gadeirydd. **Elin Jones:** Thank you, Chair. I will be supporting the amendments that have been presented by the Government in this group for the reasons that I outlined initially.

Fe fyddaf i'n cefnogi'r gwelliannau sydd wedi cael eu cyflwyno gan y Llywodraeth yn y grŵp yma am y rhesymau y gwnes i amlinellu ar y cychwn.

[196] Rwyf jest eisiau gwrthwynebu a dadlau yn erbyn yr hyn a gyflwynodd Darren Millar pan soniodd e fod y gwelliannau hyn yn sylweddol ac yn newydd oddi wrth y Llywodraeth—ydyn, maen nhw, ond maen nhw wrth gwrs yn adlewyrchu'r casgliadau y daeth rhai ohonom ni iddynt yn y pwyllgor. Felly, mae troi rownd nawr a beio hynny ar y Llywodraeth yn amhriodol, ac fe fyddwn i'n dweud yn amharchus i'r rhai ohonom ni, fel Aelodau, a ddaeth i gasgliadau gwahanol i Darren Millar ar ôl gwrando ar y dystiolaeth. Fe wnaethom ni i gyd wrando ar y dystiolaeth ac fe fuodd e'n Gyfnod 1 heriol iawn a newydd iawn i ni. Fe ddaethom ni i gasgliadau gwahanol ar ddiwedd y broses yna, ac fe ddylem ni barchu'r casgliadau gwahanol rŷm ni wedi dod iddynt.

I just want to oppose and argue against what Darren Millar presented when he spoke about these amendments being substantial and new from the Government—yes, they are, but of course they do reflect the conclusions that some of us came to in the committee. Therefore, to turn around now and to blame that on the Government is inappropriate, and I would say disrespectful to those of us, as Members, who came to different conclusions to Darren Millar after listening to the evidence. We all listened to the evidence and it was a very challenging and very new Stage 1 for us. We came to different conclusions at the end of that process, and we should respect those different conclusions that we've arrived at.

[197] Mae'n glir, o beth ddywedodd y Gweinidog wrth ymateb i'r adroddiad ar ddiwedd Cyfnod 1, y

It's clear from what the Minister said in responding to the report at the end of Stage 1 that, he, ideally, would

byddai e, yn ddelfrydol, eisiau cario ymlaen gyda'r gwaharddiad llwyr, fel sy'n y ddeddfwriaeth a osodwyd, ond ei fod e'n gwrandio ar y casgliadau a'r farn yr oedd nifer o aelodau'r pwyllgor wedi dod iddynt, ac felly'n mynd i ymateb i hynny. Mae'n ymateb i'r sgrwtini a'r broses gasglu tystiolaeth yr aeth y pwyllgor drwyddi, ac yna, defnyddio'r broses ddemocrataidd yn y lle yma i gyflwyno gwelliannau a oedd yn newid trywydd y ddeddfwriaeth, a dyna beth yw'r broses ddemocrataidd rŷm ni'n gweithio ynddi.

like to continue with the full ban, as set out in the draft legislation, but that he would listen to the conclusions and the views that a number of members of the committee had, and therefore will respond to that. He's responded to the scrutiny and the evidence gathering process that the committee went through, and then he's used the democratic process in this place to present amendments that change the route of the legislation, and that is the democratic process that we are working within.

[198] Felly, rwy'n anghytuno â Darren pan mae e'n dweud nad ydym yn mynd i allu cymryd tystiolaeth ar y gwelliannau newydd yma, oherwydd rŷm ni wedi dod i gasgliadau, fel pwyllgor, taw yn y modd yma mae cyflwyno'r gyfundrefn newydd o ran dyfeisiadau mewnanadlu nicotin yn y ffordd fwyaf priodol yma yng Nghymru. Felly, fe fyddaf i'n cefnogi'r gwelliannau yn enw'r Llywodraeth heddiw.

So, I disagree with Darren when he says that we aren't going to be able to take evidence on these new amendments, because we have come to conclusions, as a committee, that it's in this way that the new regime can be introduced in terms of nicotine inhaling devices in the most appropriate way here in Wales. Therefore, I will be supporting the amendments tabled in the name of the Government today.

[199] **David Rees:** Thank you. Lynne.

[200] **Lynne Neagle:** Yes. I wanted to place on record my support for the amendments in group 6. I don't accept what Kirsty has said that the Minister is scrabbling about to save the legislation, or Darren Millar's points, because although these are new amendments, they have been brought forward by the Government to respond to what was, in the end, a majority view—there were more members of the committee who signed up to this route than there were any other. So, I think the Minister is responding to that and I think that is the right thing to do and I'm pleased to support these amendments today.

[201] **Alun Davies:** I agree with that. I agree with what Lynne and Elin have

said. I think it ill becomes Members to argue for one course of action through a process of parliamentary scrutiny and then criticise the Government for taking that course of action. I don't think you can have it both ways. You can't argue for effective Stage 1 scrutiny of any piece of legislation and then complain that the Government has responded to it. I think that's an absurd position to take and undermines any intelligent view of a parliamentary process where the Government listens to the arguments that are being put forward to it.

[202] My own personal view is that if we are going to introduce a regime for e-cigarettes, then it should reflect and mirror the regime for tobacco. That's my own private view, but clearly, that's not the view of the committee, and I accept that the view of the majority of the committee was to look for a middle course and the Government has responded to that. It seems to me that the simple and straightforward approach would have been to do something different; that's what the Government originally proposed.

11:00

[203] The Government listened to the debate, the Government listened to the scrutiny, the Government listened to the arguments. It's come forward with these proposals, and I think it would do Members well to listen to those arguments and to reflect upon them. I will be supporting the amendments that the Minister is putting forward in group 6, and I would hope that, and appreciate it if, we could have that debate about the way we go forward rather than a debate that is about whether we can put forward amendments at Stage 2, which I think is something of the wrong approach to take.

[204] **David Rees:** Thank you. No other speakers. Minister.

[205] **Mark Drakeford:** Thank you, Chair. I think the points made by Darren Millar and, to a smaller extent, perhaps, by Kirsty Williams would have had some merit in them if these amendments sought to extend the places where e-cigarettes could not be used beyond those proposed at Stage 1. But, in fact, what they do is to reduce the scope of the ban, not to extend it. No organisation affected by the regime that I've set out in this group was not already going to be subject to it under the regime I set out in the original Bill, and therefore they have all been consulted and they have all made their views known. It simply isn't a valid argument to suggest that, suddenly, we should ask these people what they think about it, because they've known from the very beginning. The regime is a narrower regime, not a more extensive

regime, and those arguments about further consultation simply, I think, don't stand up to examination. All the consultation responses are already in the public domain. So, they are there for any Member who wishes to see what any of the organisations still brought within this regime had to say about it.

[206] I didn't agree with what Kirsty said about the inadequacy—I think that's what she was implying—of the affirmative procedure. I'm regularly asked, and was asked in relation to this Bill, by this committee and by the Constitutional and Legislative Affairs Committee, to up the level of scrutiny from negative to affirmative, and the advantages of the affirmative procedure are regularly pointed out to me. They require a debate on the floor of the Assembly; they require a debate by Assembly Members. No Minister could add any further premises to the list in the Schedule set out in this group without going through that process, and I think that is a serious set of safeguards.

[207] I can assure Darren Millar that both his pickled eggs and his pork scratchings are safe. They are not covered by these amendments. The 'food premises' does not include food of that sort. When I said wet pubs would be outwith these amendments, that would include premises that sell goods of that sort.

[208] I want to turn to the point made by Lindsay, because I want to try and address this. Chair, I want to say that, several times this morning, Members have raised the issue of the vapour that is caused by e-cigarettes and the potential harm that that could do to others. I've never relied on that argument. I've never brought that argument forward as part of the rationale for what the Government is trying to do.

[209] The reasons why I want bus stations and train stations to be captured by the nicotine inhaling device prohibition are twofold, and they're arguments I've made all the way through. The first is enforcement and, actually, you have heard evidence and there is evidence on the record from organisations—enforcement organisations—telling you where prosecutions have already failed and where prosecutions have not been able to go ahead because people using conventional cigarettes have been able to claim that they were using an e-cigarette and that that was not outside the law. I think that is certainly true in relation to buses and trains and we've had that evidence.

[210] But the other reason why I am keen to bring those places within the

ambit of the law is because children are regularly to be seen there. You can get on a bus on your own at the age of 10 and travel round the city, and I do not want that child to be sitting on a bus where people are using e-cigarettes regarding them as absolutely normal and completely part of the ordinary way of doing things when we have prevented the use of conventional cigarettes in those contexts.

[211] The only places that this Bill tries to prevent the use of e-cigarettes in bus and train stations are places where you cannot use a conventional cigarette. So, the person standing at the end of a platform is not captured by these amendments, because this Bill is only about enclosed and substantially enclosed places. Arriva may have its own voluntary ban in those places, but they're not captured by these amendments. The only place where you couldn't use a nicotine inhaling device in a bus or train station would be where you can't, by law, use a conventional cigarette now. That will help with the enforcement issue and it will prevent children from being exposed, in the absolutely ordinary everyday part of people's lives, to people using devices that will lead them to think that there's nothing to be objected to in people who are using conventional cigarettes. Chair, I think I've tried to respond to the majority of the points.

[212] **Lindsay Whittle:** Sorry, Chair, would the Minister answer the question about that—*[Inaudible.]*—the word 'discretion', which can be changed by a manager?

[213] **Mark Drakeford:** Yes. Thank you. Sorry, I should have responded to that point. As I tried to explain, regulations will set up the rules within which a manager who wants to identify part of a nicotine inhaling device-free premises as capable of being used—where a nicotine device could be used. That won't be a free decision of the manager; it will be made within the parameters that the regulations set out, and they can only identify a place if they are within the regulations. It is possible, I agree, that one manager might take a different view of what the regulations would allow, and they would have to re-apply, but it's not unfettered discretion; it's discretion within a set of rules that these regulations will set up. The only place, in Part 2 of the Schedule, in the amendments before this committee, will be a hospital, and the only grounds that a manager of a hospital could identify somewhere where an e-cigarette could be used will be because it will be part of a planned programme of helping people to get off tobacco addiction.

[214] **David Rees:** Okay, Lindsay?

[215] **Lindsay Whittle:** Yes. Can I thank you, Minister? I've got 'against', 'for' and 'abstain' on my notes, and it's been powerful—

[216] **David Rees:** Well, it's for you to make a decision now. Obviously, we wish to proceed to a vote on amendment 154.

[217] **Elin Jones:** There's no whip. [*Laughter.*]

[218] **Lindsay Whittle:** There's no whip.

[219] **David Rees:** Can I remind Members that, before we move to the vote on 154, if 154 is not agreed, then amendment 221 will fall? So, the question is that amendment 154 be agreed to. Does any Member object? [*Objection.*] I have an objection, therefore I'll take a vote by show of hands. Can those in favour of amendment 154 please raise your hands? Thank you. Those against? Thank you. In relation to amendment 154, there voted seven in favour, three against, and therefore the amendment is agreed.

*Gwelliant 154: O blaid 7, Yn erbyn 3, Ymatal 0.  
Amendment 154: For 7, Against 3, Abstain 0.*

O blaid:  
For:

Yn erbyn:  
Against:

Ymatal:  
Abstain:

Davies, Alun  
Griffiths, John  
Jones, Elin  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David  
Whittle, Lindsay

Hussain, Altaf  
Millar, Darren  
Williams, Kirsty

*Derbyniwyd gwelliant 154.  
Amendment 154 agreed.*

*Cynigiwyd gwelliant 221 (Mark Drakeford).  
Amendment 221 (Mark Drakeford) moved.*

[220] **David Rees:** The question is that amendment 221 be agreed to. Does any Member object? [*Objection.*] I have an objection, therefore I'll take a vote by show of hands. Can those in favour of amendment 221 please raise your hands? Thank you. Those against, please raise your hands. Thank you.

Therefore, in relation to amendment 221, there voted seven in favour, three against, and therefore the amendment is agreed.

*Gwelliant 221: O blaid 7, Yn erbyn 3, Ymatal 0.  
Amendment 221: For 7, Against 3, Abstain 0.*

O blaid: For:	Yn erbyn: Against:	Ymatal: Abstain:
Davies, Alun Griffiths, John Jones, Elin Neagle, Lynne Price, Gwyn R. Rees, David Whittle, Lindsay	Hussain, Altaf Millar, Darren Williams, Kirsty	

*Derbyniwyd gwelliant 221.  
Amendment 221 agreed.*

*Cynigiwyd gwelliant 155 (Mark Drakeford).  
Amendment 155 (Mark Drakeford) moved.*

[221] **David Rees:** The question is that amendment 155 be agreed to. Does any Member object? [*Objection.*] We have an objection. Can I therefore take a vote by show of hands? Can those in favour of amendment 155 please raise your hands? Thank you. Those against. Thank you. In relation to amendment 155, there voted seven in favour and three against, and therefore the amendment is agreed.

*Gwelliant 155: O blaid 7, Yn erbyn 3, Ymatal 0.  
Amendment 155: For 7, Against 3, Abstain 0.*

O blaid: For:	Yn erbyn: Against:	Ymatal: Abstain:
Davies, Alun Griffiths, John Jones, Elin Neagle, Lynne Price, Gwyn R. Rees, David Whittle, Lindsay	Hussain, Altaf Millar, Darren Williams, Kirsty	

*Derbyniwyd gwelliant 155.*

*Amendment 155 agreed.*

*Cynigiwyd gwelliant 156 (Mark Drakeford).*

*Amendment 156 (Mark Drakeford) moved.*

[222] **David Rees:** The question is that amendment 156 be agreed to. Does any Member object? [*Objection.*] We have an objection, therefore we'll take a vote by show of hands. Can those in favour of amendment 156 please raise your hands? Thank you. Those against, please raise your hands. Thank you. In relation to amendment 156, there voted seven in favour, three against, and therefore the amendment is agreed.

*Gwelliant 156: O blaid 7, Yn erbyn 3, Ymatal 0.*

*Amendment 156: For 7, Against 3, Abstain 0.*

O blaid:

For:

Davies, Alun

Griffiths, John

Jones, Elin

Neagle, Lynne

Price, Gwyn R.

Rees, David

Whittle, Lindsay

Yn erbyn:

Against:

Hussain, Altaf

Millar, Darren

Williams, Kirsty

Ymatal:

Abstain:

*Derbyniwyd gwelliant 156.*

*Amendment 156 agreed.*

*Cynigiwyd gwelliant 157 (Mark Drakeford).*

*Amendment 157 (Mark Drakeford) moved.*

[223] **David Rees:** The question is that amendment 157 be agreed to. Does any Member object? [*Objection.*] I have an objection, therefore I will take a vote by show of hands. Will those in favour of amendment 157 please raise your hands? Thank you. Those against, please raise your hands. Thank you. For amendment 157, there voted seven in favour, three against, and therefore the amendment is agreed.

*Gwelliant 157: O blaid 7, Yn erbyn 3, Ymatal 0.*

*Amendment 157: For 7, Against 3, Abstain 0.*

O blaid:

For:

Yn erbyn:

Against:

Ymatal:

Abstain:



Davies, Alun  
Griffiths, John  
Jones, Elin  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David  
Whittle, Lindsay

Hussain, Altaf  
Millar, Darren  
Williams, Kirsty

*Derbyniwyd gwelliant 157.  
Amendment 157 agreed.*

*Cynigiwyd gwelliant 22 (Mark Drakeford).  
Amendment 22 (Mark Drakeford) moved.*

[224] **David Rees:** The question is that amendment 22 be agreed to. Does any Member object? No objections. Therefore, amendment 22 is agreed.

*Derbyniwyd gwelliant 22 yn unol â Rheol Sefydlog 17.34.  
Amendment 22 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 158 (Mark Drakeford).  
Amendment 158 (Mark Drakeford) moved.*

[225] **David Rees:** The question is that amendment 158 be agreed to. Does any Member object? [*Objection.*] I have an objection, therefore we will, please, take a vote by show of hands. Can those in favour of amendment 158 please raise your hands? Thank you. Those against, please raise your hands. Thank you. In relation to amendment 158, there voted seven in favour and three against, and therefore amendment 158 is agreed.

*Gwelliant 158: O blaid 7, Yn erbyn 3, Ymatal 0.  
Amendment 158: For 7, Against 3, Abstain 0.*

O blaid:  
For:

Yn erbyn:  
Against:

Ymatal:  
Abstain:

Davies, Alun  
Griffiths, John  
Jones, Elin  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David  
Whittle, Lindsay

Hussain, Altaf  
Millar, Darren  
Williams, Kirsty

*Derbyniwyd gwelliant 158.  
Amendment 158 agreed.*

*Gohiriwyd y cyfarfod rhwng 11:11 ac 11:23.  
The meeting adjourned between 11:11 and 11:23.*

**Grŵp 7: Ysmygu a'r Defnydd o Ddyfeisiau Mewnanadlu Nicotin—Gorfodi  
(Gwelliannau 159, 160, 161, 23, 162, 163, 24, 164, 165, 166, 14, 167, 168,  
169, 25, 26)**

**Group 7: Smoking and Use of Nicotine Inhaling Devices—Enforcement  
(Amendments 159, 160, 161, 23, 162, 163, 24, 164, 165, 166, 14, 167, 168,  
169, 25, 26)**

[226] **David Rees:** Group 7 of the amendments is about the enforcement of provisions relating to smoking and the use of nicotine inhaling devices. The lead amendment in the group is amendment 159 in the name of the Minister. I move amendment 159 in the name of the Minister and call on the Minister to speak to the amendments in this group—Minister.

*Cynigiwyd gwelliant 159 (Mark Drakeford).  
Amendment 159 (Mark Drakeford) moved.*

[227] **Mark Drakeford:** Chair, thank you very much. These amendments provide additional safeguards for those affected by enforcement provisions in the Bill. We will return in three subsequent groups—group 10, group 22 and group 25—to rehearse exactly the same arguments. In this group, they are additional safeguards for those affected by the enforcement provisions in the smoking and NID part of the Bill. Chair, what I propose to do will be to go through the additional safeguards in detail in this group. I'm very happy to repeat it in the other three groups, as well, but Members may have heard the substance once, and I'm happy, then, just to provide the additional bits there.

[228] **David Rees:** I'm sure we'll be happy to have it once and not repeat it.

[229] **Mark Drakeford:** Thank you. Because this is the first time, I'll explain it in more detail. Amendment 165 inserts a new section that permits persons whose property has been taken away for inspection to apply to a magistrates' court to request the release of the property. Amendment 166 inserts a new section to allow a person to apply for compensation when they have suffered loss or damage as a result of the enforcement officer's taking possession of

the property. It's envisaged that the additional safeguards could apply in circumstances such as where officers may, for example, take possession or remove items from the premises in order to determine whether an offence has been committed.

[230] Amendments 24 and 164 relate to powers of inspection. They clarify the circumstances in which an enforcement officer must leave a statement at the premises setting out what property has been taken away, and require certain information to be provided to enable a request for the return of seized property to be made. Amendment 23 provides an additional safeguard to the security of unoccupied premises by requiring that authorised officers leave any unoccupied premises in as secure a condition as they were in when the officer found them. Amendments 25 and 26 clarify that, in relation to vehicles, a fixed-penalty notice for the offence of failing to take reasonable steps to prevent a person from smoking, or the separate offence of failing to take reasonable steps to prevent a person from using a nicotine inhaling device, may only be issued in relation to vehicles being used for social, domestic and other private purposes.

[231] Amendments 159 to 163, and 167 to 169, are mainly consequential amendments that introduce new offences relating to NID-free premises, vehicles and signs, as discussed in groups 2 and 5. Amendments 167 and 168 allow authorised officers to issue fixed penalty notices for the offence of using a nicotine inhaling device in nicotine inhaling device-free premises and failing to display compliant NID-free signage.

[232] Kirsty Williams's amendment 14 in this group removes a reference to the offence of using an NID in smoke-free places. It is overtaken by the Government amendment 167 in this group, which is consistent with the new approach that we have set out in earlier groups.

[233] **David Rees:** Thank you, Minister. Are there other Members who wish to speak? Kirsty.

[234] **Kirsty Williams:** Thank you, Chair. As the Minister has just stated, my amendment in group 7 is amendment No. 14. As with my other amendments thus far, it seeks to remove reference to nicotine inhaling devices in this part of the Bill.

[235] **David Rees:** Are there any other Members who wish to speak? No. Minister, do you wish to add anything else?

[236] **Mark Drakeford:** No, Chair.

[237] **David Rees:** Okay. In that case, I will wish to proceed to a vote on amendment 159. The question is that amendment 159 be agreed to. Does any Member object? [*Objection.*] I have an objection. Therefore, we'll take a vote by show of hands. Can those in favour of 159 please raise your hands? Thank you. Those against, please raise your hands. Thank you. In relation to amendment 159 there voted seven in favour and three against, and therefore the amendment is agreed.

*Gwelliant 159: O blaid 7, Yn erbyn 3, Ymatal 0.  
Amendment 159: For 7, Against 3, Abstain 0.*

O blaid:	Yn erbyn:	Ymatal:
For:	Against:	Abstain:
Davies, Alun	Hussain, Altaf	
Griffiths, John	Millar, Darren	
Jones, Elin	Williams, Kirsty	
Neagle, Lynne		
Price, Gwyn R.		
Rees, David		
Whittle, Lindsay		

*Derbyniwyd gwelliant 159.  
Amendment 159 agreed.*

*Cynigiwyd gwelliant 160 (Mark Drakeford).  
Amendment 160 (Mark Drakeford) moved.*

[238] **David Rees:** The question then is that amendment 160 be agreed to. Does any Member object? [*Objection.*] I have an objection. Therefore, I'll take a vote by show of hands. Can those in favour of amendment 160 please raise your hands? Those against, please raise your hands. Thank you. In relation to amendment 160, there voted seven in favour and three against, and therefore the amendment is agreed.

*Gwelliant 160: O blaid 7, Yn erbyn 3, Ymatal 0.  
Amendment 160: For 7, Against 3, Abstain 0.*

O blaid:	Yn erbyn:	Ymatal:
For:	Against:	Abstain:

Davies, Alun  
Griffiths, John  
Jones, Elin  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David  
Whittle, Lindsay

Hussain, Altaf  
Millar, Darren  
Williams, Kirsty

*Derbyniwyd gwelliant 160.  
Amendment 160 agreed.*

*Cynigiwyd gwelliant 161 (Mark Drakeford).  
Amendment 161 (Mark Drakeford) moved.*

[239] **David Rees:** The question is that amendment 161 be agreed to. Does any Member object? [*Objection.*] I have an objection. Therefore, I will take a vote by show of hands. Can those in favour of amendment 161 please raise your hands? Thank you. Those against. Thank you. I have seven in favour and three against amendment 161, and therefore the amendment is agreed.

*Gwelliant 161: O blaid 7, Yn erbyn 3, Ymatal 0.  
Amendment 161: For 7, Against 3, Abstain 0.*

O blaid:  
For:

Yn erbyn:  
Against:

Ymatal:  
Abstain:

Davies, Alun  
Griffiths, John  
Jones, Elin  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David  
Whittle, Lindsay

Hussain, Altaf  
Millar, Darren  
Williams, Kirsty

*Derbyniwyd gwelliant 161.  
Amendment 161 agreed.*

*Cynigiwyd gwelliant 23 (Mark Drakeford).  
Amendment 23 (Mark Drakeford) moved.*

[240] **David Rees:** The question is that amendment 23 be agreed to. Does any Member object? [*Objection.*] I have an objection. I will therefore take a vote by show of hands. Can those in favour of amendment 23 please raise

your hands? Thank you. Those against, please raise your hands. Thank you. In relation to amendment 23, there voted nine in favour and one against, and therefore amendment 23 is agreed.

*Gwelliant 23: O blaid 9, Yn erbyn 1, Ymatal 0.  
Amendment 23: For 9, Against 1, Abstain 0.*

O blaid: For:	Yn erbyn: Against:	Ymatal: Abstain:
Davies, Alun Griffiths, John Hussain, Altaf Jones, Elin Millar, Darren Neagle, Lynne Price, Gwyn R. Rees, David Whittle, Lindsay	Williams, Kirsty	

*Derbyniwyd gwelliant 23.  
Amendment 23 agreed.*

*Cynigiwyd gwelliant 162 (Mark Drakeford).  
Amendment 162 (Mark Drakeford) moved.*

[241] **David Rees:** The question is that amendment 162 be agreed to. Does any Member object? [*Objection.*] I have an objection. Therefore I will take a vote by show of hands. Can those in favour of amendment 162 please raise your hands? Thank you. Those against, please raise your hands. Thank you. In relation to amendment 162, there voted seven in favour and three against. Therefore the amendment is agreed.

*Gwelliant 162: O blaid 7, Yn erbyn 3, Ymatal 0.  
Amendment 162: For 7, Against 3, Abstain 0.*

O blaid: For:	Yn erbyn: Against:	Ymatal: Abstain:
Davies, Alun Griffiths, John Jones, Elin Neagle, Lynne Price, Gwyn R. Rees, David	Hussain, Altaf Millar, Darren Williams, Kirsty	

Whittle, Lindsay

*Derbyniwyd gwelliant 162.  
Amendment 162 agreed.*

*Cynigiwyd gwelliant 163 (Mark Drakeford).  
Amendment 163 (Mark Drakeford) moved.*

[242] **David Rees:** The question is that amendment 163 be agreed to. Does any Member object? [*Objection.*] I have an objection. Therefore, I will take a vote by show of hands. Can those in favour of 163 please raise your hands? Can those against please raise your hands? Thank you. In relation to amendment 163, there voted seven in favour and three against, and therefore the amendment is agreed.

*Gwelliant 163: O blaid 7, Yn erbyn 3, Ymatal 0.  
Amendment 163: For 7, Against 3, Abstain 0.*

O blaid:  
For:

Yn erbyn:  
Against:

Ymatal:  
Abstain:

Davies, Alun  
Griffiths, John  
Jones, Elin  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David  
Whittle, Lindsay

Hussain, Altaf  
Millar, Darren  
Williams, Kirsty

*Derbyniwyd gwelliant 163.  
Amendment 163 agreed.*

*Cynigiwyd gwelliant 24 (Mark Drakeford).  
Amendment 24 (Mark Drakeford) moved.*

[243] **David Rees:** The question is that amendment 24 be agreed to. Does any Member object? [*Objection.*] I have an objection. Therefore, I'll take a vote by a show of hands. Can those in favour of amendment 24 please raise your hands? Thank you. Can those against please raise your hands? Thank you. In relation to amendment 24, there voted nine in favour and one against. Therefore amendment 24 is agreed.

*Gwelliant 24: O blaid 9, Yn erbyn 1, Ymatal 0.*

*Amendment 24: For 9, Against 1, Abstain 0.*

O blaid:  
For:

Yn erbyn:  
Against:

Ymatal:  
Abstain:

Davies, Alun  
Griffiths, John  
Hussain, Altaf  
Jones, Elin  
Millar, Darren  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David  
Whittle, Lindsay

Williams, Kirsty

*Derbyniwyd gwelliant 24.  
Amendment 24 agreed.*

*Cynigiwyd gwelliant 164 (Mark Drakeford).  
Amendment 164 (Mark Drakeford) moved.*

[244] **David Rees:** The question is that amendment 164 be agreed to. Does any Member object? No—[*Objection.*]

[245] **Kirsty Williams:** Sorry.

[246] **David Rees:** Okay. It's all right. There is an objection. Therefore, I'll take a vote by show of hands. Can those in favour of 164 please raise your hands? That's wrong—164, please raise your hands. Against 164, please raise your hands. Thank you. In relation to amendment 164, there voted nine in favour and one against, and therefore amendment 164 is agreed.

*Gwelliant 164: O blaid 9, Yn erbyn 1, Ymatal 0.  
Amendment 164: For 9, Against 1, Abstain 0.*

O blaid:  
For:

Yn erbyn:  
Against:

Ymatal:  
Abstain:

Davies, Alun  
Griffiths, John  
Hussain, Altaf  
Jones, Elin  
Millar, Darren  
Neagle, Lynne  
Price, Gwyn R.

Williams, Kirsty



Rees, David  
Whittle, Lindsay

*Derbyniwyd gwelliant 164.*  
*Amendment 164 agreed.*

11:30

*Cynigiwyd gwelliant 165 (Mark Drakeford).*  
*Amendment 165 (Mark Drakeford) moved.*

[247] **David Rees:** We move on to amendment 165. The question is that 165 be agreed to. Does any Member object? [*Objection.*] I have an objection. Therefore, I will take a vote by show of hands. Can those in favour of amendment 165 please raise your hands? Thank you. Those against, please raise your hands. [*Interruption.*]

[248] **Kirsty Williams:** Yes, I'm against it.

[249] **David Rees:** I know that. For amendment 165, there were nine in favour and one against, and therefore the amendment is agreed.

*Gwelliant 165: O blaid 9, Yn erbyn 1, Ymatal 0.*  
*Amendment 165: For 9, Against 1, Abstain 0.*

O blaid:  
For:

Yn erbyn:  
Against:

Ymatal:  
Abstain:

Davies, Alun  
Griffiths, John  
Hussain, Altaf  
Jones, Elin  
Millar, Darren  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David  
Whittle, Lindsay

Williams, Kirsty

*Derbyniwyd gwelliant 165.*  
*Amendment 165 agreed.*

*Cynigiwyd gwelliant 166 (Mark Drakeford).*  
*Amendment 166 (Mark Drakeford) moved.*

[250] **David Rees:** On amendment 166, the question is that 166 be agreed to. Does any Member object? [*Objection.*] I have an objection. Therefore, we'll take a vote by show of hands. Can those in favour of amendment 166 please raise your hands? Thank you. Can those against please raise your hands? Thank you. In relation to amendment 166, there voted nine in favour, one against, and therefore the amendment is agreed.

*Gwelliant 166: O blaid 9, Yn erbyn 1, Ymatal 0.  
Amendment 166: For 9, Against 1, Abstain 0.*

O blaid:  
For:

Yn erbyn:  
Against:

Ymatal:  
Abstain:

Davies, Alun  
Griffiths, John  
Hussain, Altaf  
Jones, Elin  
Millar, Darren  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David  
Whittle, Lindsay

Williams, Kirsty

*Derbyniwyd gwelliant 166.  
Amendment 166 agreed.*

[251] **David Rees:** Kirsty, amendment 14.

*Cynigiwyd gwelliant 14 (Kirsty Williams, gyda chefnogaeth Darren Millar).  
Amendment 14 (Kirsty Williams, supported by Darren Millar) moved.*

[252] **Kirsty Williams:** I move.

[253] **David Rees:** Before we vote on amendment 14, Members should be aware that if amendment 14 is agreed, then amendment 167 will fall. The question is that amendment 14 be agreed to. Does any Member object? [*Objection.*] I have an objection. Therefore, I will take a vote by show of hands. Can those in favour of amendment 14 please raise your hands? Thank you. Can those against please raise your hands? Thank you. In relation to amendment 14, there voted four in favour and six against, and therefore the amendment is not agreed.

*Gwelliant 14: O blaid 4, Yn erbyn 6, Ymatal 0.*

*Amendment 14: For 4, Against 6, Abstain 0.*

[254] O blaid:  
For:

Yn erbyn:  
Against:

[255] Ymatal:  
Abstain:

[256] Hussain, Altaf  
Millar, Darren  
Whittle, Lindsay  
Williams, Kirsty

Davies, Alun  
Griffiths, John  
Jones, Elin  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David

[257]

*Gwrthodwyd gwelliant 14.*

*Amendment 14 not agreed.*

*Cynigiwyd gwelliant 167 (Mark Drakeford).*

*Amendment 167 (Mark Drakeford) moved.*

[258] **David Rees:** The question is that amendment 167 be agreed to. Does any Member object? [*Objection.*] I have an objection. Therefore, I'll take a vote by show of hands. Can those in favour of amendment 167 please raise your hands? Thank you. Can those against please raise your hands? Thank you. Therefore, for amendment 167, there were seven in favour and three against, so the amendment is agreed.

*Gwelliant 167: O blaid 7, Yn erbyn 3, Ymatal 0.*

*Amendment 167: For 7, Against 3, Abstain 0.*

O blaid:  
For:

Yn erbyn:  
Against:

Ymatal:  
Abstain:

Davies, Alun  
Griffiths, John  
Jones, Elin  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David  
Whittle, Lindsay

Hussain, Altaf  
Millar, Darren  
Williams, Kirsty

*Derbyniwyd gwelliant 167.*

*Amendment 167 agreed.*

*Cynigiwyd gwelliant 168 (Mark Drakeford).*

*Amendment 168 (Mark Drakeford) moved.*

[259] **David Rees:** The question is that amendment 168 be agreed. Does any Member object? [*Objection.*] I have an objection. We again take a vote by show of hands. Can those in favour of amendment 168 please raise your hands? Can those against please raise your hands? Any abstentions? In relation to amendment 168, there were seven in favour and three against, and therefore the amendment is agreed.

*Gwelliant 168: O blaid 7, Yn erbyn 3, Ymatal 0.  
Amendment 168: For 7, Against 3, Abstain 0.*

O blaid: For:	Yn erbyn: Against:	Ymatal: Abstain:
Davies, Alun Griffiths, John Jones, Elin Neagle, Lynne Price, Gwyn R. Rees, David Whittle, Lindsay	Hussain, Altaf Millar, Darren Williams, Kirsty	

*Derbyniwyd gwelliant 168.  
Amendment 168 agreed.*

*Cynigiwyd gwelliant 169 (Mark Drakeford).  
Amendment 169 (Mark Drakeford) moved.*

[260] **David Rees:** The question is that amendment 169 be agreed to. Does any Member object? [*Objection.*] I have an objection. We'll take a vote by show of hands. Can those in favour of 169 please raise your hands? Can those against 169 please raise your hands? In relation to amendment 169, there were seven in favour, three against, and therefore the amendment is agreed.

*Gwelliant 169: O blaid 7, Yn erbyn 3, Ymatal 0.  
Amendment 169: For 7, Against 3, Abstain 0.*

O blaid: For:	Yn erbyn: Against:	Ymatal: Abstain:
Davies, Alun Griffiths, John Jones, Elin	Hussain, Altaf Millar, Darren Williams, Kirsty	

Neagle, Lynne  
Price, Gwyn R.  
Rees, David  
Whittle, Lindsay

*Derbyniwyd gwelliant 169.  
Amendment 169 agreed.*

*Cynigiwyd gwelliant 25 (Mark Drakeford).  
Amendment 25 (Mark Drakeford) moved.*

[261] **David Rees:** The next question is that amendment 25 be agreed. Does any Member object? [*Objection.*] We have an objection. I'll take a vote by show of hands. Can those in favour of amendment 25 please raise your hands? Thank you. Can those against please raise your hands? Thank you. In relation to amendment 25, there voted seven in favour, three against. Therefore, the amendment is agreed.

*Gwelliant 25: O blaid 7, Yn erbyn 3, Ymatal 0.  
Amendment 25: For 7, Against 3, Abstain 0.*

O blaid:  
For:

Yn erbyn:  
Against:

Ymatal:  
Abstain:

Davies, Alun  
Griffiths, John  
Jones, Elin  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David  
Whittle, Lindsay

Hussain, Altaf  
Millar, Darren  
Williams, Kirsty

*Derbyniwyd gwelliant 25.  
Amendment 25 agreed.*

*Cynigiwyd gwelliant 26 (Mark Drakeford).  
Amendment 26 (Mark Drakeford) moved.*

[262] **David Rees:** Amendment 26—the question is that amendment 26 be agreed. Does any Member object? [*Objection.*] We have an objection. Therefore, we'll take a vote by show of hands. Can those in favour of amendment 26 please raise your hands? Can those against please raise your hands? Thank you. In relation to amendment 26, we have seven in favour, three against, and therefore the amendment is agreed.

*Gwelliant 26: O blaid 7, Yn erbyn 3, Ymatal 0.  
Amendment 26: For 7, Against 3, Abstain 0.*

O blaid:	Yn erbyn:	Ymatal:
For:	Against:	Abstain:
Davies, Alun	Hussain, Altaf	
Griffiths, John	Millar, Darren	
Jones, Elin	Williams, Kirsty	
Neagle, Lynne		
Price, Gwyn R.		
Rees, David		
Whittle, Lindsay		

*Derbyniwyd gwelliant 26.  
Amendment 26 agreed.*

*Cynigiwyd gwelliant 27 (Mark Drakeford).  
Amendment 27 (Mark Drakeford) moved.*

[263] **David Rees:** Amendment 27—the question is that it be agreed to. Does any Member object? [*Objection.*] We have an objection. Can we take a vote by a show of hands, therefore? Can those in favour of amendment 27 please raise your hands? Those against, please raise your hands. In relation to amendment 27, we have nine in favour, one against, and therefore the amendment is agreed.

*Gwelliant 27: O blaid 9, Yn erbyn 1, Ymatal 0.  
Amendment 27: For 9, Against 1, Abstain 0.*

O blaid:	Yn erbyn:	Ymatal:
For:	Against:	Abstain:
Davies, Alun	Williams, Kirsty	
Griffiths, John		
Hussain, Altaf		
Jones, Elin		
Millar, Darren		
Neagle, Lynne		
Price, Gwyn R.		
Rees, David		
Whittle, Lindsay		

*Derbyniwyd gwelliant 27.*

*Amendment 27 agreed.*

**Grŵp 8: Adolygu a Diddymu Darpariaethau sy'n ymwneud â Dyfeisiau Mewnanadlu Nicotin ym Mhennod 1 o Ran 2 (Gwelliannau 225, 226, 227, 228, 224)**

**Group 8: Review and Repeal of Provisions relating to Nicotine Inhaling Devices in Chapter 1 of Part 2 (Amendments 225, 226, 227, 228, 224)**

[264] **David Rees:** That moves us on to group 8, and group 8 is about the review and repeal of provisions relating to nicotine inhaling devices in Chapter 1 of Part 2 of the Bill. The lead amendment in the group is amendment 225 in the name of Darren Millar. I call on Darren Millar to move amendment 225 and speak to the amendment and others in this group. Darren.

*Cynigiwyd gwelliant 225 (Darren Millar).*

*Amendment 225 (Darren Millar) moved.*

[265] **Darren Millar:** I move amendment 225 and also speak to amendments 224, 226, 227 and 228 in this group. The purpose of this group of amendments is simply to provide on the face of the Bill for an opportunity—in fact, to compel Ministers in the future to ensure that there is an independent review of the evidence on nicotine inhaling devices and e-cigarettes. One of the things that I think everybody around this table agrees on is that the evidence that is out there, the evidence base, is constantly changing on e-cigarettes and their impact on public health. This, therefore, provides an opportunity for a new look at that evidence at a point in the future and then periodically, if necessary, thereafter. Obviously, once an independent report on and review of that evidence has taken place, then it's appropriate for the National Assembly for Wales to be able to consider that evidence and then, if necessary, to be able to repeal any provisions in respect of e-cigarettes if they're found to cause more harm to public health than good.

[266] The amendments are very similar to amendments that were tabled in Scotland by the SNP to the Public Health etc. (Scotland) Bill back in 2007, and effectively they deliver the same sort of process. So, I do hope that, based on the fact that there is emerging evidence all of the time, Members will feel that they're able to support this, no matter what side of the argument that they sit on in terms of the current status of their views on e-cigarettes.

[267] **David Rees:** Thank you, Darren. Are there any other Members who wish to speak? Elin.

[268] **Elin Jones:** Diolch, Gadeirydd. Mae yna ddau fater yn cael eu cyflwyno gan Darren Millar yn y gwelliannau yn y grŵp yma. O ran adolygu gweithrediad ac effaith y ddeddfwriaeth yma, yna rwy'n gefnogol i'r egwyddor o Lywodraeth yn adolygu, ac rwy'n credu ei fod e'n briodol yn y maes yma i fod yn gosod hynny ar wyneb y Mesur, ac felly byddaf yn cefnogi'r gwelliannau sydd yn cynnig yr adolygiad yna.

**Elin Jones:** Thank you, Chair. Two matters are introduced by Darren Millar in these amendments in this group. As regards the review of the implementation and impact of this legislation, then I am supportive of the principle of Government reviewing it, and I think it's appropriate in this field to place that on the face of the Bill, and therefore I will be supporting the amendments proposing that review.

[269] Rwyf heb gael fy mherswadio, er hynny, fod y cymalau sydd yn cael eu cyflwyno i ddiddymu'r ddarpariaeth drwy gyfundrefn sydd yn rhoi'r grym i'r Cynulliad Cenedlaethol i wneud hynny yn rhai sydd yn arferol i'r broses rydym ni'n ei gweithredu fan hyn yn y Cynulliad a'r Llywodraeth. Maen nhw'n rhedeg y risg o gymylu'r cyfrifoldebau gwahanol sydd gan Lywodraeth a Chynulliad yn y cyd-destun yma. Felly, ar hyn o bryd, rwyf heb gael fy argyhoeddi bod y broses yna yn un i'w roi ar wyneb y Mesur yma. Felly, ar hyn o bryd, rwyf heb gael fy mherswadio, a byddaf i'n pleidleisio yn erbyn y gwelliannau hynny.

I am still not persuaded, however, that the clauses introduced to repeal the provision via a process that gives the National Assembly the power to do that are usual in the process we operate here in the Assembly and the Government. They're running the risk of muddying the waters as regards the different responsibilities of the Government and the Assembly in this context. So, at present, I am not persuaded that that process is one that should be placed on the face of this Bill. So, currently, I'm not persuaded, and I will be voting against those amendments.

[270] **David Rees:** Thank you. Are there any other Members who wish to speak? No. Minister.

[271] **Mark Drakeford:** Thank you, Chair. Can I say that I've a good deal of sympathy for the arguments that Darren Millar has put forward for amendment 225? It would certainly be my intention, and I'm sure the



intention of any Government, to keep the evidence under review in an area where, as we have heard, views can be polarised and the evidence is still in a state where serious people are able to take a different view of what the evidence is telling us. So, the principle that research should continue and be made available to the public and so on—I've got a lot of sympathy for that. I won't ask people to vote for that amendment this morning. There are some drafting issues in it as it is currently produced. But I am very happy to think again in relation to a Stage 3 amendment along the lines that the Member has outlined.

[272] I can't support amendment 226. I think that, if a piece of legislation of this sort is to be disappplied, then that should be through the National Assembly bringing forward further legislation in order to do so, and not just by a resolution of the National Assembly without accompanying legislation, as these amendments would propose. I can well imagine that this is an area that a future Assembly may well want to come back and look at again as new evidence emerges, but I don't think that this is the right route to do it, for some of the reasons that Elin outlined, and also because it would have an unintended consequence that, were the National Assembly to resolve that the NID-related provisions should cease to have effect, those provisions would still remain there on the statute book, despite the fact that they wouldn't be in force and could never be brought back into force. Just in terms of making good law, I don't think this would be the right way to do it. So, while I'll ask Members not to support these amendments today, in relation to the first in particular, I'm prepared to think carefully about what's been said today in relation to what might come forward at Stage 3.

[273] **David Rees:** Thank you. I call on Darren Millar to reply to the debate.

[274] **Darren Millar:** Thank you, Chair, and thank you, Minister and Elin, for your contributions. I'm very grateful for the recognition that there is a need to revisit the evidence at some point in the future, and I look forward to hearing the Minister's further consideration of that, between now and Stage 3. Obviously, I would like to move to the vote on this issue this morning. There's no reason why this couldn't be amended today, and then further amended, if necessary, at Stage 3.

[275] With regard to the process of being able to withdraw the application of this Bill to nicotine inhaling devices at a future date, I think there is some merit in the Minister's argument in terms of deleting the provisions rather than simply saying that they no longer apply, in terms of having some clarity

on the law, but I just wanted to be able to discuss the principle of this during the committee stage today, which is why I felt it was easier, rather than tabling probably hundreds of amendments, to simply table the two primary amendments and a few consequential amendments thereafter. But I do think that some sort of provision that enables the Assembly to look at this in a more straightforward and simple way than having to go right back through the whole legislative process in order to disapply the law in this area, should that be the will of a future Assembly—

[276] **Alun Davies:** Darren, would you take an intervention?

[277] **Darren Millar:** Of course I will.

[278] **Alun Davies:** I don't disagree with the view—with what you're arguing—in terms of taking a backwards view at legislation that has been passed, but I'm curious as to why we would want the Government to do that. Surely, it's the role of the legislature to take a view on legislation. We've already completed post-legislative scrutiny of, I think, the mental health Measure. Certainly, the Constitutional and Legislative Affairs Committee has recommended, on a number of occasions, that it is good practice to review the operation of law once it reaches the statute book. So, would you not agree that it's the role of this committee, possibly—or successor committees—to take a view on whether it wishes to review the operation of this or any other piece of legislation, and to do that at a time and by a method of its own choosing?

[279] **Darren Millar:** Of course, my amendment doesn't prohibit this committee from considering these matters in the future. It simply requires that some sort of independent review should be commissioned and taken forward at some point in the future, just to gather the evidence. I think this particular piece of legislation is slightly different than others because the evidence is still emerging. We don't know about the longer or even medium-term impacts, really, of e-cigarettes on people's public health. So, I think it is sensible to have something in the Bill that ensures that there is going to be a review at a future date, notwithstanding what you've said in terms of the ability of this committee and others, if necessary, to look at things separately.

[280] Just in terms of amendment 226, yes, I accept that there may be other ways of being able to undo and unpick any legislation in relation to nicotine inhaling devices, if that's something that the Assembly wants to do in the

future, but I believe that this is a mechanism that could work. It may not be as elegant as others, and there may be further ways of amending the legislation in the future, at Stage 3, in order to achieve it in a better way, but for now, I do want to move amendment 226 as well.

[281] **David Rees:** Okay. Thank you. Well, Darren has indicated that he wants to move amendment 225 and therefore the question is that amendment 225 be agreed. Does any Member object? [*Objection.*] I have an objection. Therefore, we'll take a vote by a show of hands. Can those in favour of amendment 225 please show their hands? Thank you. Those against, please show your hands. Thank you. As there's a tied vote, I use my casting vote in the negative, against the amendment, in accordance with Standing Order 6.20. Therefore, the amendment is not agreed.

*Gwelliant 225: O blaid 5, Yn erbyn 5, Ymatal 0.  
Amendment 225: For 5, Against 5, Abstain 0.*

O blaid:	Yn erbyn:	Ymatal:
For:	Against:	Abstain:
Hussain, Altaf	Davies, Alun	
Jones, Elin	Griffiths, John	
Millar, Darren	Neagle, Lynne	
Whittle, Lindsay	Price, Gwyn R.	
Williams, Kirsty	Rees, David	

*Gan fod nifer y pleidleisiau yn gyfartal, defnyddiodd y Cadeirydd ei bleidlais fwrw yn unol â Rheol Sefydlog 6.20(ii).  
As there was an equality of votes, the Chair used his casting vote in accordance with Standing Order 6.20(ii).*

*Gwrthodwyd gwelliant 225.  
Amendment 225 not agreed.*

[282] **David Rees:** Darren, amendment 226—you've indicated.

*Cynigiwyd gwelliant 226 (Darren Millar).  
Amendment 226 (Darren Millar) moved.*

[283] **Darren Millar:** I move.

[284] **David Rees:** So, the question is that amendment 226 be agreed. Does

any Member object? [*Objection.*] I have an objection. Therefore, I will take a vote by a show of hands. Can those in favour of amendment 226 please raise their hands? Can those who are against please raise their hands? Thank you. In relation to amendment 226, there voted two in favour and eight against. Therefore, the amendment is not agreed.

*Gwelliant 226: O blaid 2, Yn erbyn 8, Ymatal 0.  
Amendment 226: For 2, Against 8, Abstain 0.*

O blaid:	Yn erbyn:	Ymatal:
For:	Against:	Abstain:
Hussain, Altaf	Davies, Alun	
Millar, Darren	Griffiths, John	
	Jones, Elin	
	Neagle, Lynne	
	Price, Gwyn R.	
	Rees, David	
	Whittle, Lindsay	
	Williams, Kirsty	

*Gwrthodwyd gwelliant 226.  
Amendment 226 not agreed.*

[285] **David Rees:** We now go back to the marshalled list, and to amendment 170.

*Cynigiwyd gwelliant 170 (Mark Drakeford).  
Amendment 170 (Mark Drakeford) moved.*

[286] **David Rees:** The question is that amendment 170 be agreed. Does any Member object? No objections. Therefore, amendment 170 is agreed.

*Derbyniwyd gwelliant 170 yn unol â Rheol Sefydlog 17.34.  
Amendment 170 agreed in accordance with Standing Order 17.34.*

[287] **David Rees:** Kirsty, amendment 15.

*Cynigiwyd gwelliant 15 (Kirsty Williams, gyda chefnogaeth Darren Millar).  
Amendment 15 (Kirsty Williams, with the support of Darren Millar) moved.*

[288] **Kirsty Williams:** I move.

11:45

[289] **David Rees:** The question is that amendment 15 be agreed to. Does any Member object? [*Objection.*] I have an objection, therefore I'll take a vote by a show of hands. Can those in favour of amendment 15 please raise their hands? Can those against please raise their hands? If there are any abstentions, please raise your hands. Thank you. In relation to amendment 15, we have four in favour, five against and one abstention. Therefore, the amendment is not agreed.

*Gwelliant 15: O blaid 4, Yn erbyn 5, Ymatal 1.  
Amendment 15: For 4, Against 5, Abstain 1.*

O blaid:  
For:

Yn erbyn:  
Against:

Ymatal:  
Abstain:

Hussain, Altaf  
Millar, Darren  
Whittle, Lindsay  
Williams, Kirsty

Davies, Alun  
Griffiths, John  
Neagle, Lynne  
Price, Gwyn  
Rees, David

Jones, Elin

*Gwrthodwyd gwelliant 15.  
Amendment 15 not agreed.*

*Cynigiwyd gwelliant 171 (Mark Drakeford).  
Amendment 171 (Mark Drakeford) moved.*

[290] **David Rees:** The question is that amendment 171 be agreed to. Does any Member object? No objection, therefore amendment 171 is agreed.

*Derbyniwyd gwelliant 171 yn unol â Rheol Sefydlog 17.34.  
Amendment 171 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 172 (Mark Drakeford).  
Amendment 172 (Mark Drakeford) moved.*

[291] **David Rees:** Amendment 172—the question is that it be agreed. Does any Member object? No objection, therefore amendment 172 is agreed.

*Derbyniwyd gwelliant 172 yn unol â Rheol Sefydlog 17.34.  
Amendment 172 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 28 (Mark Drakeford).*  
*Amendment 28 (Mark Drakeford) moved.*

[292] **David Rees:** Amendment 28—does any Member object to that being agreed? No objections, therefore amendment 28 is agreed.

*Derbyniwyd gwelliant 28 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 28 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 29 (Mark Drakeford).*  
*Amendment 29 (Mark Drakeford) moved.*

[293] **David Rees:** Amendment 29—does any Member object to that being agreed? No objections, therefore amendment 29 is agreed.

*Derbyniwyd gwelliant 29 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 29 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 173 (Mark Drakeford).*  
*Amendment 173 (Mark Drakeford) moved.*

[294] **David Rees:** Amendment 173—does any Member object to 173 being agreed? [*Objection.*] We have an objection, therefore I'll take a vote by a show of hands. Can those in favour of 173 please raise their hands? Thank you. Can those against please raise their hands? Thank you. In relation to amendment 173, there voted seven in favour and three against. Therefore, the amendment is agreed.

*Gwelliant 173: O blaid 7, Yn erbyn 3, Ymatal 0.*  
*Amendment 173: For 7, Against 3, Abstain 0.*

O blaid:  
For:

Yn erbyn:  
Against:

Ymatal:  
Abstain:

Davies, Alun  
Griffiths, John  
Jones, Elin  
Neagle, Lynne  
Price, Gwyn  
Rees, David  
Whittle, Lindsay

Hussain, Altaf  
Millar, Darren  
Williams, Kirsty

*Derbyniwyd gwelliant 173.*

*Amendment 173 agreed.*

**Grŵp 9: Cofrestr o Fanwerthwyr Tybaco a Chynhyrchion Nicotin (Gwelliannau 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 174, 43, 44)**  
**Group 9: Register of Retailers of Tobacco and Nicotine Products**  
**(Amendments 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 174, 43, 44)**

[295] **David Rees:** The next amendment is the start of group 9. Group 9 relates to the register of retailers of tobacco and nicotine products. The lead amendment in the group is amendment 30 in the name of the Minister. I move amendment 30 and call on the Minister to speak to the amendments in this group.

*Cynigiwyd gwelliant 30 (Mark Drakeford).*

*Amendment 30 (Mark Drakeford) moved.*

[296] **Mark Drakeford:** Thank you, Chair. I thank the committee for its general support for the provisions to introduce a national register of retailers of tobacco and nicotine products, and its recognition in its Stage 1 report of the potential impact in reducing access to tobacco and nicotine products by people aged under 18.

[297] In my response to this committee's Stage 1 report and other committees, I said I would reflect on the detail of the register, and in this group, you see a series of amendments that are broadly technical in nature, which also respond directly to some committee recommendations. The amendments provide greater clarity to, and aid enforcement of, the register of retailers of tobacco and nicotine products. It includes a change to the information that the registration authority will need to hold on the register.

[298] Amendments 30, 31, 33, 36, 37 and 39 require trading names to be included in applications to the register and in entries on the register itself, where those names are different to the applicants' names. It is entirely possible that a tobacco or nicotine business may operate under a trading name that is different, for example, to their formal company name. Including trading names on the register will aid enforcement. It will also reduce the risk of enforcement officers mistakenly suspecting a retailer of selling tobacco or nicotine products while unregistered, and will assist in identifying unregistered businesses. It thus provides additional clarity for enforcement officers when enforcing the register, and additional protection for traders

themselves.

[299] Amendments 35, 41, 42 and 43 make technical changes to the requirements on mobile retailers when they wish to sell tobacco or nicotine products from a local authority area that is not currently noted in their entry on the register. There will now be a requirement for such a retailer to apply to, and be approved by, the registration authority before they start selling tobacco or nicotine products in a local authority area not currently listed in their entry. These amendments will therefore make it clear to enforcement officers if a mobile retailer is permitted to be selling in that local authority area.

[300] There is no intention to introduce a fee for a mobile retailer to add a new local authority area onto its entry in the register. And consideration will be given to tabling an amendment at Stage 3 to prevent the Welsh Ministers from introducing such a fee.

[301] Amendment 44 inserts a regulation-making power that will allow the Welsh Ministers to exempt businesses from the need to register in order to sell tobacco and nicotine products. But that power is intended to be used only to exempt businesses where children cannot be present, which will include, for example, places like casinos. The purpose of the register is to aid the enforcement of those provisions that prevent the sale of tobacco or nicotine products to anyone under the age of 18, so applying the provision to places where under 18-year-olds cannot be present would be an additional administrative burden to no benefit.

[302] I've also tabled an amendment to strengthen the consultation requirements in relation to the form and content of an application to the register. And amendment 174 is in direct response to a recommendation contained within the Constitutional and Legislative Affairs Committee's Stage 1 report to that effect.

[303] Chair, it may be helpful to explain that equivalent amendments to strengthen the consultation requirements in response to the CLAC report have been introduced at two other parts of the Bill: restricted premises Orders, contained in group 12, and special procedures, contained in group 13. I hope Members will feel able to support these amendments.

[304] **David Rees:** Thank you, Minister. Does any other Member wish to speak on these amendments? No. Then, Minister, I don't suppose you want



to say anything extra. Therefore, we'll go straight to the vote. The question is that amendment 30 be agreed. Does any Member object? No objections, therefore amendment 30 is agreed.

*Derbyniwyd gwelliant 30 yn unol â Rheol Sefydlog 17.34.  
Amendment 30 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 31 (Mark Drakeford).  
Amendment 31 (Mark Drakeford) moved.*

[305] **David Rees:** Amendment 31. The question is that amendment 31 be agreed. Does any Member object? No objections, therefore amendment 31 is agreed.

*Derbyniwyd gwelliant 31 yn unol â Rheol Sefydlog 17.34.  
Amendment 31 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 32 (Mark Drakeford).  
Amendment 32 (Mark Drakeford) moved.*

[306] **David Rees:** Amendment 32—does any Member object? No objections, therefore amendment 32 is agreed.

*Derbyniwyd gwelliant 32 yn unol â Rheol Sefydlog 17.34.  
Amendment 32 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 33 (Mark Drakeford).  
Amendment 33 (Mark Drakeford) moved.*

[307] **David Rees:** Amendment 33—does any Member object? No objections, therefore amendment 33 is agreed.

*Derbyniwyd gwelliant 33 yn unol â Rheol Sefydlog 17.34.  
Amendment 33 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 34 (Mark Drakeford).  
Amendment 34 (Mark Drakeford) moved.*

[308] **David Rees:** Amendment 34—does any Member object? No objections, therefore amendment 34 is agreed.

*Derbyniwyd gwelliant 34 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 34 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 35 (Mark Drakeford).*  
*Amendment 35 (Mark Drakeford) moved.*

[309] **David Rees:** Amendment 35—does any Member object? No objections, therefore amendment 35 is agreed.

*Derbyniwyd gwelliant 35 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 35 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 36 (Mark Drakeford).*  
*Amendment 36 (Mark Drakeford) moved.*

[310] **David Rees:** Amendment 36—does any Member object? No objections, therefore amendment 36 is agreed.

*Derbyniwyd gwelliant 36 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 36 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 37 (Mark Drakeford).*  
*Amendment 37 (Mark Drakeford) moved.*

[311] **David Rees:** Amendment 37—does any Member object? No objections, therefore amendment 37 is agreed.

*Derbyniwyd gwelliant 37 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 37 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 38 (Mark Drakeford).*  
*Amendment 38 (Mark Drakeford) moved.*

[312] **David Rees:** Amendment 38—does any Member object? No objections, therefore amendment 38 is agreed.

*Derbyniwyd gwelliant 38 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 38 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 39 (Mark Drakeford).*  
*Amendment 39 (Mark Drakeford) moved.*

[313] **David Rees:** Amendment 39—does any Member object? No objections, therefore amendment 39 is agreed.

*Derbyniwyd gwelliant 39 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 39 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 40 (Mark Drakeford).*  
*Amendment 40 (Mark Drakeford) moved.*

[314] **David Rees:** Amendment 40—does any Member object? No objections, therefore amendment 40 is agreed.

*Derbyniwyd gwelliant 40 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 40 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 41 (Mark Drakeford).*  
*Amendment 41 (Mark Drakeford) moved.*

[315] **David Rees:** Amendment 41—does any Member object? No objections, therefore amendment 41 is agreed.

*Derbyniwyd gwelliant 41 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 41 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 42 (Mark Drakeford).*  
*Amendment 42 (Mark Drakeford) moved.*

[316] **David Rees:** Amendment 42—does any Member object? No objections, therefore amendment 42 is agreed.

*Derbyniwyd gwelliant 42 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 42 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 174 (Mark Drakeford).*  
*Amendment 174 (Mark Drakeford) moved.*

[317] **David Rees:** Amendment 174—does any Member object? No objections, therefore amendment 174 is agreed.

*Derbyniwyd gwelliant 174 yn unol â Rheol Sefydlog 17.34.*

*Amendment 174 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 43 (Mark Drakeford).*

*Amendment 43 (Mark Drakeford) moved.*

[318] **David Rees:** Amendment 43—does any Member object? No objections, therefore amendment 43 is agreed.

*Derbyniwyd gwelliant 43 yn unol â Rheol Sefydlog 17.34.*

*Amendment 43 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 44 (Mark Drakeford).*

*Amendment 44 (Mark Drakeford) moved.*

[319] **David Rees:** Amendment 44—does any Member object? No objections, therefore amendment 44 is agreed.

*Derbyniwyd gwelliant 44 yn unol â Rheol Sefydlog 17.34.*

*Amendment 44 agreed in accordance with Standing Order 17.34.*

**Grŵp 10: Manwerthwyr Tybaco a Chynhyrchion Nicotin—Gorfodi  
(Gwelliannau 45, 46, 175, 176, 177, 97, 98, 99)**

**Group 10: Retailers of Tobacco and Nicotine Products—Enforcement  
(Amendments 45, 46, 175, 176, 177, 97, 98, 99)**

[320] **David Rees:** The next amendment is at the start of group 10, and group 10 is about the enforcement of provisions relating to retailers of tobacco and nicotine products. The lead amendment in this group is amendment 45 in the name of the Minister. I therefore move amendment 45 and call on the Minister to speak to the amendments in this group.

*Cynigiwyd gwelliant 45 (Mark Drakeford).*

*Amendment 45 (Mark Drakeford) moved.*

[321] **Mark Drakeford:** Chair, the purpose of amendments in this group is to provide additional safeguards relating to the powers of entry and inspection provisions, and are similar to those previously discussed in group 7, where I set them out in detail in relation to smoking and nicotine inhaling devices. What I plan to do is to just summarise those arguments again here and, of course, respond to any points that Members make.

[322] Amendment 45 provides an additional safeguard to the security of unoccupied premises by requiring that authorised officers leave any unoccupied premises in as secure a condition as they were in when the officer found them.

[323] Amendments 46 and 175 relate to the powers of inspection. They clarify the circumstances in which an enforcement officer must leave a statement at the premises setting out what property has been taken away, and require certain information to be provided to enable a request for the return of the property to be made.

[324] Amendments 176 and 177 provide additional safeguards for persons whose property has been taken away for inspection or otherwise taken possession of. The person affected can apply to a magistrates' court to request the release of the property or to apply for compensation when they have suffered loss or damage as a result of the officer taking possession of that property.

[325] The final three amendments—97, 98 and 99—are technical, correcting previous incorrect cross-referencing in Schedule 1, and I ask Members to support these amendments.

[326] **David Rees:** Thank you, Minister. Does any Member wish to speak on these amendments? There are no Members who wish to speak. Minister, I assume you do not wish to reply therefore. So, we'll go straight to the vote. Amendment 45—does any Member object to it being agreed? No objections. Therefore, amendment 45 is agreed.

*Derbyniwyd gwelliant 45 yn unol â Rheol Sefydlog 17.34.  
Amendment 45 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 46 (Mark Drakeford).  
Amendment 46 (Mark Drakeford) moved.*

[327] **David Rees:** Amendment 46—does any Member object? No objections. Therefore, amendment 46 is agreed.

*Derbyniwyd gwelliant 46 yn unol â Rheol Sefydlog 17.34.  
Amendment 46 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 175 (Mark Drakeford).*

*Amendment 175 (Mark Drakeford) moved.*

[328] **David Rees:** Amendment 175—does any Member object? No objections. Therefore, amendment 175 is agreed.

*Derbyniwyd gwelliant 175 yn unol â Rheol Sefydlog 17.34.*

*Amendment 175 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 176 (Mark Drakeford).*

*Amendment 176 (Mark Drakeford) moved.*

[329] **David Rees:** Amendment 176—does any Member object? No Members objected, therefore, amendment 176 is agreed.

*Derbyniwyd gwelliant 176 yn unol â Rheol Sefydlog 17.34.*

*Amendment 176 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 177 (Mark Drakeford).*

*Amendment 177 (Mark Drakeford) moved.*

[330] **David Rees:** Amendment 177—does any Member object? No objections. Therefore, amendment 177 is agreed.

*Derbyniwyd gwelliant 177 yn unol â Rheol Sefydlog 17.34.*

*Amendment 177 agreed in accordance with Standing Order 17.34.*

**Grŵp 11: Manwerthwyr Tybaco a Chynhyrchion Nicotin—Dehongli  
(Gwelliannau 47,48, 49)  
Group 11: Retailers of Tobacco and Nicotine Products—Interpretation  
(Amendments 47, 48, 49)**

[331] **David Rees:** The next amendment in the list is at the start of group 11 and group 11 is about the interpretation of provisions relating to retailers of tobacco and nicotine products. The lead amendment in this group is amendment 47, which is in the name of the Minister. I therefore move amendment 47 and call on the Minister to speak to this amendment and others in this group.

*Cynigiwyd gwelliant 47 (Mark Drakeford).*

*Amendment 47 (Mark Drakeford) moved.*

[332] **Mark Drakeford:** Thank you, Chair. This is the final group of amendments relating to the register of retailers of tobacco and nicotine products, and they're once again technical in nature. This group of amendments inserts definitions of 'partnership', 'limited liability partnership' and 'trading name'. Amendments 47 and 48 define a partnership and a limited liability partnership, and this is important, as I attempted to explain in an earlier group, because it provides clarity when interpreting the Bill as to what is meant by a partnership and a limited liability partnership in relation to the register. Amendment 49 provides additional clarity by including a definition of a trading name, and as discussed in relation to group 9, it is important that trading names are included on the register in order to aid enforcement. I ask Members to support these amendments.

[333] **David Rees:** Thank you, Minister. Does any Member wish to speak on these amendments? No. Again, Minister, I assume you don't wish to respond therefore. So, we'll go straight to the vote. The question is that amendment 47 be agreed. Does any Member object? No objections. Therefore, amendment 47 is agreed.

*Derbyniwyd gwelliant 47 yn unol â Rheol Sefydlog 17.34.  
Amendment 47 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 48 (Mark Drakeford).  
Amendment 48 (Mark Drakeford) moved.*

[334] **David Rees:** Amendment 48—does any Member object? No objections. Therefore, amendment 48 is agreed.

*Derbyniwyd gwelliant 48 yn unol â Rheol Sefydlog 17.34.  
Amendment 48 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 49 (Mark Drakeford).  
Amendment 49 (Mark Drakeford) moved.*

[335] **David Rees:** Amendment 49—does any Member object? No objections. Therefore, amendment 49 is agreed.

*Derbyniwyd gwelliant 49 yn unol â Rheol Sefydlog 17.34.  
Amendment 49 is agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 97 (Mark Drakeford).*

*Amendment 97 (Mark Drakeford) moved.*

[336] **David Rees:** We'll go back to the list. Amendment 97—does any Member object? No objections. Therefore, amendment 97 is agreed.

*Derbyniwyd gwelliant 97 yn unol â Rheol Sefydlog 17.34.*

*Amendment 97 is agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 98 (Mark Drakeford).*

*Amendment 98 (Mark Drakeford) moved.*

[337] **David Rees:** Amendment 98—does any Member object? No objections. Therefore, amendment 98 is agreed.

*Derbyniwyd gwelliant 98 yn unol â Rheol Sefydlog 17.34.*

*Amendment 98 is agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 99 (Mark Drakeford).*

*Amendment 99 (Mark Drakeford) moved.*

[338] **David Rees:** Amendment 99—does any Member object? No objections. Therefore, amendment 99 is agreed.

*Derbyniwyd gwelliant 99 yn unol â Rheol Sefydlog 17.34.*

*Amendment 99 is agreed in accordance with Standing Order 17.34.*

**Grŵp 12: Gorchmynion Mangre o dan Gyfyngiad—Trosedd o ran Tybaco neu Nicotin (Gwelliant 178)**

**Group 12: Restricted Premises Orders—Tobacco or Nicotine Offence (Amendment 178)**

[339] **David Rees:** That takes us to the next amendment, which is the start of group 12, which relates to restricted premises orders for tobacco and nicotine offences. The lead and only amendment in this group is amendment 178, which is in the name of the Minister. I move amendment 178 and call on the Minister to speak to his amendment.

*Cynigiwyd gwelliant 178 (Mark Drakeford).*

*Amendment 178 (Mark Drakeford) moved.*

[340] **Mark Drakeford:** Thank you, Chair. I was grateful for the committee's



support for the provisions that allow for additional offences to contribute to a restricted premises order, which were rehearsed in the Stage 1 report. The single amendment in this group responds directly to recommendation 4 in the Stage 1 report of the Constitutional and Legislative Affairs Committee, which sought to strengthen the consultation arrangements for regulations that would add new offences to the restricted premises order regime. Having given thought to those recommendations, I've tabled this amendment to ensure that proper consultation will take place before any such changes are made through regulations, and I ask Members to support this amendment.

[341] **David Rees:** Thank you, Minister. Does any Member wish to speak to this amendment? No. Minister, I assume, again, that we move straight to the vote. The question is that amendment 178 be agreed to. Does any Member object? No objections. Therefore, amendment 178 is agreed.

*Derbyniwyd gwelliant 178 yn unol â Rheol Sefydlog 17.34.*

*Amendment 178 is agreed in accordance with Standing Order 17.34.*

[342] **David Rees:** We've come to a point where the next set of amendments relate to Part 3 of the Bill, and I presume this is a good time to have a break for lunch. Are Members happy with that? Shall we reconvene at 1 o'clock?

[343] **Darren Millar:** I'd be happy to press on.

[344] **David Rees:** You want to press on.

[345] **Elin Jones:** Press on until when?

[346] **Darren Millar:** Until 1. We've just had a break, Chair, to be fair.

[347] **David Rees:** Okay. We'll press on a little bit, if the Minister's okay with that. And we'll see how time goes. Okay, let's move on.

**Grŵp 13: Ystyr 'Triniaethau Arbennig' (Gwelliannau 117, 118, 119, 120, 121, 122, 204, 123, 83, 124, 125, 126, 127, 85, 132, 86)**

**Group 13: Meaning of 'Special Procedures' (Amendments 117, 118, 119, 120, 121, 122, 204, 123, 83, 124, 125, 126, 127, 85, 132, 86)**

[348] **David Rees:** Group 13 relates to the meaning of 'special procedures'. The lead amendment in this group is amendment 117 in the name of Darren Millar. I call on Darren Millar to move amendment 117 and speak to his

amendment and others in this group.

*Cynigiwyd gwelliant 117 (Darren Millar).*

*Amendment 117 (Darren Millar) moved.*

[349] **Darren Millar:** I move amendment 117 in my name and speak to the other amendments in this group.

12:00

[350] The purpose of this set of amendments is simply to extend the list of special procedures to those that were brought to the attention of the committee during the course of its inquiry, which many of the witnesses felt were of sufficient concern that they ought to be special procedures.

[351] These include a number of procedures that I don't wish to describe in graphic detail, but some of the amendments seek to provide some detail and definitions on the face of the Bill. My amendments also seek to remove acupuncture from the face of the Bill, on the basis that there was no evidence of harm from acupuncture presented to the committee during the course of the inquiry. I think it's very difficult to establish that that ought to be captured by the provisions in the Bill.

[352] So, the procedures that these amendments seek to add are scarification, stretching, sub-dermal implantation and tongue splitting. These were all referenced in the Stage 1 committee report. As I say, I don't want to go into too much detail about them. I'm sure that people have done their own research, but I do hope that Members will be able to support these amendments.

[353] **David Rees:** Thank you, Darren. Do any other Members wish to speak? No. I'm going to call the Minister.

[354] **Mark Drakeford:** Thank you, Chair. I was very grateful to the committee for the consideration that you gave to the evidence collected in relation to this part of the Bill and for the support expressed in the Stage 1 report for a licensing system that aims to increase protection for the public.

[355] This group of amendments covers a range of issues, from technical matters to substantive policy amendments. I'd like to begin by addressing amendments 117 and 123, tabled by Darren Millar, which seek to remove

acupuncture from the scope of Part 3 of the Bill. The list of special procedures in section 46 have this in common: they all involve routine piercing of the skin. These procedures can all be associated with serious health risks, including the transmission of infections and blood-borne viruses, if they are carried out in an inappropriate or unhygienic fashion. I note that the committee concluded, in its Stage 1 report, that the four procedures listed on the face of the Bill, including acupuncture, are the right ones to legislate on at the current time. I'm sure that in coming to that position, the committee paid particular attention to the evidence provided by experts in the field, such as Dr Ncube, who expressed the opinion to you that any breach of the skin in an unhygienic environment exposes the individual to infection.

[356] I do recognise, in the way that Darren put it, that the more serious complications associated with acupuncture are rare. Nevertheless, it is important that any practitioner undertaking skin-piercing procedures has safe working practices and good infection-control procedures at all times, so that both clients and practitioners are protected.

[357] In their evidence to this committee, the British Acupuncture Council welcomed the introduction of a new compulsory national licensing scheme for special procedures. The council also welcome the approach taken by the Bill, which provides for certain individuals to be exempted from the licensing requirements via regulations. That approach has been put in to help avoid duplication for those who are already properly regulated, such as those who are members of the British Acupuncture Council, while still protecting the public from potential harm.

[358] Those people whose practices are already properly regulated, and who, in the way that Darren said, are unlikely to cause harm, will fall within the section 49 exemptions. They will not be captured by this Bill. The only people who will be captured by this Bill are individuals who carry out acupuncture currently without such oversight and I think it is right to bring them within the scope of the Bill. For that reason, I'm unable to support Darren Millar's amendments in relation to acupuncture.

[359] Can I turn now to those amendments that seek to make additions to the current list of special procedures? As you've heard, the amendments cover branding, scarification, sub-dermal implantation and tongue splitting. I am, of course, concerned about these extreme body modification procedures and their potential to cause significant harm to health. It remains my view,

however, that such procedures should not be added to the legislation at this point. I believe that we need a greater understanding of the evidence and, in particular, a greater exploration of the risks associated with them.

[360] I think there is as well a serious point that this committee will want to consider that in making the licensing system cover such procedures, it could be regarded as legitimising them and making them more socially acceptable. If these amendments were to succeed, and I recognise the serious case that is made for them, it could result in seeing a sign in a shop window, 'Branding and tongue splitting, as recognised by the National Assembly for Wales'. Because if we bring those procedures within the licensing regime, then they will be recognised in the law as a legitimate thing to carry out. We may conclude that that is the right thing to do, I'm not minimising that at all, but what I am saying is that that's a very big step to take and that we should take it after further considerations.

[361] Amendments 121 and 127 deal specifically with sub-dermal implantation. It is my view that the amendments as drafted would capture procedures such as dermal fillers and legal plastic surgery, including breast augmentation. I'm not sure that this was the intended effect of the amendments, but the advice I have had is that they would capture such procedures, and I am of the view that the regulation of plastic surgery is not a matter best carried out by local authorities and that the Bill is not the right legislative vehicle for the regulation of such procedures.

[362] What I want to do is to make sure that we have an incremental approach to adding to the list of special procedures as advocated by a number of witnesses who gave evidence to the committee at Stage 1. The regulation-making power available in the Bill allows for the list of special procedures to be amended in future and I intend to use that regulation-making power in the correct circumstances.

[363] So, while I'm unable to support Darren Millar's amendments to add to the list of procedures today, I am happy to provide a firmer indication on the record of my intended approach to dealing with this issue, in order that Members can understand how the powers it would provide to me would be used. If the Bill succeeds in becoming law, I can put on record my intention to consult early on the principle of adding procedures to the list of special procedures covered by the Bill shortly after the Bill's enactment.

[364] That consultation will cover all those procedures included in Darren

Millar's amendments, but also others that have been identified during the passage of the Bill so far, such as dermal rolling, colonic irrigation, wet cupping and UV tanning. I would expect that consultation to involve further work with local authorities and Public Health Wales, to gather and assess information on these procedures and their prevalence in Wales, to explore the legal and ethical questions that could arise in deciding whether or not to make these activities licensable, and of course to reflect with Members on the findings of the consultation to determine whether any changes should then be made to the list of special procedures.

[365] So, what I'm trying to do, Chair, is to express a good deal of sympathy with the arguments that Darren Millar has put forward in relation to adding to the list of special procedures, but to give Members confidence that we can achieve the same objectives that he wants to achieve in a different way that would allow for the exploration of some of the genuine practical, legal and ethical complexities that lie behind these procedures.

[366] The Government amendments in the group also make changes to the definition of 'body piercing' and 'tattooing', and amendment 204 has been made to reflect the recommendation of the Constitutional and Legislative Affairs Committee that I amend the Bill to require the Welsh Ministers to consult on regulations amending the list of special procedures. As I've already indicated, it would be my intention to proceed in that way, and this amendment makes that obligatory.

[367] **David Rees:** Thank you, Minister. I call on Darren to reply to the debate.

[368] **Darren Millar:** Thank you, Chair, and thank you, Minister, for your response. I'm pleased that the policy intention at least is the same as far as these particular procedures are concerned. You've suggested that you'll want to take forward an early consultation, should the Bill become law, on the procedures that I'm seeking to add to the face of the Bill, but the reality is that there has already been consultation. You've just argued this point in respect of some of the places that you've included in your Schedule on nicotine inhaling devices. We undertook a consultation as a committee. Evidence came in, and, within that evidence, it was very clear that many witnesses wanted the list of special procedures to be extended because, obviously, there is a significant risk of harm from the sort of procedures that I have identified.

[369] The Association of Directors of Public Health, for example, provided us with evidence of harm in relation to this list and, very clearly, if you're popping a subdermal implant into somebody, you're having to pierce the skin and it's an invasive procedure, and the same, of course, is the case for tongue-splitting and some of the other gory things that we were made aware of during the course of the inquiry. I think also that the idea that this legitimises such procedures is a little odd. They're already legal procedures; they're already taking place out there, and the whole idea of the public health Bill, which I fully support, is to protect the public from harm. That's why I support the other procedures that are already on the face of the Bill.

[370] I have actually listened carefully to the Minister's argument in terms of acupuncture, and I'm perfectly happy not to move my amendment 123 as a result of that. So, I would ask, Minister, perhaps if we could consider this together and look at the possibility of putting amendments on the face of the Bill. As I say, there is a wealth of evidence that we've already received as a committee that I know you'll be prepared to consider further prior to Stage 3, and I do hope that that helps to persuade you that there is merit in putting some of these items on the face of the Bill, without a further unnecessary consultation on some of these procedures.

[371] **David Rees:** Okay. Thank you, Darren. Do you wish to move to vote on amendment 117?

[372] **Darren Millar:** I do.

[373] **David Rees:** Okay. The question is that amendment 117 be agreed to. Does any Member object? [*Objection.*] I have an objection. Therefore, we'll take a vote by a show of hands. Can those in favour of amendment 117 please raise your hands? Can those against please raise your hands? Thank you. In the case of amendment 117, there voted two in favour and eight against, and therefore the amendment is not agreed.

*Gwelliant 117: O blaid 2, Yn erbyn 8, Ymatal 0.  
Amendment 117: For 2, Against 8, Abstain 0.*

O blaid:  
For:

Yn erbyn:  
Against:

Ymatal:  
Abstain:

Hussain, Altaf  
Millar, Darren

Davies, Alun  
Griffiths, John  
Jones, Elin

Neagle, Lynne  
Price, Gwyn R.  
Rees, David  
Whittle, Lindsay  
Williams, Kirsty

*Gwrthodwyd gwelliant 117.*  
*Amendment 117 not agreed.*

[374] **David Rees:** Darren, amendment 118.

*Cynigiwyd gwelliant 118 (Darren Millar).*  
*Amendment 118 (Darren Millar) moved.*

[375] **Darren Millar:** I move.

[376] **David Rees:** The question is that amendment 118 be agreed. Does any Member object? [*Objection.*] I have an objection. Therefore, I'll ask for a vote by a show of hands. Can those in favour of amendment 118 please raise your hands? Can those against please raise your hands? Any abstentions? One abstention. Thank you. In relation to amendment 118, there voted two in favour, seven against and one abstention. Therefore, amendment 118 is not agreed.

*Gwelliant 118: O blaid 2, Yn erbyn 7, Ymatal 1.*  
*Amendment 118: For 2, Against 7, Abstain 1.*

O blaid:  
For:

Hussain, Altaf  
Millar, Darren

Yn erbyn:  
Against:

Davies, Alun  
Griffiths, John  
Jones, Elin  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David  
Whittle, Lindsay

Ymatal:  
Abstain:

Williams, Kirsty

*Gwrthodwyd gwelliant 118.*  
*Amendment 118 not agreed.*

[377] **David Rees:** Darren, 119.

*Cynigiwyd gwelliant 119 (Darren Millar).*

*Amendment 119 (Darren Millar) moved.*

[378] **Darren Millar:** I move.

[379] **David Rees:** Amendment 119 has been moved. Does any Member object? [*Objection.*] I have an objection. Therefore, we'll take a vote by a show of hands. Can those in favour of amendment 119 please raise your hands? Can those against please raise your hands? Any abstentions, please. Thank you. In relation to amendment 119, there voted two in favour, seven against and one abstention. Therefore, amendment 119 is not agreed.

*Gwelliant 119: O blaid 2, Yn erbyn 7, Ymatal 1.  
Amendment 119: For 2, Against 7, Abstain 1.*

O blaid:  
For:

Yn erbyn:  
Against:

Ymatal:  
Abstain:

Hussain, Altaf  
Millar, Darren

Davies, Alun  
Griffiths, John  
Jones, Elin  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David  
Whittle, Lindsay

Williams, Kirsty

*Gwrthodwyd gwelliant 119.  
Amendment 119 not agreed.*

[380] **David Rees:** Darren, amendment 120.

*Cynigiwyd gwelliant 120 (Darren Millar).  
Amendment 120 (Darren Millar) moved.*

[381] **Darren Millar:** I move.

[382] **David Rees:** The question is that amendment 120 be agreed to. Does any Member object? [*Objection.*] I have an objection. Therefore, we'll take a vote by a show of hands. Can those in favour of amendment 120 please raise your hands? Thank you. Can those against please raise your hands? Thank you. Abstentions. Thank you. Therefore, for amendment 120 there were two in favour, seven against and one abstention, and amendment 120 is not agreed.



*Gwelliant 120: O blaid 2, Yn erbyn 7, Ymatal 1.  
Amendment 120: For 2, Against 7, Abstain 1.*

O blaid: For:	Yn erbyn: Against:	Ymatal: Abstain:
Hussain, Altaf Millar, Darren	Davies, Alun Griffiths, John Jones, Elin Neagle, Lynne Price, Gwyn R. Rees, David Whittle, Lindsay	Williams, Kirsty

*Gwrthodwyd gwelliant 120.  
Amendment 120 not agreed.*

12:15

[383] **David Rees:** Darren, amendment 121.

*Cynigiwyd gwelliant 121 (Darren Millar).  
Amendment 121 (Darren Millar) moved.*

[384] **Darren Millar:** Yes, I move.

[385] **David Rees:** The question is that amendment 121 be agreed. Does any Member object? [*Objection.*] I have an objection. Therefore, I will take a vote by a show of hands. Those in favour of amendment 121, please raise your hands. Thank you. Those against, please raise your hands. Thank you. Therefore, for amendment 121, there voted two in favour and eight against and therefore it is not agreed.

*Gwelliant 121: O blaid 2, Yn erbyn 8, Ymatal 0.  
Amendment 121: For 2, Against 8, Abstain 0.*

O blaid: For:	Yn erbyn: Against:	Ymatal: Abstain:
Hussain, Altaf Millar, Darren	Davies, Alun Griffiths, John Jones, Elin Neagle, Lynne Price, Gwyn R. Rees, David	

Whittle, Lindsay  
Williams, Kirsty

*Gwrthodwyd gwelliant 121.*  
*Amendment 121 not agreed.*

[386] **David Rees:** Darren, amendment 122.

*Cynigiwyd gwelliant 122 (Darren Millar).*  
*Amendment 122 (Darren Millar) moved.*

[387] **Darren Millar:** Move.

[388] **David Rees:** The question is that amendment 122 be agreed. Does any Member object? [*Objection.*] I have an objection. Therefore, we'll take a vote by a show of hands. Can those in favour of amendment 122 please raise your hands? Thank you. Those against, please raise your hands. Abstentions, please raise your hands. Thank you. Therefore, for amendment 122, we have two in favour, seven against and one abstention, and it is not agreed.

*Gwelliant 122: O blaid 2, Yn erbyn 7, Ymatal 1.*  
*Amendment 122: For 2, Against 7, Abstain 1.*

O blaid:  
For:

Hussain, Altaf  
Millar, Darren

Yn erbyn:  
Against:

Davies, Alun  
Griffiths, John  
Jones, Elin  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David  
Whittle, Lindsay

Ymatal:  
Abstain:

Williams, Kirsty

*Gwrthodwyd gwelliant 122.*  
*Amendment 122 not agreed.*

**Grŵp 14: Triniaethau Arbennig—Meini Prawf Trwyddedu ac Amodau Trwyddedu Mandadol (Gwelliannau 179, 180, 181, 182A, 182, 183, 184, 185, 186, 187, 188)**

**Group 14: Special Procedures—Licensing Criteria and Mandatory Licensing Conditions (Amendments 179, 180, 181, 182A, 182, 183, 184, 185, 186, 187, 188)**

[389] **David Rees:** We now move on to group 14. Group 14 relates to mandatory licensing criteria and conditions for special procedures. The lead amendment in the group is amendment 179, in the name of the Minister. I therefore move amendment 179 and call on the Minister to speak to the amendments in this group.

*Cynigiwyd gwelliant 179 (Mark Drakeford).*  
*Amendment 179 (Mark Drakeford) moved.*

[390] **Mark Drakeford:** Thank you, Chair. A number of the Government amendments in this group seek to respond positively and directly to recommendations from committees at Stage 1, as well as some minor technical amendments. Recommendation 5 of this committee called for the special procedures licensing scheme to ensure that licence holders undertake training on specific topics. I have taken that recommendation and am dealing with it in a way that also addresses a recommendation of the Constitutional and Legislative Affairs Committee to include some core, basic licensing conditions and criteria on the face of the Bill.

[391] So, as Members will have seen, amendment 180 now requires an applicant to demonstrate knowledge of infection control and first aid in the context of the special procedure to which the application for a licence relates, before they gain a licence. The applicant must also demonstrate knowledge of the duties imposed on them as a person authorised to perform a special procedure. These duties include the requirements in relation to age verification for tattooing and intimate piercing. These are matters that, if the amendment is passed, will appear on the face of the Bill in line both with this committee's and the Constitutional and Legislative Affairs Committee's recommendations.

[392] Now, these key licensing criteria, which will lie on the face of the Bill, will be supplemented by others to be specified in the regulations. All of those criteria will have to be met as part of an application for a special procedures licence in order for the application to be granted by the local

authority.

[393] Amendment 181 clarifies that the licensing criteria to be specified in regulations may also cover other matters in addition to those that are included on the face of the Bill by virtue of amendment 180.

[394] Amendment 182 provides certainty that the mandatory licensing conditions, which will control the conduct of a practitioner after they have received a licence, will include conditions covering verification of the age of an individual on whom a special procedure is to be performed, infection control and first aid.

[395] Importantly, and in response to some of the arguments that have been raised at this committee by Darren Millar in particular, the mandatory licensing conditions under this amendment, to be specified in the regulations, must also relate to intoxication, thus preventing a licence holder from performing a special procedure on an individual who is, or who appears to be, intoxicated by virtue of drink, drugs or any other means.

[396] If these amendments are accepted, Chair, all of these matters will now appear on the face of the Bill as compulsory elements in the licensing regime. If applicants cannot demonstrate their compliance with these conditions their licence can be lost.

[397] Now, that's the approach that I wish to take in relation to the intoxication issue, and I think that my approach has the additional advantage of avoiding confusion in the criminal law that would result from a second specific criminal offence on this issue, and it's why I'll ask Members to reject amendment 182A tabled by Darren, which seeks to remove the part of Government amendment 182 that provides certainty that the mandatory licensing conditions will relate to intoxication. I've no difference of objective from Darren at all in this matter. It's simply that I think that his way forward—creating a standalone criminal offence for performing a special procedure on an individual who is intoxicated—would not be the best way to take this forward.

[398] There would also be a significant difference in the penalty for the new offence that Darren proposes and those available under the current criminal legislation. The proposed amendment would allow for a fine not exceeding level 3 on the standard scale, whereas the criminal offence that is already on the statute book in this area provides a maximum penalty for assault

occasioning actual bodily harm of five years imprisonment. I believe that that level of penalty is more likely to act as a deterrent.

[399] Returning to the Government amendments, amendment 183 clarifies that the mandatory licensing conditions to be specified in regulations may also cover matters additional to those on the face of the Bill by virtue of amendment 182.

[400] Amendments 184 and 185 remove and replace wording in provisions relating to the mandatory licensing conditions for special procedures, and do so in a way that is consistent with the strengthening of licensing conditions and criteria as proposed by this committee and the Constitutional and Legislative Affairs Committee.

[401] Amendment 186 enables information to be provided to a client by a licence holder by way of display. For example, by means of a written statement stating the circumstances in which a special procedure will not be performed, such as if a person is intoxicated, as well as by other means, for example, verbally or during a consultation. This amendment again reflects recommendations by this committee in relation to the performance of special procedures on persons who may be intoxicated.

[402] Amendment 187 removes the words 'record keeping' from the list of matters that the discretionary mandatory licensing conditions regulations may cover, as this matter is now required by the previous amendments to be included in the mandatory licensing conditions, providing additional certainty that record keeping will be covered in the conditions.

[403] Amendment 188 inserts wording under section 52(2) that enables the regulations specifying the mandatory licensing conditions to also cover information to be provided to the local authority in the case of a licence holder subsequently being convicted of a relevant offence. The provision of this information to a local authority is important, because it could enable them then to consider revocation of the licence.

[404] I ask Members to support the Government amendments, which are in direct response to the recommendations of this committee and of the Constitutional and Legislative Affairs Committee. I ask Members to reject non-Government amendment 182A, because I think it is unnecessary, given the Government amendments, and may cause confusion in the operation of the criminal law.

[405] **David Rees:** Thank you, Minister. Darren, do you wish to speak?

[406] **Darren Millar:** Yes, thank you, Chair, and I want to move amendment 182A, which has been tabled in my name. I'm glad that the Minister has set out again that we're on the same page in terms of the policy objective here, and that is that nobody should endure a special procedure if they are intoxicated or suspected to be intoxicated. The Minister has quite clearly set out that that is his intention and he wants to address this through mandatory licensing conditions as opposed to the creation of an offence.

[407] This really links in with amendment 115, which has been tabled in my name, which is later on in group 21 that this committee will visit. But if I may, can I just speak a little bit about why I think it's important that there's an offence created rather than simply a licensing condition, because it is necessary? I will not repeat it then, I can assure you, later on when we get to group 21.

[408] My amendment 115 is better than simply creating a licensing condition in relation to this, because it allows for a criminal offence to be created. It allows for a fine, a level 3 fine, as the Minister has already set out, and that's exactly the same fine that is applicable to somebody who—. It's exactly the same fine for carrying out a special procedure without a licence, which is also applicable to serving a drunk person when they come into a bar. I think it's really important that we get this principle established that it is a criminal offence rather than simply a licensing condition, and that's the maximum possible thing that can be done—that someone loses their licence if they perform a special procedure on someone who's intoxicated.

[409] I appreciate the point that the Minister has made about the higher level of offence, or higher level of punishment for an offence, in terms of if somebody comes to significant harm as a result of a special procedure being conducted on them as a result of intoxication. But we know, for example, that many people don't come to harm when they have a tattoo, but they deeply regret it the morning after when they wake up and find themselves smothered in something that is permanent on their skin. Therefore, they're not going to be subject to the sort of offence, and be prosecuted for an offence, which relates to that harm in the same way that this provision in terms of creating an offence specifically in relation just to intoxication would be.

[410] So, I think it's really important that we get, on the face of the Bill, an offence rather than simply a requirement for a licensing condition in relation to this, because, as I say, people may not necessarily come to harm, but it is still inappropriate for somebody to undergo one of these procedures. We had lots of evidence on this during the course of the committee's Stage 1 work. It's very clear that the issue of people being tattooed while they are drunk is a common problem. There are very few prosecutions that I've been able to find in relation to people coming to harm as a result of tattooing somebody who is intoxicated, or anybody being prosecuted as a result. But I do think it's important, therefore, that we have an offence on the face of the Bill rather than simply this requirement for a licensing condition. So, I think the Minister and I are on the same page, and I would ask him just to think about this again in terms of perhaps having an offence on the face of the Bill, because this was an important issue. It was one of the things that was flagged up with the committee very early on, and we see regularly stories, particularly in the tabloids, of people who have been subject to tattoos, in particular, that they would not have had had they not been intoxicated.

[411] **David Rees:** Thank you, Darren. Kirsty.

[412] **Kirsty Williams:** Thank you very much. Minister, I have grave concerns about the inclusion of tattooing, or special procedures, on a person who is intoxicated or appears to be intoxicated. I appreciate that what the Government is trying to do is be proportionate in guarding against that, as opposed to creating a new criminal offence, which Darren Millar seeks to do. I think there are quite complex issues here around consent and capacity of individuals, and I sometime really do wonder whether it is the job of the law and legislation to protect people from doing something daft, or buyer's remorse, in this case. I've got grave concerns about how you would protect the interests of the individual carrying out these procedures.

[413] Now, I appreciate that the licensing condition would be a less severe penalty than a criminal offence, but to have the licence removed is a very serious matter for the individuals involved, and I would just like to hear from the Minister how he believes that this could actually work in practice. So, if you, as a tattooist, get someone to sign the form and ask the question, only then to be approached a number of days later by someone who regrets wholeheartedly having that tattoo, and that being challenged by saying 'Well, I was drunk at the time', what protections are there for the practitioner to guard against losing their licence or, in Darren's case, having a criminal conviction against them, in those circumstances?

12:30

[414] I'm very concerned that we're creating a system here that enhances the ability of someone to make a malicious, almost, complaint against a practitioner, and it's very difficult for that practitioner to be able to defend themselves in those circumstances. Of course, it should be good practice; anybody operating in these areas should not be carrying out these procedures on people who are obviously drunk. But, actually, putting it into a situation where somebody could lose their licence, or in the case of Darren have a criminal conviction against them, concerns me gravely.

[415] **David Rees:** Thank you. Does any other Member wish to speak? No. Then, I call on the Minister to respond to the debate.

[416] **Mark Drakeford:** Thank you, Chair. I'll try and respond to Kirsty's points first. I think it's a legitimate objective of the regime that we are setting up here that those people who are carrying out special procedures should have a duty of care to those people on who they are carrying out those procedures, and one of the duties of care that we will establish through the mandatory licensing conditions is that they should not knowingly carry out a procedure on someone who is intoxicated by means of drink or drugs.

[417] They will receive training as part of the implementation of the Act, if it becomes an Act, to help them in identifying people who are in that position. And it will be part of the mandatory licensing conditions that a detailed consent form will have to be obtained from that person. And if someone is capable of filling in such a detailed consent form, then that will be part of a defence that the practitioner will be able to mount if someone were then to return and say that they had made the decision without being in a state where they could reasonably make that decision.

[418] And if a local authority were to try and remove someone's licence to practice, the Bill establishes an appeals mechanism and the practitioner would be able to use that information to show that they had acted in a reasonable manner. And if they had acted reasonably and had good reason to believe that the person was not intoxicated, then their licence would not be at risk.

[419] So, I think the points that Kirsty made are all very important ones, and



what I'm trying to demonstrate is that the way that this part of the Bill is constructed provides a set of checks and balances so there is a proper duty of care to the person on whom the procedure is being carried out, but also proper protections for the practitioner so that they are not caught up by post hoc claims that someone could bring that would put their livelihood in jeopardy. It's a very proper point that the Member makes, and I think there are safeguards built in to the Bill.

[420] After that, Members have two regimes on offer to them. There is the mandatory licensing regime which the Government aims to construct through our amendments, which very directly and on the face of the Bill now addresses the issue of intoxication. You've heard the case that Darren Millar makes for the different regime which he thinks would be more effective. I hope Members will support the Government amendments, but Members have heard both cases and can make their minds up.

[421] **David Rees:** Thank you, Minister. We therefore move to a vote on amendment 179. Does any Member object to amendment 179? No objections, therefore amendment 179 is agreed.

*Derbyniwyd gwelliant 179 yn unol â Rheol Sefydlog 17.34.  
Amendment 179 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 180 (Mark Drakeford).  
Amendment 180 (Mark Drakeford).*

[422] **David Rees:** We move on to amendment 180. Does any Member object to amendment 180 being agreed? No. Therefore, 180 is agreed.

*Derbyniwyd gwelliant 180 yn unol â Rheol Sefydlog 17.34.  
Amendment 180 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 181 (Mark Drakeford).  
Amendment 181 (Mark Drakeford).*

[423] **David Rees:** Amendment 181. Does any Member object to amendment 181 being agreed? No, therefore amendment 181 is agreed.

*Derbyniwyd gwelliant 181 yn unol â Rheol Sefydlog 17.34.  
Amendment 181 agreed in accordance with Standing Order 17.34.*

[424] **David Rees:** Before we dispose of amendment 182, we will deal with the amendment to that amendment first. Darren, do you wish to move amendment 182A?

*Cynigiwyd gwelliant 182A (Darren Millar).*  
*Amendment 182A (Darren Millar) moved.*

[425] **Darren Millar:** Move.

[426] **David Rees:** The question is that amendment 182A be agreed. Does any Member object? [*Objection.*] I have an objection, therefore I will take a vote by a show of hands. Can those in favour of amendment 182A please raise your hands? Thank you. Can those against amendment 182A please raise your hands? Thank you. Therefore, in relation to amendment 182, there were two in favour and eight against. So, that amendment is not agreed.

*Gwelliant 182A: O blaid 2, Yn erbyn 8, Ymatal 0.*  
*Amendment 182A: For 2, Against 8, Abstain 0.*

O blaid:  
For:

Yn erbyn:  
Against:

Ymatal:  
Abstain:

Hussain, Altaf  
Millar, Darren

Davies, Alun  
Griffiths, John  
Jones, Elin  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David  
Whittle, Lindsay  
Williams, Kirsty

*Gwrthodwyd gwelliant 182A.*  
*Amendment 182A not agreed.*

*Cynigiwyd gwelliant 182 (Mark Drakeford).*  
*Amendment 182 (Mark Drakeford) moved.*

[427] **David Rees:** The question now is that amendment 182 be agreed. Does any Member object? No objections. Therefore, amendment 182 is agreed.

*Derbyniwyd gwelliant 182 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 182 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 183 (Mark Drakeford).*  
*Amendment 183 (Mark Drakeford) moved.*

[428] **David Rees:** Amendment 183. Does any Member object to that being agreed? No objections. Therefore, amendment 183 is agreed.

*Derbyniwyd gwelliant 183 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 183 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 184 (Mark Drakeford).*  
*Amendment 184 (Mark Drakeford) moved.*

[429] **David Rees:** Amendment 184. Does any Member object to 184 being agreed? No objections. Therefore, amendment 184 is agreed.

*Derbyniwyd gwelliant 184 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 184 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 185 (Mark Drakeford).*  
*Amendment 185 (Mark Drakeford) moved.*

[430] **David Rees:** Amendment 185. Does any Member object to 185 being agreed? No objections. Therefore, amendment 185 is agreed.

*Derbyniwyd gwelliant 185 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 185 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 186 (Mark Drakeford).*  
*Amendment 186 (Mark Drakeford) moved.*

[431] **David Rees:** Amendment 186. Does any Member object to 186 being agreed? No objections. Therefore, amendment 186 is agreed.

*Derbyniwyd gwelliant 186 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 186 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 187 (Mark Drakeford).*  
*Amendment 187 (Mark Drakeford) moved.*

[432] **David Rees:** Amendment 187. Does any Member object to 187 being agreed? No objections. Therefore, amendment 187 is agreed.

*Derbyniwyd gwelliant 187 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 187 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 188 (Mark Drakeford).*  
*Amendment 188 (Mark Drakeford) moved.*

[433] **David Rees:** Amendment 188. Does any Member object to 188 being agreed? No objections. Therefore, amendment 188 is agreed.

*Derbyniwyd gwelliant 188 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 188 agreed in accordance with Standing Order 17.34.*

[434] **David Rees:** The next amendment is at the start of group 15. At this point, I will now take a break for lunch, and we'll resume at 1.30 p.m.

*Gohiriwyd y cyfarfod rhwng 12:36 ac 13:35.*  
*The meeting adjourned between 12:36 and 13:35.*

[435] **David Rees:** Can I welcome Members back to this afternoon's session, where we will be continuing our consideration of Stage 2 of the Public Health (Wales) Bill?

**Grŵp 15: Triniaethau Arbennig—Dyrodidi Trwyddedau (Gwelliannau 51, 52, 53, 54, 189, 190, 191, 192, 193, 67, 205, 100, 102, 103)**  
**Group 15: Special Procedures—Issuing of Licenses (Amendments 51, 52, 53, 54, 189, 190, 191, 192, 193, 67, 205, 100, 102, 103)**

[436] **David Rees:** We now move on to look at the amendments in group 15. Group 15 relates to the issuing of licences for special procedures. The lead amendment in the group is amendment 51 in the name of the Minister.

*Cynigiwyd gwelliant 51 (Mark Drakeford).*  
*Amendment 51 (Mark Drakeford) moved.*

[437] **David Rees:** I therefore move amendment 51 and call on the Minister to speak to the amendments in this group. Minister.

[438] **Mark Drakeford:** Thank you, Chair. Amendments 51, 52, 53 and 54 all make changes to section 54 of the Bill, which deals with the granting or refusal of applications for special procedure licences. The amendments

provide local authorities with the flexibility to grant a special procedure licence in circumstances where one or more premises or vehicles are listed on the application, but not all of those premises or vehicles meet the approval requirements. In such circumstances, the local authority will be able to license an individual to practice only from those premises or vehicles that have been approved.

[439] Section 55 of the Bill already provides a local authority with the discretion to grant an application for a special procedure licence when an applicant has been convicted of a relevant offence. Amendments 189 to 193 strengthen the Bill by requiring a local authority to have regard to the nature of an applicant's relevant offence in the context of the special procedure to which the application relates when considering whether or not to issue a special procedure licence. The amendments thus provide additional clarity for both the applicant and the local authority, relating to how a relevant offence should be considered in the context of an application for a special procedure licence.

[440] Importantly, amendment 193 provides the Welsh Ministers with a regulation-making power to amend the list of relevant offences to which a local authority must have regard when considering whether or not to issue a special procedure licence. The amendment reflects the view put forward by local authorities that the list of relevant offences should be widened to include, for example, offences of assault, offences against a person and sexual offences. If such a change were to be made, of course, my intention would be to consult on the inclusion of such offences by way of regulations subject to the affirmative procedure before making such a change.

[441] Amendment 205 inserts a definition of the term 'relevant offence' into the interpretation provisions of the Bill. Amendment 67 makes an amendment in relation to the local authority register of licences and approved premises or vehicles. It ensures that those special procedure licences that are revoked are no longer included in the register of licences and approved premises and vehicles, as maintained by a local authority. While it is technical in nature, it's important, in that it ensures that information held on registers is accurate and up to date.

[442] Amendments 100, 102 and 103 make relatively detailed changes to Schedule 3, which makes further provision in connection with special procedure licences. The first of these, amendment 100, widens the scope of the regulation-making power in relation to applications for a special

procedure licence. Amendment 102 relates to the issue of a warning notice, which is a notice to an applicant or a licence holder that sets out the action the local authority proposes to take and why. If a local authority decides not to take action, it places a duty on the local authority to notify an applicant or licence holder of its decision not to take the action set out in the warning notice. The amendment is intended to ensure that an applicant or licence holder is properly informed of the outcome in all scenarios.

[443] Finally, Chair, amendment 103 repeals provisions in Part VIII of the Local Government (Miscellaneous Provisions) Act 1982 in relation to Wales. Currently that Act sets up a registration system applying to acupuncture, tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis. This amendment will mean that these provisions no longer apply, so we will not have two regimes running in parallel here in Wales.

[444] **David Rees:** Thank you, Minister. Does any Member wish to speak? As no Member wishes to speak, I assume, Minister, that you probably do not wish to add anything further. So, we'll go straight to consideration of the amendments and we move to a vote on amendment 51.

[445] The question is that amendment 51 be agreed. Does any Member object? There are no objections, therefore amendment 51 is agreed.

*Derbyniwyd gwelliant 51 yn unol â Rheol Sefydlog 17.34.  
Amendment 51 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 52 (Mark Drakeford).  
Amendment 52 (Mark Drakeford) moved.*

[446] **David Rees:** On amendment 52, does any Member object to it being agreed? There are no objections, therefore amendment 52 is agreed.

*Derbyniwyd gwelliant 52 yn unol â Rheol Sefydlog 17.34.  
Amendment 52 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 53 (Mark Drakeford).  
Amendment 53 (Mark Drakeford) moved.*

[447] **David Rees:** Does any Member object to amendment 53 being agreed? No objections, therefore amendment 53 is agreed.

*Derbyniwyd gwelliant 53 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 53 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 54 (Mark Drakeford).*  
*Amendment 54 (Mark Drakeford) moved.*

[448] **David Rees:** On amendment 54, does any Member object to it being agreed? No objections, therefore amendment 54 is agreed.

*Derbyniwyd gwelliant 54 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 54 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 189 (Mark Drakeford).*  
*Amendment 189 (Mark Drakeford) moved.*

[449] **David Rees:** On amendment 189, does any Member object to amendment 189 being agreed? No objections, therefore amendment 189 is agreed.

*Derbyniwyd gwelliant 189 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 189 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 190 (Mark Drakeford).*  
*Amendment 190 (Mark Drakeford) moved.*

[450] **David Rees:** On amendment 190, does any Member object to amendment 190 being agreed? No objections, therefore amendment 190 is agreed.

*Derbyniwyd gwelliant 190 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 190 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 191 (Mark Drakeford).*  
*Amendment 191 (Mark Drakeford) moved.*

[451] **David Rees:** On amendment 191, does any Member object to that amendment being agreed? No objections, therefore amendment 191 is agreed.

*Derbyniwyd gwelliant 191 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 191 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 192 (Mark Drakeford).*  
*Amendment 192 (Mark Drakeford) moved.*

[452] **David Rees:** On amendment 192, does any Member object to that being agreed? No objections, therefore amendment 192 is agreed.

*Derbyniwyd gwelliant 192 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 192 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 193 (Mark Drakeford).*  
*Amendment 193 (Mark Drakeford) moved.*

[453] **David Rees:** On amendment 193, does any Member object to amendment 193 being agreed? No objections, therefore amendment 193 is agreed.

*Derbyniwyd gwelliant 193 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 193 agreed in accordance with Standing Order 17.34.*

**Grŵp 16: Triniaethau Arbennig—Dirymu Trwyddedau (Gwelliannau 194, 195, 196, 101)**  
**Group 16: Special Procedures—Revocation of Licences (Amendments 194, 195, 196, 101)**

[454] **David Rees:** That takes us on to the next group of amendments, group 16. Group 16 is about the revoking of licences relating to special procedures. The lead amendment in the group is amendment 194 in the name of the Minister. I therefore move amendment 194 on behalf of the Minister and call on the Minister to speak to the amendments in this group.

*Cynigiwyd gwelliant 194 (Mark Drakeford).*  
*Amendment 194 (Mark Drakeford) moved.*

[455] **Mark Drakeford:** Thank you, Chair. There are four amendments in this group, all of which relate to the revocation of licences. There will, of course, be occasions when a local authority needs to consider revoking the licence of someone who holds a special procedures licence. As introduced, the Bill currently limits the grounds upon which a licence can be revoked to circumstances where a licence holder has failed to comply with an applicable mandatory licensing condition and where non-compliance presents or could



present significant risk of harm to human health.

[456] Taken together, amendments 194, 195 and 196 widen the grounds upon which a local authority may revoke a special procedures licence to include a conviction for a relevant offence that the local authority was unaware of at the time of granting the licence or where the conviction did not precede the issue of the licence. This provides important additional flexibility for local authorities to take into account additional circumstances when considering revoking a licence. It is also an important additional safeguard for clients of special procedure practitioners. These new grounds will be subject to the same checks and balances, such as a right of appeal, which apply to the grounds already established in the Bill.

[457] Amendment 101 is a minor drafting amendment, which removes a superfluous reference to section 60 in paragraph 16(2) of the Bill. I ask Members to support these amendments.

[458] **David Rees:** Thank you, Minister. Does any other Member wish to speak to these amendments? No-one else does. Therefore, again, I assume, Minister, that you do not wish to respond or add anything further.

[459] **Mark Drakeford:** No.

[460] **David Rees:** Therefore we move to a vote on these amendments. The question is that amendment 194 be agreed. Does any Member object? There are no objections, therefore amendment 194 is agreed.

*Derbyniwyd gwelliant 194 yn unol â Rheol Sefydlog 17.34.*

*Amendment 194 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 195 (Mark Drakeford).*

*Amendment 195 (Mark Drakeford) moved.*

[461] **David Rees:** On amendment 195, does any Member object to 195 being agreed? No. Therefore, there are no objections and 195 is agreed.

*Derbyniwyd gwelliant 195 yn unol â Rheol Sefydlog 17.34.*

*Amendment 195 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 196 (Mark Drakeford).*

*Amendment 196 (Mark Drakeford) moved.*

[462] **David Rees:** On amendment 196, does any Member object to amendment 196 being agreed? No objections and therefore amendment 196 is agreed.

*Derbyniwyd gwelliant 196 yn unol â Rheol Sefydlog 17.34.*

*Amendment 196 agreed in accordance with Standing Order 17.34.*

**Grŵp 17: Triniaethau Arbennig—Gofynion o ran Cymeradwyaeth (Gwelliannau 55, 56, 57, 58, 59, 60, 61, 62, 63, 82, 84)**

**Group 17: Special Procedures—Approval Requirements (Amendments 55, 56, 57, 58, 59, 60, 61, 62, 63, 82, 84)**

[463] **David Rees:** That takes us on to the next amendment, amendment 55, and that's at the start of group 17. Group 17 is about the approval requirements relating to special procedures. The lead amendment in this group is amendment 55, which is in the name of the Minister. I therefore move amendment 55 on his behalf and call on the Minister to speak to the amendment and others in this group. Minister.

13:45

*Cynigiwyd gwelliant 55 (Mark Drakeford).*

*Amendment 55 (Mark Drakeford) moved.*

[464] **Mark Drakeford:** Thank you, Chair. Amendments 55 to 59 make a number of important changes to the approval requirements for premises and vehicles from which special procedures are performed, as well as some technical changes that add further clarity.

[465] Amendment 56 relates to the performance of a special procedure at an exhibition, entertainment or other event—and we know that that is commonplace for some of the procedures captured by the Bill. This makes it clear that the person who organises the exhibition, entertainment or event is responsible for ensuring the premises is approved and the applicable mandatory conditions of approval are complied with. It also clarifies that it is the premises itself, rather than the individual businesses operating from that premises, that must be approved. An example may be where an exhibition is taking place in a hotel and is attended by individual businesses operating at tables. In this instance, the hotel premises would be required to be approved, rather than the individual stalls.

[466] Amendments 60 to 63, and 82, relate to approval certificates. They make good a series of undertakings I gave to this committee during Stage 1 examination of this aspect of the Bill. They introduce provisions to deliver my intention to enable customers to be assured that the premises or vehicle has been approved by the local authority before an individual chooses to undertake a special procedure there.

[467] These amendments allow members of the public easily to ascertain whether or not a premises or vehicle is approved for special procedures, which procedures are approved from the premises or vehicle, the date the approval was provided, and when it will expire. All of this is designed to ensure that the regime established in the Bill is communicated directly to members of the public to provide them with the assurance that the Bill seeks to provide.

[468] Amendment 84 amends the definition of 'premises' in section 77 to ensure that moveable facilities, such as stalls or tents, are captured within the definition and are therefore caught by the special procedures licensing system. I ask Members to support these amendments.

[469] **David Rees:** Thank you, Minister. Does any other Member wish to speak on these amendments? I have no-one. Once again, Minister, I don't suspect you want to add anything, so we'll move straight to the vote, and the question is that amendment 55 be agreed. Does any Member object? There are no objections, therefore amendment 55 is agreed.

*Derbyniwyd gwelliant 55 yn unol â Rheol Sefydlog 17.34.*

*Amendment 55 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 56 (Mark Drakeford).*

*Amendment 56 (Mark Drakeford) moved.*

[470] **David Rees:** Amendment 56—does any Member object to that being agreed? There are no objections, therefore amendment 56 is agreed.

*Derbyniwyd gwelliant 56 yn unol â Rheol Sefydlog 17.34.*

*Amendment 56 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 57 (Mark Drakeford).*

*Amendment 57 (Mark Drakeford) moved.*

[471] **David Rees:** Amendment 57—does any Member object to amendment 57 being agreed? No objections, therefore amendment 57 is agreed.

*Derbyniwyd gwelliant 57 yn unol â Rheol Sefydlog 17.34.*

*Amendment 57 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 58 (Mark Drakeford).*

*Amendment 58 (Mark Drakeford) moved.*

[472] **David Rees:** Amendment 58—does any Member object to amendment 58 being agreed? No objections, therefore amendment 58 is agreed.

*Derbyniwyd gwelliant 58 yn unol â Rheol Sefydlog 17.34.*

*Amendment 58 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 59 (Mark Drakeford).*

*Amendment 59 (Mark Drakeford) moved.*

[473] **David Rees:** Amendment 59—does any Member object to amendment 59 being agreed? There are no objections, therefore amendment 59 is agreed.

*Derbyniwyd gwelliant 59 yn unol â Rheol Sefydlog 17.34.*

*Amendment 59 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 60 (Mark Drakeford).*

*Amendment 60 (Mark Drakeford) moved.*

[474] **David Rees:** Amendment 60—does any Member object to amendment 60 being agreed? No objections, therefore amendment 60 is agreed.

*Derbyniwyd gwelliant 60 yn unol â Rheol Sefydlog 17.34.*

*Amendment 60 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 61 (Mark Drakeford).*

*Amendment 61 (Mark Drakeford) moved.*

[475] **David Rees:** Amendment 61—does any Member object to amendment 61 being agreed? No objections, therefore amendment 61 is agreed.

*Derbyniwyd gwelliant 61 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 61 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 62 (Mark Drakeford).*  
*Amendment 62 (Mark Drakeford) moved.*

[476] **David Rees:** Amendment 62—does any Member object to amendment 62 being agreed? No objection, therefore amendment 62 is agreed.

*Derbyniwyd gwelliant 62 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 62 agreed in accordance with Standing Order 17.34.*

**Grŵp 18: Triniaethau Arbennig—Ffioedd (Gwelliannau 197, 198, 222, 223)**  
**Group 18: Special Procedures—Fees (Amendments 197, 198, 222, 223)**

[477] **David Rees:** That takes us to the next group of amendments. Group 18 is about fees relating to special procedures. The lead amendment in this group is amendment 197, in the name of the Minister.

*Cynigiwyd gwelliant 197 (Mark Drakeford).*  
*Amendment 197 (Mark Drakeford) moved.*

[478] **David Rees:** I move amendment 197 in the Minister's name and call on the Minister to speak to this amendment and others in the group.

[479] **Mark Drakeford:** Thank you, Chair. The Finance Committee recommended that I review the impact of the judgment in the *Hemming v. Westminster City Council* case and to consider again the impact that that case has on the Bill. This is a relatively arcane matter, which, at this point, remains still partially to be resolved through an anticipated ruling of the Court of Justice of the European Union. But because the Finance Committee were particularly interested in this and made it the subject of two separate recommendations, I'm just going to read into the record the way in which we have reconsidered the impact of that judgment on the Bill and how we plan to deal with it.

[480] So, the issue is this: the UK Supreme Court found in the *Hemming* case that it was lawful under domestic and European Union law for a licensing authority to charge all applicants an upfront fee for the administration of any application and then a further fee to successful applicants to cover the cost of running and enforcing the licensing scheme.

My amendments make it clear that this regime will be available to local authorities in Wales in relation to any application for a special procedures licence. However, Westminster City Council operated a variation on this approach in that it required all applicants for a licence to pay an upfront fee to cover the cost of administering the application and, upfront, a fee for the running and enforcement of the licensing system. It then returned that second aspect of the fee to unsuccessful applicants after their application had been turned down. The Supreme Court referred this way of doing things to the European Court of Justice of the European Union.

[481] The amendments are constructed in this way so that if that court rules—the European Court of Justice rules—that the Westminster City Council approach is lawful, then my amendments make that option available to local authorities in Wales, and the local authority will be able to decide which approach it prefers to adopt. If the Court of Justice of the European Union rules against Westminster City Council, then these amendments will still allow local authorities to operate the approach already declared lawful by the UK Supreme Court, that is to say an upfront fee chargeable to all applications for the determination of the application, and then subsequently and only to successful applicants, a further fee for the running and enforcement of the scheme.

[482] So, how it works is this: amendment 197 enables regulations to provide the detail of how a local authority is to determine the fee that must be paid by an applicant when applying for a premises or vehicle approval, as well as the detail of the consequences of failure to comply with the requirement to pay a fee. This, alongside amendment 198, provides a local authority with the ability to charge a fee to the holder of a special procedures licence or a premises or vehicle approval. This fee may be applied either periodically or otherwise for as long as the licence approval has effect. Regulations may make provision about the fee, including the way that it is determined by a local authority, the way that it is paid, repaid or recovered if unpaid.

[483] Amendment 222 amends Schedule 3 to ensure that in setting the fee that accompanies an application for a licence, a local authority must have regard to the costs incurred or expected to be incurred by the local authority in connection with dealing with that application. In other words, it must reflect the costs involved.

[484] Amendment 223 relates to the scope of the regulation-making power

in relation to applications for a special procedure licence. It provides that regulations may make provision about the way in which a local authority is to determine the amount of fee that is to accompany an application for a special procedure licence. This will ensure that the licence fee structure reflects the range of special procedures covered by the Bill. I ask Members to support the amendments.

[485] **David Rees:** Thank you, Minister. Does any Member wish to speak on these amendments? No. Therefore, again, I assume, unless the Minister tells me differently, he wishes that we go straight to the vote. Therefore we'll go to amendment 197. The question is that amendment 197 be agreed. Does any Member object? No objections. Therefore, amendment 197 is agreed.

*Derbyniwyd gwelliant 197 yn unol â Rheol Sefydlog 17.34.  
Amendment 197 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 63 (Mark Drakeford).  
Amendment 63 (Mark Drakeford) moved.*

[486] **David Rees:** Amendment 63. Does any Member object to amendment 63 being agreed? No objections. Therefore, amendment 63 is agreed.

*Derbyniwyd gwelliant 63 yn unol â Rheol Sefydlog 17.34.  
Amendment 63 agreed in accordance with Standing Order 17.34.*

**Grŵp 19: Triniaethau Arbennig—Dirymu Cymeradwyaeth  
(Gwelliannau 64, 65, 66)**

**Group 19: Special Procedures—Revocation of Approval (Amendments 64, 65,  
66)**

[487] **David Rees:** That takes us on to Group 19. Group 19 is about the revoking of approvals relating to special procedures. The lead amendment in this group is amendment 64 in the name of the Minister. I therefore move amendment 64 in his name and call on the Minister to speak to the amendments in this group. Minister.

*Cynigiwyd gwelliant 64 (Mark Drakeford).  
Amendment 64 (Mark Drakeford) moved.*

[488] **Mark Drakeford:** Chair, these three amendments return us to the discussion that the committee was having immediately before the break,

because they are all to do with safeguards for licensed special procedure practitioners who might inadvertently commit an offence by continuing to work in premises that had previously been approved, but where that approval has subsequently been voluntarily terminated or revoked by the local authority.

[489] Amendment 64 provides flexibility for those who hold special procedure premises or vehicle approvals voluntarily to terminate the approval if their circumstances change. It makes provision about how a person who had previously applied for a premises or vehicle approval can give notice to the local authority that they wish for the approval to cease to have effect. The local authority to which the notice is given must then take reasonable steps to bring the notice of voluntary termination to persons it thinks likely to be affected—for example, licence holders listed as operating from those premises or that vehicle. This is important, as if the practitioner continues to work at a premises that are no longer approved, they would be committing a criminal offence.

[490] Amendment 65 relates to circumstances where a local authority is satisfied that a premises or vehicle approval should be revoked, for example when conditions at the premises present a significant risk of harm to human health due to a failure to comply with the mandatory approval conditions. The amendment provides details about the timescales relating to the revocation of a premises or vehicle approval and provides that a revocation will have effect from a specified date, taking into account the appeal timescales set out in Schedule 3.

[491] Amendment 66 then provides clarity about how a local authority must give notice to a person about a revocation, or a proposed revocation, of a premises or vehicle approval. This is important for the same reasons as with voluntary termination, because the local authority must take reasonable steps to bring the notice to the attention of any persons it thinks likely to be affected by the revocation, for example licence holders listed as operating from the affected premises or vehicle. Thank you, Chair.

[492] **David Rees:** Thank you, Minister. Does any other Member wish to speak on these amendments? We have no-one who wishes to speak. Therefore, again, I assume the Minister wishes me to go straight to the vote. The question is that amendment 64 be agreed. Does any Member object? There are no objections, therefore amendment 64 is agreed.



*Derbyniwyd gwelliant 64 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 64 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 65 (Mark Drakeford).*  
*Amendment 65 (Mark Drakeford) moved.*

[493] **David Rees:** Amendment 65—does any Member object to amendment 65 being agreed? No objections, therefore amendment 65 is agreed.

*Derbyniwyd gwelliant 65 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 65 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 66 (Mark Drakeford).*  
*Amendment 66 (Mark Drakeford) moved.*

[494] **David Rees:** The question is that amendment 66 be agreed. Does any Member object? No objections, therefore amendment 66 is agreed.

*Derbyniwyd gwelliant 66 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 66 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 67 (Mark Drakeford).*  
*Amendment 67 (Mark Drakeford) moved.*

[495] **David Rees:** Amendment 67—does any Member object to amendment 67 being agreed? No objections, therefore amendment 67 is agreed.

*Derbyniwyd gwelliant 67 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 67 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 198 (Mark Drakeford).*  
*Amendment 198 (Mark Drakeford) moved.*

[496] **David Rees:** Amendment 198—does any Member object to amendment 198 being agreed? No objections, therefore amendment 198 is agreed.

*Derbyniwyd gwelliant 198 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 198 agreed in accordance with Standing Order 17.34.*

**Grŵp 20: Triniaethau arbennig—Hysbysiadau Stop a Hysbysiadau Camau Adfer (Gwelliannau 68, 69, 70, 71, 72, 73, 74, 75, 76)**

**Group 20: Special Procedures—Stop Notices and Remedial Action Notices (Amendments 68, 69, 70, 71, 72, 73, 74, 75, 76)**

[497] **David Rees:** That moves us on to group 20. Group 20 is about stop notices and remedial action notices related to special procedures. The lead amendment in this group is amendment 68 in the name of the Minister. I move amendment 68 on his behalf and call on the Minister to speak to the amendments in this group. Minister.

*Cynigiwyd gwelliant 68 (Mark Drakeford).*

*Amendment 68 (Mark Drakeford) moved.*

[498] **Mark Drakeford:** Thank you, Chair. These amendments make important changes to those mechanisms provided for by the Bill that prevent special procedures from being performed when a licence holder is in breach of their requirements. Amendments 68, 69 and 70 relate to stop notices, which may be used by local authorities to prohibit the performance of a special procedure by an unlicensed person or in unapproved premises or vehicles. By inserting the words ‘anywhere in Wales’ at relevant places, the amendments enable a local authority to prevent a person subject to a stop notice performing the special procedure anywhere in Wales. This is to ensure that the stop notice is not limited to a local authority area and aims to prevent the moving of a problem between local authority boundaries.

[499] Amendments 71, 72 and 73 relate to licence holder remedial action notices, which may be used if the licence holder is in breach of an applicable mandatory licensing condition. Remedial action notices can specify the steps a licence holder must take to comply with the licensing conditions. The amendments will ensure that local authorities have necessary and proportionate enforcement action available to them in relation to all breaches of mandatory licensing conditions—for example, the failure to display a licence or other required signage.

14:00

[500] Amendments 73 and 74 provide an additional safeguard for licence holders that ensures that remedial action notices can only prohibit the performance of a special procedure in circumstances where there is a significant risk of harm to human health.

[501] Where a remedial action notice prohibits the performance of a special procedure, amendment 75 requires a local authority to take reasonable steps to bring that notice to the attention of any persons it thinks are likely to be affected. This ensures that people who perform special procedures from the premises or vehicle do not inadvertently commit an offence by breaching the prohibition.

[502] Finally, amendment 76 further requires a local authority that serves a completion certificate—that's a certificate issued when the local authority's satisfied that the person subject to the remedial action notice has taken the steps specified in the notice—to take reasonable steps to bring that completion certificate to the attention of any persons it thinks likely to be affected. This will ensure that people who perform special procedures from the premises or vehicle are aware that they are safe to do so without committing any offence.

[503] **David Rees:** Thank you, Minister. Does any other Member wish to speak? No. Again, I assume, unless the Minister tells me differently, that he'll want me to move straight to a vote. The question is that amendment 68 be agreed. Does any Member object? There are no objections. Therefore, amendment 68 is agreed.

*Derbyniwyd gwelliant 68 yn unol â Rheol Sefydlog 17.34.  
Amendment 68 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 69 (Mark Drakeford).  
Amendment 69 (Mark Drakeford) moved.*

[504] **David Rees:** Amendment 69—does any Member object to that being agreed? No objections. Therefore, amendment 69 is agreed.

*Derbyniwyd gwelliant 69 yn unol â Rheol Sefydlog 17.34.  
Amendment 69 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 70 (Mark Drakeford).  
Amendment 70 (Mark Drakeford) moved.*

[505] **David Rees:** Amendment 70. Does any Member object to amendment 70 being agreed? No objections. Therefore, amendment 70 is agreed.

*Derbyniwyd gwelliant 70 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 70 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 71 (Mark Drakeford).*  
*Amendment 71 (Mark Drakeford) moved.*

[506] **David Rees:** Amendment 71. Does any Member object to amendment 71 being agreed? No objections. Therefore, amendment 71 is agreed.

*Derbyniwyd gwelliant 71 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 71 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 72 (Mark Drakeford).*  
*Amendment 72 (Mark Drakeford) moved.*

[507] **David Rees:** Amendment 72. Does any Member object to amendment 72 being agreed? No objections. Therefore, amendment 72 is agreed.

*Derbyniwyd gwelliant 72 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 72 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 73 (Mark Drakeford).*  
*Amendment 73 (Mark Drakeford) moved.*

[508] **David Rees:** Amendment 73. Does any Member object to amendment 73 being agreed? No objections. Therefore, amendment 73 is agreed.

*Derbyniwyd gwelliant 73 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 73 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 74 (Mark Drakeford).*  
*Amendment 74 (Mark Drakeford) moved.*

[509] **David Rees:** Amendment 74. Does any Member object to amendment 74 being agreed? No objections. Therefore, amendment 74 is agreed.

*Derbyniwyd gwelliant 74 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 74 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 75 (Mark Drakeford).*  
*Amendment 75 (Mark Drakeford) moved.*

[510] **David Rees:** Amendment 75. Does any Member object to amendment 75 being agreed? No objections. Therefore, amendment 75 is agreed.

*Derbyniwyd gwelliant 75 yn unol â Rheol Sefydlog 17.34.*

*Amendment 75 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 76 (Mark Drakeford).*

*Amendment 76 (Mark Drakeford) moved.*

[511] **David Rees:** Amendment 76. Does any Member object to amendment 76 being agreed? No objections. Therefore, amendment 76 is agreed.

*Derbyniwyd gwelliant 76 yn unol â Rheol Sefydlog 17.34.*

*Amendment 76 agreed in accordance with Standing Order 17.34.*

**Grŵp 21: Triniaethau arbennig—Troseddau (Gwelliannau 115, 77, 78, 79, 80, 199)**

**Group 21: Special procedures—Offences (Amendments 115, 77, 78, 79, 80, 199)**

[512] **David Rees:** That takes us to group 21, which is about offences relating to special procedures. The lead amendment in this group is amendment 115 in the name of Darren Millar. I call on Darren Millar to move amendment 115 and to speak to the amendments in this group. Darren.

*Cynigiwyd gwelliant 115 (Darren Millar).*

*Amendment 115 (Darren Millar) moved.*

[513] **Darren Millar:** Thank you, Chair. I won't regurgitate the arguments that I set out earlier on in relation to amendment 115, but this amendment effectively provides for a criminal offence to be created for anybody who knowingly undertakes a special procedure on somebody who is intoxicated as a result of drink, drugs, psychoactive substances or anything else. It also provides for a fine for breaking the law in this area, should it become law, at the same level as the level of a fine for serving somebody who is under the influence of alcohol. I believe that it would act as a more effective and greater deterrent to people from undertaking these sorts of procedures on individuals than simply by attaching a licensing condition to the individual's licence. There is no reason either why you can't have a licensing condition and an offence, and I think that it gives a sort of belt-and-braces approach

to the whole situation, should the committee support this particular amendment. I've no objections whatsoever to the Minister's amendments 77, 78, 79, 80 and 199, all of which I'll be supporting as well in this group.

[514] **David Rees:** Thank you, Darren. Does any other Member wish to speak? There are no other Members who wish to speak. Minister, do you wish to speak?

[515] **Mark Drakeford:** Thank you, Chair. I won't, equally, repeat the arguments that we rehearsed in an earlier group but will simply say again that the licensing conditions model that I advocated previously I continue to believe to be the most effective way of preventing people who are intoxicated from being subject to a special procedure.

[516] As to the remaining amendments in this group, I'm grateful to the committee for its recommendation to increase the level of fine imposed on anyone committing an offence under section 67 to a level 5 fine, and for the evidence provided by stakeholders at Stage 1 on this important point. Amendment 199 fully implements this recommendation. It removes the limit on the fine associated with offences in relation to special procedures, amending it from a level 3 to an unlimited fine. I agree that this better reflects the seriousness of those offences.

[517] Amendments 77 to 80 make changes to the offences under this part of the Bill. They provide a defence of reasonable cause for those accused of an offence under section 67, again providing a further check and balance in the system.

[518] I ask Members to support the Government amendments in this group and to reject amendment 115.

[519] **David Rees:** Thank you, Minister. Darren, do you wish to reply to the debate?

[520] **Darren Millar:** No, other than simply saying that I want to move forward with this. I do think that amendment 115 provides for a greater deterrent. You know, a revocation of a licence isn't taken into account with things like visa applications for travel to different countries, whereas a criminal offence actually is, and that's why I think it's important that there's a criminal offence. I do believe it strengthens the deterrent from proceeding with an inappropriate procedure on someone who is intoxicated.

[521] **David Rees:** Okay. Thank you, Darren. Darren's clearly indicated that he wishes to move the amendment. So, the question is that amendment 115 be agreed to. Does any Member object? [*Objection.*] I have an objection. Therefore, I will take a vote by a show of hands. Can those in favour of amendment 115 please raise your hands? Can those against please raise your hands? For amendment 115 we have two in favour and eight against. Therefore, the amendment is not agreed.

*Gwelliant 115: O blaid 2, Yn erbyn 8, Ymatal 0.  
Amendment 115: For 2, Against 8, Abstain 0.*

O blaid:  
For:

Yn erbyn:  
Against:

Ymatal:  
Abstain:

Hussain, Altaf  
Millar, Darren

Davies, Alun  
Griffiths, John  
Jones, Elin  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David  
Whittle, Lindsay  
Williams, Kirsty

*Gwrthodwyd gwelliant 115.  
Amendment 115 not agreed.*

*Cynigiwyd gwelliant 77 (Mark Drakeford).  
Amendment 77 (Mark Drakeford) moved.*

[522] **David Rees:** Amendment 77. Does any Member object to amendment 77 being agreed? There are no objections. Therefore, amendment 77 is agreed.

*Derbyniwyd gwelliant 77 yn unol â Rheol Sefydlog 17.34.  
Amendment 77 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 78 (Mark Drakeford).  
Amendment 78 (Mark Drakeford) moved.*

[523] **David Rees:** Does any Member object to amendment 78 being agreed? There are no objections. Therefore, amendment 78 is agreed.

*Derbyniwyd gwelliant 78 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 78 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 79 (Mark Drakeford).*  
*Amendment 79 (Mark Drakeford) moved.*

[524] **David Rees:** Amendment 79. Does any Member object to amendment 79 being agreed? There are no objections. Therefore, amendment 79 is agreed.

*Derbyniwyd gwelliant 79 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 79 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 80 (Mark Drakeford).*  
*Amendment 80 (Mark Drakeford) moved.*

[525] **David Rees:** Amendment 80. Does any Member object to amendment 80 being agreed? There are no objections. Therefore, amendment 80 is agreed.

*Derbyniwyd gwelliant 80 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 80 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 199 (Mark Drakeford).*  
*Amendment 199 (Mark Drakeford) moved.*

[526] **David Rees:** Amendment 199. Does any Member object to amendment 199 being agreed? There are no objections. Therefore, amendment 199 is agreed.

*Derbyniwyd gwelliant 199 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 199 agreed in accordance with Standing Order 17.34.*

**Grŵp 22: Triniaethau Arbennig—Gorfodi (Gwelliannau 200, 81, 201, 202, 203)**

**Group 22: Special Procedures—Enforcement (Amendments 200, 81, 201, 202, 203)**

[527] **David Rees:** We now move on to group 22. Group 22 is about the enforcement of provisions relating to special procedures. The lead amendment in the group is amendment 200, in the name of the Minister. I



move amendment 200 and call the Minister to speak to the amendments in this group. Minister.

*Cynigiwyd gwelliant 200 (Mark Drakeford).  
Amendment 200 (Mark Drakeford) moved.*

[528] **Mark Drakeford:** Thank you, Chair. This is the third set of amendments that cover essentially the same ground in providing additional safeguards where enforcement of aspects of the Bill is concerned. Amendment 200 is a technical amendment and updates cross-referencing between sections of the Bill. Amendments 81 and 201 relate to powers of inspection and the information that must be provided to enable the request for the return of property taken during inspection to be made.

[529] Amendments 202 and 203 insert new sections in relation to those affected by the removal of property. The amendments provide additional safeguards so that the person affected can apply to a magistrates' court to request the release of the property or apply for compensation. The changes to power of entry and inspection are completely in line with equivalent amendments that Members have heard in earlier groups.

[530] **David Rees:** Thank you, Minister. Does any other Member wish to speak? There are no other Members wishing to speak. Therefore, I assume that the Minister wishes me to go straight to the vote. Therefore, the question is that amendment 200 be agreed. Does any Member object? There are no objections. Therefore, amendment 200 is agreed.

*Derbyniwyd gwelliant 200 yn unol â Rheol Sefydlog 17.34.  
Amendment 200 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 81 (Mark Drakeford).  
Amendment 81 (Mark Drakeford) moved.*

[531] **David Rees:** Amendment 81. Does any Member object to amendment 81 being agreed? Then amendment 81 is agreed.

*Derbyniwyd gwelliant 81 yn unol â Rheol Sefydlog 17.34.  
Amendment 81 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 201 (Mark Drakeford).  
Amendment 201 (Mark Drakeford) moved.*

[532] **David Rees:** The question is that amendment 201 be agreed. Does any Member object? There are no objections. Therefore, amendment 201 is agreed.

*Derbyniwyd gwelliant 201 yn unol â Rheol Sefydlog 17.34.  
Amendment 201 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 202 (Mark Drakeford).  
Amendment 202 (Mark Drakeford) moved.*

[533] **David Rees:** Amendment 202. Does any Member object to amendment 202 being agreed? No objections. Therefore, amendment 202 is agreed.

*Derbyniwyd gwelliant 202 yn unol â Rheol Sefydlog 17.34.  
Amendment 202 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 203 (Mark Drakeford).  
Amendment 203 (Mark Drakeford) moved.*

[534] **David Rees:** Amendment 203. Does any Member object to amendment 203 being agreed? No objections. Therefore, amendment 203 is agreed.

*Derbyniwyd gwelliant 203 yn unol â Rheol Sefydlog 17.34.  
Amendment 203 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 204 (Mark Drakeford).  
Amendment 204 (Mark Drakeford) moved.*

[535] **David Rees:** Amendment 204. Does any Member object to amendment 204 being agreed? No. Therefore, amendment 204 is agreed.

*Derbyniwyd gwelliant 204 yn unol â Rheol Sefydlog 17.34.  
Amendment 204 agreed in accordance with Standing Order 17.34.*

[536] **David Rees:** Darren, I know that you previously stated that you didn't wish to move amendment 123. Is that still the case?

[537] **Darren Millar:** Yes.

[538] **David Rees:** Does any other Member wish to move amendment 123?

No. Therefore, amendment 123 is not moved.

*Ni chynigiwyd gwelliant 123 (Darren Millar).*

*Amendment 123 (Darren Millar) not moved.*

*Cynigiwyd gwelliant 82 (Mark Drakeford).*

*Amendment 82 (Mark Drakeford) moved.*

[539] **David Rees:** Amendment 82. Does any Member object to amendment 82 being agreed? No objections, therefore amendment 82 is agreed.

*Derbyniwyd gwelliant 82 yn unol â Rheol Sefydlog 17.34.*

*Amendment 82 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 83 (Mark Drakeford).*

*Amendment 83 (Mark Drakeford) moved.*

[540] **David Rees:** Amendment 83. Does any Member object to amendment 83 being agreed? No objections, therefore amendment 83 is agreed.

*Derbyniwyd gwelliant 83 yn unol â Rheol Sefydlog 17.34.*

*Amendment 83 agreed in accordance with Standing Order 17.34.*

[541] **David Rees:** Darren, amendment 124.

*Cynigiwyd gwelliant 124 (Darren Millar).*

*Amendment 124 (Darren Millar) moved.*

[542] **Darren Millar:** Move.

[543] **David Rees:** The question is that amendment 124 be agreed to. Does any Member object? [*Objection.*] I have an objection, therefore we will take a vote by show of hands. Can those in favour of amendment 124 please raise your hands? Thank you. Those against, please raise your hands. Thank you. Abstentions. Thank you. In relation to amendment 124, we have two in favour, seven against and one abstention. Therefore, the amendment is not agreed.

*Gwelliant 124: O blaid 2 Yn erbyn 7, Ymatal 1.*

*Amendment 124: For 2, Against 7, Abstain 1.*

O blaid:  
For:

Yn erbyn:  
Against:

Ymatal:  
Abstain:

Hussain, Altaf  
Millar, Darren

Davies, Alun  
Griffiths, John  
Jones, Elin  
Neagle, Lynne  
Price, Gwyn  
Rees, David  
Whittle, Lindsay

Williams, Kirsty

*Gwrthodwyd gwelliant 124.  
Amendment 124 not agreed.*

*Cynigiwyd gwelliant 84 (Mark Drakeford).  
Amendment 84 (Mark Drakeford) moved.*

[544] **David Rees:** Amendment 84. Does any Member object to amendment 84 being agreed? There are no objections, therefore amendment 84 is agreed.

*Derbyniwyd gwelliant 84 yn unol â Rheol Sefydlog 17.34.  
Amendment 84 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 205 (Mark Drakeford).  
Amendment 205 (Mark Drakeford) moved.*

[545] **David Rees:** Amendment 205. Does any Member object to amendment 205 being agreed? No objections, therefore amendment 205 is agreed.

*Derbyniwyd gwelliant 205 yn unol â Rheol Sefydlog 17.34.  
Amendment 205 agreed in accordance with Standing Order 17.34.*

[546] **David Rees:** Darren, amendment 125.

*Cynigiwyd gwelliant 125 (Darren Millar).  
Amendment 125 (Darren Millar) moved.*

[547] **Darren Millar:** Move.

[548] **David Rees:** The question is that amendment 125 be agreed. Does any Member object? [*Objection.*] I have an objection, therefore we'll take a vote by show of hands. Can those in favour of amendment 125 please raise your

hands? Thank you. Can those against please raise your hands? Thank you. Abstentions. Thank you. Therefore, for amendment 125, we have two in favour, seven against and one abstention. Therefore, amendment 125 is not agreed.

*Gwelliant 125: O blaid 2 Yn erbyn 7, Ymatal 1.  
Amendment 125: For 2, Against 7, Abstain 1.*

O blaid: For:	Yn erbyn: Against:	Ymatal: Abstain:
Hussain, Altaf Millar, Darren	Davies, Alun Griffiths, John Jones, Elin Neagle, Lynne Price, Gwyn Rees, David Whittle, Lindsay	Williams, Kirsty

*Gwrthodwyd gwelliant 125.  
Amendment 125 not agreed.*

[549] **David Rees:** Darren, amendment 126.

*Cynigiwyd gwelliant 126 (Darren Millar).  
Amendment 126 (Darren Millar) moved.*

[550] **Darren Millar:** Move.

[551] **David Rees:** The question is that amendment 126 be agreed. Does any Member object? [*Objection.*] We have an objection, therefore I'll take a vote by show of hands. Can those in favour of amendment 126 please raise your hands? Thank you. Can those against please raise your hands? Thank you. Abstentions, please. Thank you. Therefore, in relation to amendment 126, we have two in favour, seven against and one abstention, and the amendment is not agreed.

*Gwelliant 126: O blaid 2 Yn erbyn 7, Ymatal 1.  
Amendment 126: For 2, Against 7, Abstain 1.*

O blaid: For:	Yn erbyn: Against:	Ymatal: Abstain:
Hussain, Altaf	Davies, Alun	Williams, Kirsty

Millar, Darren

Griffiths, John  
Jones, Elin  
Neagle, Lynne  
Price, Gwyn  
Rees, David  
Whittle, Lindsay

*Gwrthodwyd gwelliant 126.  
Amendment 126 not agreed.*

[552] **David Rees:** Darren, amendment 127.

*Cynigiwyd gwelliant 127 (Darren Millar).  
Amendment 127 (Darren Millar) moved.*

[553] **Darren Millar:** Move.

[554] **David Rees:** The question is that amendment 127 be agreed. Does any Member object? [*Objection.*] We have an objection, therefore we're going to take a vote by show of hands. Can those in favour of amendment 127 please raise your hands? Thank you. Can those against please raise your hands? Thank you. Therefore, in relation to amendment 127, we have two in favour and eight against. Therefore, the amendment is not agreed.

*Gwelliant 127: O blaid 2 Yn erbyn 8, Ymatal 0.  
Amendment 127: For 2, Against 8, Abstain 0.*

O blaid:  
For:

Yn erbyn:  
Against:

Ymatal:  
Abstain:

Hussain, Altaf  
Millar, Darren

Davies, Alun  
Griffiths, John  
Jones, Elin  
Neagle, Lynne  
Price, Gwyn  
Rees, David  
Whittle, Lindsay  
Williams, Kirsty

*Gwrthodwyd gwelliant 127.  
Amendment 127 not agreed.*

*Cynigiwyd gwelliant 85 (Mark Drakeford).  
Amendment 85 (Mark Drakeford) moved.*

[555] **David Rees:** Amendment 85. Does any Member object to amendment 85 being agreed? No objections, therefore amendment 85 is agreed.

*Derbyniwyd gwelliant 85 yn unol â Rheol Sefydlog 17.34.*

*Amendment 85 agreed in accordance with Standing Order 17.34.*

[556] **David Rees:** Darren, amendment 132.

*Cynigiwyd gwelliant 132 (Darren Millar).*

*Amendment 132 (Darren Millar) moved.*

[557] **Darren Millar:** Move.

[558] **David Rees:** The question is that amendment 132 be agreed. Does any Member object? [*Objection.*] We have an objection, therefore we go to a vote by show of hands. Can those in favour of amendment 132 please raise your hands? Can we do it again? Thank you. Those against, please raise your hands. Abstentions, please raise your hands. Thank you. Therefore, for amendment 132, we have two in favour, seven against and one abstention. Therefore, the amendment is not agreed.

*Gwelliant 132: O blaid 2 Yn erbyn 7, Ymatal 1.*

*Amendment 132: For 2, Against 7, Abstain 1.*

O blaid:

For:

Hussain, Altaf  
Millar, Darren

Yn erbyn:

Against:

Davies, Alun  
Griffiths, John  
Jones, Elin  
Neagle, Lynne  
Price, Gwyn  
Rees, David  
Whittle, Lindsay

Ymatal:

Abstain:

Williams, Kirsty

*Gwrthodwyd gwelliant 132.*

*Amendment 132 not agreed.*

*Cynigiwyd gwelliant 86 (Mark Drakeford).*

*Amendment 86 (Mark Drakeford) moved.*

[559] **David Rees:** Amendment 86. Does any Member object to amendment

86 being agreed? There are no objections, therefore amendment 86 is agreed.

*Derbyniwyd gwelliant 86 yn unol â Rheol Sefydlog 17.34.*

*Amendment 86 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 222 (Mark Drakeford).*

*Amendment 222 (Mark Drakeford) moved.*

[560] **David Rees:** Amendment 222. Does any Member object to amendment 222 being agreed? No objections, therefore amendment 222 is agreed.

*Derbyniwyd gwelliant 222 yn unol â Rheol Sefydlog 17.34.*

*Amendment 222 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 223 (Mark Drakeford).*

*Amendment 223 (Mark Drakeford) moved.*

[561] **David Rees:** Amendment 223. Does any Member object to amendment 223 being agreed? No objections, therefore amendment 223 is agreed.

*Derbyniwyd gwelliant 223 yn unol â Rheol Sefydlog 17.34.*

*Amendment 223 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 100 (Mark Drakeford).*

*Amendment 100 (Mark Drakeford) moved.*

[562] **David Rees:** Amendment 100. Does any Member object to amendment 100 being agreed? No objections, therefore amendment 100 is agreed.

*Derbyniwyd gwelliant 100 yn unol â Rheol Sefydlog 17.34.*

*Amendment 100 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 101 (Mark Drakeford).*

*Amendment 101 (Mark Drakeford) moved.*

[563] **David Rees:** Amendment 101. Does any Member object to this amendment being agreed? No objections, therefore amendment 101 is agreed.

*Derbyniwyd gwelliant 101 yn unol â Rheol Sefydlog 17.34.*



*Amendment 101 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 102 (Mark Drakeford).*

*Amendment 102 (Mark Drakeford) moved.*

[564] **David Rees:** Amendment 102. Does any Member object to amendment 102 being agreed? No objections, therefore amendment 102 is agreed.

*Derbyniwyd gwelliant 102 yn unol â Rheol Sefydlog 17.34.*

*Amendment 102 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 103 (Mark Drakeford).*

*Amendment 103 (Mark Drakeford) moved.*

[565] **David Rees:** Amendment 103. Does any Member object to amendment 103 being agreed? No objections, therefore amendment 103 is agreed.

*Derbyniwyd gwelliant 103 yn unol â Rheol Sefydlog 17.34.*

*Amendment 103 agreed in accordance with Standing Order 17.34.*

**Grŵp 23: Rhoi Twll mewn Rhan Bersonol o'r Corff—Troseddau  
(Gwelliannau 87, 206, 207 ac 88)**

**Group 23: Intimate Piercing—Offences (Amendments 87, 206, 207 and 88)**

[566] **David Rees:** That takes us to group 23, which is about offences related to intimate piercing. The lead amendment in this group is amendment 87 in the name of the Minister. I move amendment 87 and call on the Minister to speak to the amendments in this group. Minister.

*Cynigiwyd gwelliant 87 (Mark Drakeford).*

*Amendment 87 (Mark Drakeford) moved.*

[567] **Mark Drakeford:** Thank you, Chair. Once again, I was very grateful to this committee for the evidence taken in relation to intimate piercing, and for the broad support set out in the Stage 1 report for the proposals as set out in the Bill. A number of the Government amendments in the next few groups are direct responses to the committee's own recommendations.

[568] The aim of this part of the Bill is to protect children and young people from the potential health harms that can be caused by intimate piercing, and to avoid circumstances where children and young people are placed in a

potentially vulnerable situation.

14:15

[569] The four amendments in this group make changes to section 78 of the Bill. They would remove the limit on the fine associated with the offence of performing, or making arrangements to perform, an intimate piercing on a child from a level 4 to an unlimited fine. They provide a more substantial defence to the offence of intimate piercing, and they make a technical change to the drafting of the Bill.

[570] Given the seriousness of the potential harm that can be caused to a young person, amendment 87 removes the limit on the fine associated with the offence of performing, or making arrangements to perform, an intimate piercing on a child from a level 4 fine to an unlimited fine. Amendments 206 and 207 directly relate to recommendation 8 of this committee's Stage 1 report. The committee recommended that the defence available under section 78 of the Bill be expanded so that it reflects the defence in section 146 of the Licensing Act 2003. I was happy to accept this recommendation, and amendments 206 and 207 strengthen the defence available in the way that the committee proposed.

[571] Amendment 206 inserts two new subsections that provide a stronger defence for a person charged with an offence under section 78 in relation to performing, or making arrangements to perform, an intimate piercing on a child. The person accused of performing an intimate piercing on a child could demonstrate that they had taken reasonable steps to establish the person's age if they can show that they asked for evidence of that person's age and that the evidence provided would have convinced a reasonable person.

[572] Amendment 207 further clarifies the defence and position in relation to aiding and abetting. This amendment provides that a due diligence defence is available for the person charged with the offence due to the actions of another person. For example, if a manager of a body piercing premises is charged due to the actions of one of their staff, the manager may show that they exercised all due diligence by providing training, for example, to avoid committing the offence. All of these are amendments that respond to the committee's recommendations in this regard, and I hope Members will feel able to support them.

[573] **David Rees:** Thank you, Minister. Does any other Member wish to speak? There are no other Members who wish to speak, therefore, again, I assume the Minister wishes to move straight to the vote. The question is that amendment 87 be agreed to. Does any Member object? There are no objections, therefore amendment 87 is agreed.

*Derbyniwyd gwelliant 87 yn unol â Rheol Sefydlog 17.34.  
Amendment 87 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 206 (Mark Drakeford).  
Amendment 206 (Mark Drakeford) moved.*

[574] **David Rees:** Amendment 206. Does any Member wish to object to amendment 206? There are no objections, therefore amendment 206 is agreed.

*Derbyniwyd gwelliant 206 yn unol â Rheol Sefydlog 17.34.  
Amendment 206 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 207 (Mark Drakeford).  
Amendment 207 (Mark Drakeford) moved.*

[575] **David Rees:** Amendment 207. Does any Member object to amendment 207 being agreed? There are no objections, therefore amendment 207 is agreed.

*Derbyniwyd gwelliant 207 yn unol â Rheol Sefydlog 17.34.  
Amendment 207 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 88 (Mark Drakeford).  
Amendment 88 (Mark Drakeford) moved.*

[576] **David Rees:** Amendment 88. Does any Member object to amendment 88 being agreed? There are no objections, therefore amendment 88 is agreed.

*Derbyniwyd gwelliant 88 yn unol â Rheol Sefydlog 17.34.  
Amendment 88 agreed in accordance with Standing Order 17.34.*

**Grŵp 24: Ystyr 'Rhoi Twll mewn Rhan Bersonol o'r Corff'**

**(Gwelliannau 89, 90, 91, 92)**

**Group 24: Meaning of 'Intimate Piercing' (Amendments 89, 90, 91, 92)**

[577] **David Rees:** That moves us on to group 24, which relates to the meaning of intimate piercing. The lead amendment in this group is amendment 89 in the name of the Minister. I move amendment 89 and call on the Minister to speak to the amendments in this group. Minister.

*Cynigiwyd gwelliant 89 (Mark Drakeford).*

*Amendment 89 (Mark Drakeford) moved.*

[578] **Mark Drakeford:** Thank you, Chair. These amendments are necessary to include the tongue within the intimate body parts listed in section 79 of the Bill, and to provide clarity and consistency within the Bill. During this committee's scrutiny of the Bill at Stage 1, considerable evidence was provided on the potential harm that could occur as a result of tongue piercing. My aim within this Part of the Bill is to protect children and young people from the potential harms that can be caused by an intimate piercing.

[579] I wholeheartedly agree with stakeholders and this committee that tongue piercing can cause potential harm. Amendment 90 therefore adds the tongue to the intimate body parts within Part 4 of the Bill, as recommended by this committee. Passing this amendment would mean that it will be an offence to perform, or make arrangements to perform, a tongue piercing on a person who is under the age of 16 years.

[580] Amendments 89, 91 and 92 are linked; they are technical amendments to ensure that the same definition of body piercing is used throughout Parts 3 and 4 of the Bill, and therefore provide both greater clarity and consistency within it. Again, I ask Members for their support for these amendments.

[581] **David Rees:** Thank you, Minister. Does any Member wish to speak? No. Therefore, again, I assume the Minister wishes me to proceed straight to the vote. Therefore, the question is that amendment 89 be agreed. Does any Member object? No objections. Therefore, amendment 89 is agreed.

*Derbyniwyd gwelliant 89 yn unol â Rheol Sefydlog 17.34.*

*Amendment 89 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 90 (Mark Drakeford).*  
*Amendment 90 (Mark Drakeford) moved.*

[582] **David Rees:** Amendment 90. Does any Member object to amendment 90 being agreed? No objections. Therefore, amendment 90 is agreed.

*Derbyniwyd gwelliant 90 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 90 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 91 (Mark Drakeford).*  
*Amendment 91 (Mark Drakeford) moved.*

[583] **David Rees:** Amendment 91. Does any Member object to amendment 91 being agreed? No objections. Therefore, amendment 91 is agreed.

*Derbyniwyd gwelliant 91 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 91 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 92 (Mark Drakeford).*  
*Amendment 92 (Mark Drakeford) moved.*

[584] **David Rees:** Amendment 92. Does any Member object to amendment 92 being agreed? No objections. Therefore, amendment 92 is agreed.

*Derbyniwyd gwelliant 92 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 92 agreed in accordance with Standing Order 17.34.*

**Grŵp 25: Intimate Piercing—Enforcement (Gwelliannau 93, 208, 209, 210)**  
**Group 25: Rhoi Twll mewn Rhan Bersonol o'r Corff—Gorfodi (Amendments 93, 208, 209, 210)**

[585] **David Rees:** That moves us on to group 25, which is about the enforcement of provisions relating to intimate piercing. The lead amendment in this group is amendment 93, and that's in the name of the Minister. Therefore, I move amendment 93 and call on the Minister to speak to this amendment and others in this group. Minister.

*Cynigiwyd gwelliant 93 (Mark Drakeford).*  
*Amendment 93 (Mark Drakeford) moved.*

[586] **Mark Drakeford:** Chair, this is the fourth and final group of

amendments that deal with the enforcement of aspects of the Bill. They are entirely reflective of the amendments that have already been considered in groups 7, 10 and 22. They deal with powers of entry and inspection for the return of property for the payment of compensation and for the application to magistrates' courts. I'm quite happy to set them out in more detail, but Members have now heard these three times.

[587] **David Rees:** Thank you, Minister. Does any Member wish to speak? We have no other Members wishing to speak, Minister. Therefore, we'll go straight to the vote if that's okay with you. The question is that amendment 93 be agreed. Does any Member object? No objections. Therefore, amendment 93 is agreed.

*Derbyniwyd gwelliant 93 yn unol â Rheol Sefydlog 17.34.  
Amendment 93 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 208 (Mark Drakeford).  
Amendment 208 (Mark Drakeford) moved.*

[588] **David Rees:** Amendment 208. Does any Member object? No objections. Therefore, amendment 208 is agreed.

*Derbyniwyd gwelliant 208 yn unol â Rheol Sefydlog 17.34.  
Amendment 208 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 209 (Mark Drakeford).  
Amendment 209 (Mark Drakeford) moved.*

[589] **David Rees:** The question is that amendment 209 be agreed. Do we have any objections? No-one objects. Therefore, amendment 209 is agreed.

*Derbyniwyd gwelliant 209 yn unol â Rheol Sefydlog 17.34.  
Amendment 209 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 210 (Mark Drakeford).  
Amendment 210 (Mark Drakeford) moved.*

[590] **David Rees:** Amendment 210. Does any Member object to the amendment being agreed? No objections. Therefore, amendment 210 is agreed.

*Derbyniwyd gwelliant 210 yn unol â Rheol Sefydlog 17.34.*  
*Amendment 210 agreed in accordance with Standing Order 17.34.*

**Grŵp 26: Pharmaceutical Services (Gwelliannau 140, 141)**  
**Group 26: Gwasanaethau Fferyllol (Amendments 140, 141)**

[591] **David Rees:** That takes us on to group 26, pharmaceutical services. The lead amendment in this group is amendment 140 in the name of Darren Millar, and I call on Darren Millar to move amendment 140 and speak to the amendments in this group.

*Cynigiwyd gwelliant 140 (Darren Millar).*  
*Amendment 140 (Darren Millar) moved.*

[592] **Darren Millar:** Thank you, Chair. I move amendment 140 and wish to speak also to amendment 141, both of which relate to pharmaceutical needs assessments and the application process for pharmaceutical services. Amendment 140 requires that those who are preparing pharmaceutical needs assessments take into account the impact of these on GP practices. We heard evidence as a committee during Stage 1 from the British Medical Association and the Dispensing Doctors Association, which expressed their concerns about the viability of some of the GP practices across Wales, particularly those who dispense in order to increase their viability and sustainability, and, of course, the possibility that the availability of pharmaceutical services and GP practice services in some particularly rural and remote parts of Wales could be jeopardised if there was not proper or adequate consideration of the impacts of any changes on pharmaceutical services in their localities.

[593] Amendment 141 requires that applications for pharmaceutical services or any amendments to existing services for which an application has to be made must be determined within a period of six weeks. That, of course, is the standard determination period required for planning applications at the moment for local authorities, but I'm quite happy for that to change in the future, which is why I've also provided for regulation-making powers for Ministers to amend the time period, should this be necessary in the future, via the affirmative procedure.

[594] **David Rees:** Thank you, Darren. Does any other Member wish to speak? Minister, would you like to be called to answer that?

[595] **Mark Drakeford:** Thank you, Chair. Well, as Members have heard, Darren Millar's amendments aim to change the Bill in two ways, and this is another example of a group of amendments where I don't think there's a difference of view between us as far as the objectives of the amendments are concerned, but where we do have a difference as far as methods. I intend to follow the advice of this committee, as set out in its Stage 1 report. So, regulations will be made under the Bill, which can include details of the services that should be considered by local health boards when developing their pharmaceutical needs assessments. This will include the pharmaceutical services provided by general medical service providers.

[596] Pharmaceutical needs assessments are assessments of the population's need for pharmaceutical services in an area. In that sense, they shouldn't have an impact on general medical services providers or providers of other services. The purpose of the policy is to improve access to pharmaceutical services, including access to pharmaceutical services in rural areas. The General Practitioners Committee Wales agree that the Bill will encourage existing pharmacies to adapt and expand services according to local need, and that in the process the planning and delivery of pharmaceutical services will be improved. That's been a very consistent theme in reports produced by this committee—that there's more that community pharmacies can do—and we should create the conditions in which they can do so.

[597] I am convinced that we can learn lessons from the experience in England, where there is a version of this policy in place already, and that we can learn those lessons to make sure that our policy properly meets the needs of the citizens of Wales. And I have written to the Chair of GPC Wales confirming that I would be pleased to have them contribute to the detail of how pharmaceutical needs assessments will be conducted here in Wales.

[598] I do recognise that in some rural areas served by dispensing doctors, there will be a need to ensure that pharmaceutical needs assessments take into account those services; that's the point of Darren's amendment, and I agree with him that that will need to be done. But, the powers presented in amendment 140 are unnecessary because Welsh Ministers already have powers under the National Health Service (Wales) Act 2006 to make regulations prescribing how and when applications are determined, and in making those regulations, we will recognise the contribution that dispensing doctors make.



[599] Amendment 141 specifies a six-week limit on the face of the Bill. I don't think that's the right place to put such a timetable, and I think it is likely to prove inflexible. When dealing with pharmaceutical need assessment applications, it will be really important for every one to be considered on its own merits. The facts of each case will need to be taken into account. There must be fair opportunity for persons affected by an application to be consulted, to allow them to make representations and those representations need to be considered. Specifying a six-week time limit could lead to different approaches being taken for different types of application, and that in turn could lead to inequities in the system.

[600] Those of you who know it will know that, in the past, it has been a reasonably litigious area, where the need to get the right decision made in the right way on the first occasion is very important in securing the objectives of this Bill. I believe that the Bill, by putting in place the pharmaceutical needs regime, will aid that decision making. I accept that guidance under the Bill could helpfully outline expectations in relation to timescales. As a result, indicative timelines and examples of best practice in dealing with applications will be included in the guidance to accompany the changes to control of entry resulting from the introduction of the pharmaceutical needs assessment regime.

[601] In addition, as I've said, PNAs ought to provide a more objective basis for decision making. They will aim to reduce disputes regarding applications, and that by itself should have a positive effect on expediting applications in the future. For those reasons, Chair, I'm unable to support the amendments in this group.

[602] **David Rees:** Thank you, Minister. I call on Darren to reply to the debate.

[603] **Darren Millar:** I'm very grateful for the Minister's contribution and his support, of course, for the objectives. I think, again, we're on the same page in terms of where we would like to go with this, but, obviously, I would prefer to put these issues on the face of the Bill, so I would still like to put the matter to the vote.

[604] **David Rees:** Okay, the question is that amendment 140 be agreed to. Does any Member object? [*Objection.*] I have an objection, therefore we will take a vote by a show of hands. Can those in favour of amendment 140 please raise your hands? Thank you. And those against, please raise your

hands. Thank you. [*Interruption.*] Shall we do it again?

14:30

[605] The question is that amendment 140 be agreed to. So, amendment 140. Those in favour, please raise your hands. Those against, please raise your hands. Thank you. As it's a tied vote, I'll use my casting vote in the negative, against the amendment, in accordance with Standing Order 6.20, and therefore amendment 140 is not agreed.

*Gwelliant 140: O blaid 5, Yn erbyn 5, Ymatal 0.  
Amendment 140: For 5, Against 5, Abstain 0.*

O blaid:  
For:

Yn erbyn:  
Against:

Ymatal:  
Abstain:

Hussain, Altaf  
Jones, Elin  
Millar, Darren  
Whittle, Lindsay  
Williams, Kirsty

Davies, Alun  
Griffiths, John  
Neagle, Lynne  
Price, Gwyn R.  
Rees, David

*Gan fod nifer y pleidleisiau yn gyfartal, defnyddiodd y Cadeirydd ei bleidlais fwrw yn unol â Rheol Sefydlog 6.20(ii).*

*As there was an equality of votes, the Chair used his casting vote in accordance with Standing Order 6.20(ii).*

*Gwrthodwyd gwelliant 140.  
Amendment 140 not agreed.*

[606] **David Rees:** Darren, amendment 141.

*Cynigiwyd gwelliant 141 (Darren Millar).  
Amendment 141 (Darren Millar) moved.*

[607] **Darren Millar:** Move.

[608] **David Rees:** The question is that amendment 141 be agreed. Does any Member object? [*Objection.*] I have an objection. I will therefore take a vote by show of hands. Can those in favour of amendment 141 please raise your hands? Thank you. Those against, please raise your hands. Thank you. As it's a tied vote, I'll use my casting vote in the negative, against the amendment,

in accordance with Standing Order 6.20. Therefore amendment 141 is not agreed.

*Gwelliant 141: O blaid 5, Yn erbyn 5, Ymatal 0.  
Amendment 141: For 5, Against 5, Abstain 0.*

O blaid:  
For:

Yn erbyn:  
Against:

Ymatal:  
Abstain:

Hussain, Altaf  
Jones, Elin  
Millar, Darren  
Whittle, Lindsay  
Williams, Kirsty

Davies, Alun  
Griffiths, John  
Neagle, Lynne  
Price, Gwyn  
Rees, David

*Gan fod nifer y pleidleisiau yn gyfartal, defnyddiodd y Cadeirydd ei bleidlais fwrw yn unol â Rheol Sefydlog 6.20(ii).  
As there was an equality of votes, the Chair used his casting vote in accordance with Standing Order 6.20(ii).*

*Gwrthodwyd gwelliant 141.  
Amendment 141 not agreed.*

[609] **David Rees:** At this point, we still have some groups to go. I'm aware that I've spoken to some Members and there are issues. We have Wednesday still to meet. For the record, sections 2 to 90 of the Bill and Schedules 1 to 3 of the Bill have been deemed agreed by the committee. Therefore, the next meeting to dispose of the remaining amendments will be held on Wednesday 3 February. Tabling will not reopen during this period because of timescale. Therefore, that brings today's proceedings in relation to Stage 2 of the Bill to a close.

*Daeth y cyfarfod i ben am 14:31.  
The meeting ended at 14:31.*