



CYNULLIAD CENEDLAETHOL CYMRU

NATIONAL ASSEMBLY FOR WALES

OFFERYNNAU STATUDOL

STATUTORY INSTRUMENTS

2006 Rhif 249 (Cy.37)

2006 No. 249 (W.37)

**LLYWODRAETH LEOL,
CYMRU**

**LOCAL GOVERNMENT,
WALES**

Gorchymyn Awdurdodau Lleol
(Indemniadau ar gyfer Aelodau a
Swyddogion) (Cymru) 2006

The Local Authorities (Indemnities
for Members and Officers) (Wales)
Order 2006

NODYN ESBONIADOL

EXPLANATORY NOTE

(Nid yw'r nodyn hwn yn rhan o'r Gorchymyn)

(This note is not part of the Order)

Mae'r Gorchymyn hwn yn darparu ar gyfer amgylchiadau lle caiff awdurdod perthnasol yng Nghymru ddarparu indemniad i unrhyw rai o'i aelodau neu ei swyddogion neu sicrhau bod yswiriant yn cael ei ddarparu iddynt. Mae'r pwerau hyn yn ychwanegol at unrhyw bwerau sy'n bodoli eisoes y mae awdurdodau perthnasol o'r fath yn meddu arnynt.

This Order provides for circumstances in which a relevant authority in Wales may provide an indemnity to any of their members or officers or secure the provision to them of insurance. These powers are in addition to any existing powers that such relevant authorities may have.

Yr awdurdodau perthnasol yng Nghymru yw-

The relevant authorities in Wales are-

cynghorau sir

county councils

cynghorau bwrdeistref sirol

county borough councils

cynghorau cymuned

community councils

awdurdodau tân a gyfansoddwyd drwy gynllun cyfuno o dan Ddeddf Gwasanaethau Tân 1947

fire authorities constituted by a combination scheme under the Fire Services Act 1947

awdurdodau tân ac achub a gyfansoddwyd drwy gynllun o dan adran 2 o Ddeddf y Gwasanaethau Tân ac Achub 2004 neu gynllun y mae adran 4 o'r Ddeddf honno yn gymwys iddi

fire and rescue authorities constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies

awdurdodau Parciau Cenedlaethol a sefydlwyd o dan adran 63 o Ddeddf yr Amgylchedd 1995.

National Park authorities established under section 63 of the Environment Act 1995.

Mae erthygl 4 yn egluro y caiff yr awdurdod perthnasol ddarparu indemniad drwy sicrhau bod polisi yswiriant yn cael i ddarparu i aelod neu i swyddog.

Article 4 makes it clear that an indemnity may be provided by means of the relevant authority securing the provision of an insurance policy for a member or officer.

Mae erthygl 5 yn nodi'r achosion lle caniateir darparu indemniadau (gan gynnwys y rheini a ddarperir drwy yswiriant). Mae'r erthygl hon yn cyfyngu'r fath ddarpariaeth i achosion lle mae'r aelod

Article 5 sets out the cases in which indemnities (including those provided by insurance) may be provided. This article restricts such provision to cases where a member or officer is carrying on any function

neu'r swyddog yn cyflawni unrhyw swyddogaeth ar gais yr awdurdod perthnasol, gyda'i gymeradwyaeth neu at ddibenion yr awdurdod hwnnw. Serch hynny, mae'n ymestyn i achosion lle mae'r swyddog neu'r aelod, wrth arfer y swyddogaeth o dan sylw, yn gwneud hynny yn rhinwedd swydd ac eithro swydd aelod o'r awdurdod perthnasol neu swyddog i'r awdurdod hwnnw. Byddai hynny'n caniatáu i indemniad, er enghraifft, gwmpasu achos lle mae aelod neu swyddog yn gweithredu fel cyfarwyddwr cwmni ar gais yr awdurdod perthnasol, ac felly yn gweithredu yn rhinwedd swydd yr aelod neu'r swyddog hwnnw fel cyfarwyddwr.

Mae erthygl 6 yn atal indemniad rhag cael ei ddarparu neu yswiriant rhag cael ei sicrhau mewn perthynas â thramgwydd troseddol, unrhyw ddrygioni bwriadol arall, twyll, byrbwylltra, neu mewn perthynas â dwyn (ond nid amddiffyn) unrhyw achos difenwi.

Mae erthygl 7 yn rhoi pŵer cyfyngedig i ddarparu indemniad (gan gynnwys unrhyw indemniad a ddarperir drwy yswiriant) pan fo'r weithred neu'r anweithred y cwynir amdani y tu allan i bŵer yr awdurdod perthnasol ei hun. Mae hefyd yn cwmpasu achosion lle mae aelod neu swyddog yn datgan bod camau penodol wedi'u cymryd neu fod gofynion penodol wedi'u bodloni ond daw'n eglur wedyn nad felly y bu. Mae'r pŵer wedi'i gyfyngu i achosion lle'r oedd y person a oedd wedi'i indemnio neu wedi'i yswirio-

yn credu'n rhesymol nad oedd y mater o dan sylw y tu allan i'r pwerau hynny, neu

pan fo dogfen wedi'i dyroddi a bod honno'n cynnwys datganiad anwir ynghylch pwerau'r awdurdodau perthnasol, neu ynghylch y camau a gymerwyd neu'r gofynion a fodlonwyd, yn credu'n rhesymol fod y datganiad yn wir pan gafodd ei dyroddi neu pan awdurdodwyd ei dyroddi gan y person hwnnw.

Mae erthygl 8 yn rhoi rhyddid i'r awdurdod perthnasol negodi'r telerau ar gyfer unrhyw indemniad neu bolisi yswiriant y mae'n credu ei fod yn briodol ond mae erthygl 8 yn ei gwneud yn ofynnol i'r telerau hynny gynnwys darpariaeth ar gyfer ad-dalu symiau sy'n cael eu gwario gan yr awdurdod perthnasol neu'r yswiriwr mewn achosion lle-

y dyfarnwyd bod aelod wedi torri'r Cod Ymddygiad sy'n gymwys i'r aelod hwnnw fel aelod o'r awdurdod perthnasol, a lle cymerwyd mesurau disgyblu yn erbyn yr aelod hwnnw o ganlyniad i'w fethiant â chydymffurfio â'r Cod (os byddai'r indemniad neu'r polisi yswiriant fel arall yn cwmpasu'r camau a arweiniodd at y gollfarn honno), neu

y collfarnwyd aelod neu swyddog o dramgwydd troseddol (os byddai'r indemniad neu'r polisi yswiriant fel arall yn cwmpasu'r camau a arweiniodd at y dyfarniad hwnnw).

at the request of, with the approval of, or for the purposes of, the relevant authority. However, it does extend to cases where, when exercising the function in question, a member or officer does so in a capacity other than that of a member or officer of the relevant authority. This would permit an indemnity, for example, to cover a case where a member or officer acts as a director of a company at the request of the relevant authority, and thus is acting in that member or officer's capacity as a director.

Article 6 prevents the provision of an indemnity (or securing of insurance) in relation to criminal offences, any other intentional wrongdoing, fraud, recklessness, or in relation to the bringing of (but not the defence of) any action in defamation.

Article 7 gives a limited power to provide an indemnity (including any indemnity provided by insurance) where the action or inaction complained of is outside the powers of the relevant authority itself. It also covers cases where a member or officer makes a statement that certain steps have been taken or requirements fulfilled but it later becomes clear that this is not the case. The power is limited to cases where the person indemnified or insured-

reasonably believed that the matter in question was not outside those powers, or

where a document has been issued containing an untrue statement as to the relevant authorities powers, or as to the steps taken or requirements fulfilled, reasonably believed that the statement was true when it was issued or that person authorised its issuing.

Article 8 gives the relevant authority freedom to negotiate such terms for any indemnity or policy of insurance as it thinks appropriate. Article 8 however, requires that those terms include provision for repayment of sums expended by the relevant authority or the insurer in cases where-

a member has been found to be in breach of the Code of Conduct applicable to that member as a member of the relevant authority, and disciplinary measures are taken against that member as a consequence of the failure to comply with the Code (if the indemnity or insurance policy would otherwise cover the proceedings leading to that conviction), or

a member or officer has been convicted of a criminal offence (if the indemnity or insurance policy would otherwise cover the proceedings leading to that finding).

Os dyfarnwyd bod aelod wedi torri'r Cod Ymddygiad sy'n gymwys i'r aelod hwnnw fel aelod o'r awdurdod perthnasol ac os yw'r aelod o dan sylw wedi'i geryddu neu, lle ni chymerwyd mesurau disgyblu yn erbyn yr aelod hwnnw o ganlyniad o'i fethiant â chydymffurfio â'r Cod, caiff Pwyllgor Safonau awdurdod perthnasol yr aelod hwnnw ei gwneud yn ofynnol i ad-dalu'r symiau a werir gan yr awdurdod perthnasol neu gan yr yswiriwr. Caniateir adennill unrhyw symiau adenilladwy fel dyled sifil.

If a member has been found to be in breach of the Code of Conduct applicable to that member as a member of the relevant authority and that member is censured or no disciplinary measures are taken against that member as a consequence of the failure to comply with the Code, the Standards Committee of that member's relevant authority may require the repayment of sums expended by the relevant authority or the insurer. Any sums recoverable may be recovered as a civil debt.

2006 Rhif 249 (Cy.37)

**LLYWODRAETH LEOL,
CYMRU**

**Gorchymyn Awdurdodau Lleol
(Indemniadau ar gyfer Aelodau a
Swyddogion) (Cymru) 2006**

Wedi'i wneud 7 Chwefror 2006
Yn dod i rym 8 Chwefror 2006

Mae Cynulliad Cenedlaethol Cymru, drwy arfer y pwerau a roddwyd iddo gan adrannau 101 a 105 o Ddeddf Llywodraeth Leol 2000(1) ac ar ôl ymgynghori â chynrychiolwyr awdurdodau perthnasol, â chynrychiolwyr cyflogaion awdurdodau perthnasol, ac ag unrhyw bersonau eraill y mae'n barnu eu bod yn briodol drwy hyn yn gwneud y Gorchymyn canlynol:

Enwi, cychwyn a chymhwysu

1.-(1) Enw'r Gorchymyn hwn yw Gorchymyn Awdurdodau Lleol (Indemniadau ar gyfer Aelodau a Swyddogion) (Cymru) 2006 a daw i rym ar 8 Chwefror 2006.

(2) Mae'r Gorchymyn hwn yn gymwys i awdurdodau perthnasol yng Nghymru.

Dehongli

2. Yn y Gorchymyn hwn-

mae "aelod" ("*member*"), mewn perthynas ag awdurdod perthnasol, yn cynnwys-

- (a) aelod o unrhyw bwyllgor neu is-bwyllgor o'r awdurdod perthnasol; neu
- (b) person sydd yn aelod o unrhyw gyd-bwyllgor neu is-bwyllgor, ac sy'n cynrychioli'r awdurdod perthnasol ar y cyd-bwyllgor neu'r is-bwyllgor hwnnw;

(1) 2000 (p.22).

2006 No. 249 (W.37)

**LOCAL GOVERNMENT,
WALES**

**The Local Authorities (Indemnities
for Members and Officers) (Wales)
Order 2006**

Made 7 February 2006
Coming into force 8 February 2006

The National Assembly for Wales, in exercise of the powers conferred upon it by sections 101 and 105 of the Local Government Act 2000(1) and having consulted representatives of relevant authorities, representatives of employees of relevant authorities, and such other persons as it considers appropriate hereby makes the following Order:

Title, commencement and application

1.-(1) The title of this Order is the Local Authorities (Indemnities for Members and Officers) (Wales) Order 2006 and it comes into force on 8 February 2006.

(2) This Order applies in relation to relevant authorities in Wales.

Interpretation

2. In this Order-

"Code of Conduct" ("*Cod Ymddygiad*") means a Code of Conduct for the time being adopted by a relevant authority in accordance with section 51 of the Local Government Act 2000;

"disciplinary measures" ("*mesurau disgyblu*") means-

- (a) suspended or partially suspended; or
- (b) disqualified;

(1) 2000 c.22.

ystyr "awdurdod perthnasol" ("*relevant authority*") yw cyngor sir, cyngor bwrdeistref sirol, cyngor cymuned, awdurdod tân a gyfansoddwyd drwy gynllun cyfuno o dan Ddeddf Gwasanaethau Tân 1947(1), awdurdod tân ac achub a gyfansoddwyd drwy gynllun o dan adran 2 o Ddeddf y Gwasanaethau Tân ac Achub 2004(2) neu gynllun y mae adran 4 o'r Ddeddf honno yn gymwys iddi, ac awdurdod Parc Cenedlaethol a sefydlwyd o dan adran 63 o Ddeddf yr Amgylchedd 1995(3);

ystyr "camau Rhan III" ("*Part III proceedings*") yw unrhyw ymchwiliad, adroddiad, cyfeiriad, beirniadaeth neu unrhyw gamau eraill arall yn unol â Rhan III o Ddeddf Llywodraeth Leol 2000;

ystyr "Cod Ymddygiad" ("*Code of Conduct*") yw Cod Ymddygiad a fabwysiadwyd am y tro gan awdurdod perthnasol yn unol ag adran 51 o Ddeddf Llywodraeth Leol 2000;

ystyr "mesurau disgyblu" ("*disciplinary measures*") yw-

- (a) atal, neu atal yn rhannol; neu
- (b) anghymhwysu;

ystyr "Pwyllgor Safonau" ("*Standards Committee*") yw Pwyllgor Safonau, neu is-bwyllgor ohono, a sefydlwyd gan awdurdod perthnasol yn unol ag adran 53, adran 54A, neu adran 56 o Ddeddf Llywodraeth Leol 2000; ac

mae "sicrhau" ("*secure*"), mewn perthynas ag unrhyw indemniad a ddarperir drwy gyfrwng yswiriant yn cynnwys trefnu'r yswiriant hwnnw a thalu amdano a dehonglir ymdraddion perthynol yn unol â hynny.

Indemniadau

3. Caiff awdurdod perthnasol ddarparu indemniadau, yn yr achosion a grybwyllir yn erthygl 5, i unrhyw un oi aelodau neu ei swyddogion.

Yswiriant

4. Yn lle bod awdurdod perthnasol yn darparu indemniad o dan erthygl 3, neu yn ychwanegol at ei ddarparu, caiff awdurdod perthnasol sicrhau, yn yr achosion a grybwyllir yn erthygl 5, ddarparu indemniad drwy sicrhau yswiriant ar gyfer unrhyw un o'i aelodau neu ei swyddogion.

"member" ("*aelod*") in relation to a relevant authority includes-

- (a) a member of any committee, or sub-committee of the relevant authority; or
- (b) a person who is a member of, and represents the relevant authority on, any joint committee or sub-committee;

"Part III proceedings" ("*camau Rhan III*") means any investigation, report, reference, adjudication or any other proceedings pursuant to Part III of the Local Government Act 2000;

"relevant authority" ("*awdurdod perthnasol*") means a county council, county borough council, community council, a fire authority constituted by a combination scheme under the Fire Services Act 1947(1), a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies(2) and a National Park authority established under section 63 of the Environment Act 1995(3);

"secure" ("*sicrhau*") in relation to any indemnity provided by means of insurance, includes arranging for, and paying for, that insurance and related expressions are to be constructed accordingly; and

"Standards Committee" ("*Pwyllgor Safonau*") means a Standards Committee, or a sub-committee thereof, established by a relevant authority in accordance with section 53, section 54A or section 56 of the Local Government Act 2000.

Indemnities

3. A relevant authority may, in the cases mentioned in article 5, provide indemnities to any of its members or officers.

Insurance

4. In place of, or in addition to, a relevant authority providing an indemnity under article 3, a relevant authority may, in the cases mentioned in article 5, provide an indemnity by securing the insurance of any of its members or officers.

(1) 1947 (p.41). Effaith adran 4 o Ddeddf y Gwasanaethau Tân ac Achub 2004 yw, yn ddarostyngedig i ddarpariaethau'r adran honno, y bydd awdurdod tân a gyfansoddir o dan adran 5 neu adran 6 o Ddeddf Gwasanaethau Tân 1947 yn parhau i fod yn effeithiol er bod yr adrannau hynny wedi cael eu diddymu gan Ddeddf 2004.

(2) 2004 (p.21).

(3) 1995 (p.25).

(1) 1947 c.41. The effect of section 4 of the Fire and Rescue Service Act 2004 is that, subject to the provisions of that section, a fire authority constituted under section 5 or section 6 of the Fire Services Act 1947 will continue to have effect notwithstanding the repeal of those sections by the 2004 Act.

(2) 2004 c.21.

(3) 1995 c.25.

Achosion lle caniateir i indemniad neu yswiriant gael ei ddarparu

5. Yn ddarostyngedig i erthygl 6, caniateir i indemniad gael ei ddarparu mewn perthynas ag unrhyw weithred, neu fethiant i weithredu, gan yr aelod neu'r swyddog o dan sylw, a hwnnw'n indemniad sydd-

- (a) wedi'i awdurdodi gan yr awdurdod perthnasol; neu
- (b) yn ffurfio rhan, neu'n deillio, o unrhyw bwerau a roddwyd, neu ddyletswyddau a osodwyd, ar yr aelod neu'r swyddog hwnnw, o ganlyniad i unrhyw swyddogaeth sy'n cael ei harfer gan yr aelod neu'r swyddog hwnnw (p'un a yw'r aelod neu'r swyddog hwnnw, wrth arfer y swyddogaeth honno, yn gwneud hynny yn rhinwedd ei swydd fel aelod neu swyddog i'r awdurdod perthnasol ai peidio)-
 - (i) ar gais yr awdurdod perthnasol neu gyda'i gymeradwyaeth, neu
 - (ii) at ddibenion yr awdurdod perthnasol.

Cyfyngiadau ar indemniadau

6.-(1) Ni chaniateir i unrhyw indemniad gael ei ddarparu o dan y Gorchymyn hwn mewn perthynas ag unrhyw weithred, neu fethiant i weithredu, gan unrhyw aelod neu swyddog, sydd-

- (a) yn dramgwydd troseddol; neu
- (b) yn ganlyniad twyll, neu ddrygioni bwriadol arall neu fyrbwylltra ar ran yr aelod neu'r swyddog hwnnw.

(2) Er gwaethaf paragraff 1(a), caniateir darparu indemniad mewn perthynas ag-

- (a) yn ddarostyngedig i erthygl 8, amddiffyniad unrhyw gamau troseddol a ddygir yn erbyn swyddog neu aelod;
- (b) unrhyw atebolrwydd sifil sy'n codi o ganlyniad o unrhyw weithred neu fethiant â gweithredu sydd hefyd yn dramgwydd troseddol; ac
- (c) yn ddarostyngedig i erthygl 8, amddiffyniad unrhyw gamau Rhan III yn erbyn aelod.

(3) Ni chaniateir darparu unrhyw indemniad o dan y Gorchymyn hwn mewn perthynas ag unrhyw hawliad a wneir gan yr aelod neu'r swyddog sydd wedi'i indemnio mewn perthynas â'r difenwad honedig o'r aelod neu'r swyddog ond caniateir ei ddarparu mewn perthynas â'r amddiffyniad gan yr aelod neu'r swyddog hwnnw o unrhyw honiad o ddifeniwi a wnaed yn erbyn yr aelod neu'r swyddog hwnnw.

Materion sy'n mynd y tu hwnt i bwerau'r awdurdod perthnasol

7.-(1) Er gwaethaf unrhyw gyfyngiad ar bwerau awdurdod perthnasol sy'n rhoi indemniad, caniateir i

Cases in which indemnity or insurance may be provided

5. Subject to article 6, an indemnity may be provided in relation to any action of, or failure to act by, the member or officer in question, which-

- (a) is authorised by the relevant authority; or
- (b) forms part of, or arises from, any powers conferred, or duties placed, upon that member or officer, as a consequence of any function being exercised by that member or officer (whether or not when exercising that function that member or officer does so in their capacity as a member or officer of the relevant authority)-
 - (i) at the request of, or with the approval of the relevant authority, or
 - (ii) for the purposes of the relevant authority.

Restrictions on indemnities

6.-(1) No indemnity may be provided under this Order in relation to any action by, or failure to act by, any member or officer which-

- (a) constitutes a criminal offence; or
- (b) is the result of fraud, or other deliberate wrongdoing or recklessness on the part of that member or officer.

(2) Notwithstanding paragraph 1(a), an indemnity may be provided in relation to-

- (a) subject to article 8, the defence of any criminal proceedings brought against an officer or member;
- (b) any civil liability arising as a consequence of any action or failure to act which also constitutes a criminal offence; and
- (c) subject to article 8, the defence of any Part III proceedings brought against a member.

(3) No indemnity may be provided under this Order in relation to the making by a member or officer indemnified of any claim in relation to an alleged defamation of that member or officer but may be provided in relation to the defence by that member or officer of any allegation of defamation made against that member or officer.

Matters that exceed the powers of the relevant authority

7.-(1) Notwithstanding any limitation on the powers of a relevant authority which grants an indemnity, a

awdurdod perthnasol ddarparu indemniad i'r graddau yr oedd yr aelod neu'r swyddog o dan sylw-

- (a) yn credu bod y weithred, neu'r methiant i weithredu, o dan sylw o fewn pŵer yr awdurdod perthnasol, neu
- (b) pan fo'r weithred neu'r methiant â gweithredu yn cynnwys dyroddi neu awdurdodi unrhyw ddogfen sy'n cynnwys unrhyw ddatganiad ynghylch pwerau'r awdurdod perthnasol, neu unrhyw ddatganiad bod camau penodol wedi cael eu cymryd neu fod gofynion wedi cael eu bodloni, yn credu bod cynnwys y datganiad hwnnw yn wir,

a'i bod yn rhesymol i'r aelod neu'r swyddog hwnnw gredu hynny ar yr adeg y gweithredodd yr aelod neu'r swyddog hwnnw neu y methodd â gweithredu.

(2) Caniateir darparu indemniad mewn perthynas â gweithred neu methiant i weithredu y ceir wedyn ei fod y tu hwnt i bwerau'r aelod neu'r swyddog dan sylw, ond dim ond i'r graddau yr oedd yr aelod neu'r swyddog yn credu'n rhesymol bod y weithred neu'r methiant â gweithredu dan sylw o fewn pwerau'r aelod hwnnw neu'r swyddog hwnnw ar yr adeg y gweithredodd yr aelod hwnnw neu'r swyddog hwnnw neu y methodd â gweithredu.

Telerau indemniad neu yswiriant

8.-(1) Yn ddarostyngedig i baragraffau (2), (3), (4) a (5) isod caiff telerau unrhyw indemniad a roddir (gan gynnwys unrhyw yswiriant a sicrheir) o dan y Gorchymyn hwn fod yn delerau y caiff yr awdurdod perthnasol gytuno arnynt.

(2) Mae paragraffau (3), (4) a (5) yn gymwys pan fo unrhyw indemniad a roddir i unrhyw aelod neu swyddog (gan gynnwys unrhyw yswiriant a sicrheir ar gyfer yr aelod hwnnw neu'r swyddog hwnnw) yn effeithiol mewn perthynas ag amddiffyniad-

- (a) unrhyw gamau troseddol; neu
- (b) unrhyw gamau Rhan III.

(3) Pan fo'r paragraff hwn yn gymwys, darperir yr indemniad, ac unrhyw yswiriant a sicrheir, ar y telerau yn achos camau troseddol, os collfemir yr aelod neu'r swyddog dan sylw o dramgwydd troseddol ac ni wrthdroir y gollfarn honno o ganlyniad i unrhyw apêl, rhaid i'r aelod hwnnw neu i'r swyddog hwnnw ad-dalu i'r awdurdod neu i'r yswiriwr (yn ôl y digwydd) am unrhyw symiau a werir gan yr awdurdod perthnasol neu gan yr yswiriwr mewn perthynas â'r camau hynny yn unol â'r indemniad neu'r yswiriant.

(4) Pan fo'r paragraff hwn yn gymwys, darperir yr indemniad a sicrheir unrhyw yswiriant, ar y telerau yn achos camau Rhan III, lle-

- (a) dyfernir, yn y camau hynny, bod yr aelod dan sylw wedi methu â chydymffurfio â'r Cod Ymddygiad ac ni wrthdroir y dyfarniad

relevant authority may provide an indemnity to the extent that the member or officer in question-

- (a) believed that the action, or failure to act, in question was within the powers of the relevant authority, or
- (b) where that action or failure to act comprises the issuing or authorisation of any document containing any statement as to the powers of the relevant authority, or any statement that certain steps have been taken or requirements fulfilled, believed that the contents of that statement were true,

and it was reasonable for that member or officer to hold that belief at the time when that member or officer acted or failed to act.

(2) An indemnity may be provided in relation to an act or failure to act which is subsequently found to be beyond the powers of the member or officer in question but only to the extent that the member or officer reasonably believed that the act or failure to act in question was within that member or officer's powers at the time at which that member or officer acted or failed to act.

Terms of indemnity or insurance

8.-(1) Subject to paragraphs (2), (3), (4) and (5) below, the terms of any indemnity given (including any insurance secured), under this Order may be such as the relevant authority in question may agree.

(2) Paragraphs (3), (4) and (5) apply where any indemnity given to any member or officer (including any insurance secured for that member or officer) has effect in relation to the defence of-

- (a) any criminal proceedings; or
- (b) any Part III proceedings.

(3) Where this paragraph applies, the indemnity is to be provided, and any insurance secured, on the terms that, in the case of criminal proceedings, if the member or officer in question is convicted of a criminal offence and that conviction is not overturned following any appeal, that member or officer must reimburse the relevant authority or the insurer (as the case may be) for any sums expended by the relevant authority or insurer in relation to those proceedings pursuant to the indemnity or insurance.

(4) Where this paragraph applies, the indemnity is to be provided and any insurance secured, on the terms that in the case of Part III proceedings, where-

- (a) a finding is made in those proceedings that the member in question has failed to comply with the Code of Conduct and that finding is not

hwnnw o ganlyniad i unrhyw apêl, neu

- (b) mae'r aelod yn addef ei fod wedi methu â chydymffurfio â'r Cod Ymddygiad, ac
- (c) os cymerwyd mesurau disgyblu yn erbyn yr aelod hwnnw ganlyniad i fethiant â chydymffurfio â'r Cod Ymddygiad,

rhaid i'r aelod hwnnw ad-dalu i'r awdurdod neu i'r yswiriwr (yn ôl y digwydd) unrhyw symiau a werir gan yr awdurdod perthnasol neu gan yr yswiriwr mewn perthynas â'r camau hynny yn unol â'r indemniad neu'r yswiriant.

(5) Pan fo'r paragraff hwn yn gymwys, darperir yr indemniad, a sicrheir unrhyw yswiriant, ar y telerau, yn achos camau Rhan III, lle-

- (a) dyfernir yn y camau hynny bod yr aelod dan sylw wedi methu â chydymffurfio â'r Cod Ymddygiad ac os na wrthdroir y dyfarniad hwnnw o ganlyniad i unrhyw apêl; neu
- (b) mae'r aelod yn addef ei fod wedi methu â chydymffurfio â'r Cod Ymddygiad; ac
- (c) mae'r aelod o dan sylw wedi'i geryddu neu ni chymerwyd mesurau disgyblu yn erbyn yr aelod hwnnw o ganlyniad i'w fethiant â chydymffurfio â'r Cod Ymddygiad;

caiff Pwyllgor Safonau awdurdod perthnasol yr aelod benderfynu bod rhaid i'r aelod ad-adlu i'r awdurdod neu i'r yswiriwr unrhyw symiau a werir gan yr awdurdod perthnasol neu gan yr yswiriwr mewn perthynas â'r camau hynny yn unol â'r indemniad neu'r yswiriant.

(6) Pan fo aelod neu swyddog dan rwymedigaeth i ad-dalu i awdurdod perthnasol neu i yswiriwr yn unol â'r telerau a grybwyllir ym mharagraff (3), (4) a (5) uchod, bydd y symiau hynny yn adenilladwy gan yr awdurdod perthnasol neu gan yr yswiriwr (yn ôl y digwydd) fel dyled sifil.

overtured following any appeal; or

- (b) there is an admission by the member of that member's failure to comply with the Code of Conduct; and
- (c) disciplinary measures are taken against the member in question as a consequence of the failure to comply with the Code of Conduct,

that member must reimburse the relevant authority or the insurer (as the case may be) for any sums expended by the relevant authority or insurer in relation to those proceedings pursuant to the indemnity or insurance.

(5) Where this paragraph applies, the indemnity is to be provided, and any insurance secured, on the terms that in the case of Part III proceedings, where-

- (a) a finding is made in those proceedings that the member in question has failed to comply with the Code of Conduct and that finding is not overturned following any appeal; or
- (b) there is an admission by the member of that member's failure to comply with the Code of Conduct; and
- (c) the member in question is censured or no disciplinary measures are taken against that member as a consequence of the failure to comply with the Code of Conduct;

the Standards Committee of that member's relevant authority may determine that the member must reimburse the relevant authority or the insurer (as the case may be) for any sums expended by the relevant authority or insurer in relation to those proceedings pursuant to the indemnity or insurance.

(6) Where a member or officer is obliged to reimburse a relevant authority or insurer pursuant to the terms mentioned in paragraphs (3), (4) and (5) above, those sums are to be recoverable by the relevant authority or insurer (as the case may be) as a civil debt.

Llofnodwyd ar ran Cynulliad Cenedlaethol Cymru o dan adran 66(1) o Ddeddf Llywodraeth Cymru 1998(1).

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(1).

7 Chwefror 2006

7 February 2006

D. Elis-Thomas

Llywydd y Cynulliad Cenedlaethol

The Presiding Officer of the National Assembly

OFFERYNNAU STATUDOL

2006 Rhif 249 (Cy.37)

**LLYWODRAETH LEOL,
CYMRU**

Gorchymyn Awdurdodau Lleol
(Indemniadau ar gyfer Aelodau a
Swyddogion) (Cymru) 2006

STATUTORY INSTRUMENTS

2006 No. 249 (W.37)

**LOCAL GOVERNMENT,
WALES**

The Local Authorities (Indemnities
for Members and Officers) (Wales)
Order 2006

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