

The Rt Hon Kwasi Kwarteng MP
Secretary of State for Business, Energy and
Industrial Strategy

21 July 2022

Dear Kwasi

Trade Union (Wales) Act 2017

I am writing in relation to the *Trade Union (Wales) Act 2017*, which was passed by the Senedd on 18 July 2017.

In a [letter](#) to us in April, the Rt Hon Michael Gove MP, the former Secretary of State for Levelling Up, Housing and Communities and Minister for Intergovernmental Relations told us that the new intergovernmental arrangements would herald a new era for joint working between the UK Government and the Devolved Governments.

Paragraph 7.5 of the [draft Explanatory Memorandum](#) to the [draft Conduct of Employment Agencies and Employment Businesses \(Amendment\) Regulations 2022](#), published on 27 June 2022, states:

"Section 2 of the Trade Union (Wales) Act 2017 prohibits a devolved Welsh authority from hiring a worker supplied by an employment business for the purpose of replacing staff who are on strike or participating in other industrial action. Since the passage of the Trade Union (Wales) Act 2017, the Wales Act 2017 has clarified that industrial relations is a reserved matter. As previously stated in 2017, the UK Government intends to legislate to remove the Trade Union (Wales) Act 2017 through primary legislation when Parliamentary time allows, to ensure trade union legislation applies equally across Great Britain."

The prospect of an Act of the Senedd being repealed by the UK Parliament would represent a significant—and unprecedented—constitutional event.

We would have expected, at the very least, that the potential repeal of an Act passed by the Senedd would have featured prominently in intergovernmental discussions between the UK and Welsh Governments. In the Senedd on the 28 June the First Minister said:

"First of all, Llywydd, let me say this, that it was deeply, deeply disrespectful of the UK Government—disrespectful to devolution, disrespectful to this Senedd—yesterday to have smuggled out, in an explanatory memorandum, not even in the statement that they made, their intention to attempt to repeal pieces of legislation that were passed through this legislature. Not a word in advance, not a letter to say that this is what they intended to do, and, if it hadn't been for the eagle eyes of people looking to see what they were intending to do, then we wouldn't know about it today, would we?"

I would be grateful therefore if you could:

- clarify the UK Government's intentions regarding this potential repeal of the *Trade Union (Wales) Act 2017*,
- clarify why the UK Government has not used the new intergovernmental arrangements to discuss this issue with the Welsh Government;
- clarify whether you do intend to engage with the Welsh Government and if so, when that is likely to be; and
- provide your observations on the constitutional implications of the UK Government's intentions.

I am copying this letter to the Secretary of State for Wales, the Secretary of State for Levelling Up, Housing and Communities and the Paymaster General and Minister for the Cabinet Office.

I am also drawing it to the attention of the First Minister, as well as relevant parliamentary Committees in the other nations of the United Kingdom.

Yours sincerely

Huw Irranca-Davies

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Chair