THE TRADE UNION (WALES) BILL - UPDATE

Purpose

1. To update Members of the UK government’s Trade Union Act 2016 and provide information on the Welsh Government’s proposed Trade Union (Wales) Bill which seeks to reverse a number of issues contained in the UK Government’s Act as it applies to the Welsh public sector.

UK Government’s Trade Union Act

2. The UK Government introduced the Trade Union Act 2016, which amends the Trade Union and Labour Relations (Consolidation) Act 1992 (TULR(C)A) and brings into force a number of changes in relation to:

- Ballot thresholds;
- Electronic Balloting;
- Information requirements relating to industrial action notices;
- Timing and duration of industrial action;
- Picketing;
- Application of funds for political objects;
- Facility Time and Check-off;
- Certification Officer.

Further details of the act can be found at:
http://www.legislation.gov.uk/ukpga/2016/15/contents

Welsh Government’s Trade Union (Wales) Bill

3. The Welsh Government has maintained that it did not wish to apply some aspects of the Trade Union Act to the public sector in Wales believing that it would undermine the social partnership approach that had been developed. The WLGA Council has previously supported this approach, by majority, at its meeting on 25th September 2015.

4. Welsh Government has now produced for consultation the Trade Union (Wales) Bill which seeks to dis-apply a number of provisions of the Trade Union Act in relation to devolved Welsh public authorities.

a) Section 3 (40% threshold) amends section 226 of Trade Union and Labour Relations (Consolidation) Act 1992 (c.52) to provide that in the case of “important public services” 40% of union members entitled to vote must vote in support of industrial action. The Bill provides that “important public services” will not include health services, education of those under 17, fire services and transport services where these services are provided in Wales.
b) Section 13 (publication of facility time) which inserts section 172A in Trade Union and Labour Relations (Consolidation) Act 1992 (c.52) gives Ministers of the Crown power, by regulations, to require public sector employers to publish information relating to facility time spent by relevant trade union officials. “Public sector employers” will not include devolved Welsh public authorities.

c) Section 14 (reserve powers in relation to facility time) which inserts section 172B in Trade Union and Labour Relations (Consolidation) Act 1992 (c.52) gives the Secretary of State power, by regulations, to impose requirements on public sector employers in relation to paid facility time. “Public sector employers” will not include devolved Welsh public authorities.

d) Section 15 (check-off) inserts section 116B in Trade Union and Labour Relations (Consolidation) Act 1992 (c.52) to restrict the deduction of union subscriptions from wages in the public sector. Section 15 will not apply to devolved Welsh public authorities.

Consultation

5. The formal consultation exercise has been short, commencing on 16th January and ending on 17th February. The previous decision of the WLGA Council was to support a distinct Welsh approach. The publication of this new Bill chime with that position which was supported by a large majority at WLGA Council (but not all political groups)

Recommendations

6. That members:

   6.1 Note the content of the report and reaffirm the previous position of the WLGA.

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