

## **TRADE UNION (WALES) ACT 2017**

### **What does the Act do?**

The Trade Union (Wales) Act 2017 (the Act) applies to devolved Welsh public bodies and to trade unions in public services delivered by devolved Welsh public bodies. It dis-applies to those bodies the following provisions in the Trade Union Act 2016 (the 2016 Act) which was introduced by the UK Government and passed by Parliament:

- a requirement for a 40% ballot threshold to be met before workers employed in 'important' public services may take industrial action;
- a requirement for public sector employers to monitor arrangements for time spent on facility time and a power for the Secretary of State to limit facility time; and
- conditions on the circumstances in which deductions of trade union subscriptions may be made from wages.

The Act also includes a provision that prohibits devolved Welsh public bodies from using agency workers to provide cover during industrial action. There is existing law that prohibits agencies from supplying workers to provide cover but the UK Government has said that it intends to repeal it.

Devolved Welsh public bodies include the Welsh NHS, local authorities, schools, fire services and Welsh Government Sponsored Bodies in Wales. The Act does not dis-apply provisions in the 2016 Act in relation to services provided by a contractor to a devolved Welsh public body.

### **40% overall support threshold**

*Trade unions representing employees of devolved Welsh public bodies are not required to comply with the 40% ballot threshold in the Trade Union Act 2016.*

The 40% ballot threshold in the 2016 Act applies to 'important public services' which are defined in regulations made by the Secretary of State and include health, education of those under 17 years old and Fire Services. The Act provides that 'important public services' do not include devolved Welsh public bodies. However the other restriction in the 2016 Act which requires a 50% turn-out threshold for industrial action does apply to devolved Welsh public bodies and every other workplace in Wales.

### **Facility time monitoring arrangements and powers of restriction**

*Provisions in the 2016 Act about facility time do not apply to devolved Welsh public bodies.*

The 2016 Act includes provisions that give the Secretary of State power to require public bodies to monitor and report the amount of time spent on facility time and power to restrict it. Devolved Welsh public bodies will not be required to comply with these monitoring arrangements and will not be subject to restrictions.

The Act preserves the extant arrangements for facility time provision as negotiated between public sector employers and recognised trade unions and provided by public bodies.

### **Check-off**

*The provision in the 2016 Act which makes conditions for the circumstances in which trade union subscriptions may be deducted from wages do not apply to devolved Welsh public bodies.*

The UK Government's Trade Union Act 2016 places conditions on the use of deductions for trade union membership from payroll (commonly known as 'check-off') in public sector bodies. The provisions mean that in order to operate check-off, trade unions must reimburse a reasonable sum to the public sector body for the costs incurred administering 'check-off.' They also stipulate that an alternative means of union subscription must be provided by the trade union.

The Act dis-applies these provisions, preserving the continuation of long-standing agreements between trade unions and devolved Welsh public sector employers on the operation of check-off.

### **Agency workers and strike action**

*The Act prohibits devolved Welsh public bodies from using agency workers to provide cover during industrial action.*

Under long-standing UK Government regulations, employment businesses (broadly, businesses that supply temporary agency workers) are currently prohibited from supplying agency workers to provide cover during industrial action.

Alongside consultation on the then Trade Union Bill in 2015, the UK Government issued proposals to rescind the Regulation and allow the use of agency workers during strike action. The UK Government has yet to issue a formal response to that consultation.

The Act applies a duty to devolved public sector bodies not to use agency workers to provide cover for individuals engaged in industrial action. It is intended to protect the extant arrangements should the UK Government subsequently choose to rescind the relevant Regulations.

It does not apply to the use of agency workers in circumstances other than specifically to cover for industrial action.