**Where’s the Just Transition?**

**The Declaration**

A Just Transition was declared internationally at COP26 in Glasgow in 2021 and has been championed by UK and Scottish Governments with statements of an “Equitable transition to a climate resilient future”. All proclaimed fairness and equity for those who’s work would change.

In Scotland it was described as “Job security for those in industries that will play the biggest part in the transition”. Workers and their employment rights to be protected, as our planet’s secured.

But a recent tragedy in the North Sea has disclosed that workers’ rights in the transition from oil and gas to renewables and in particular offshore wind are not being protected.

In the North Sea and around Scotland and the UK’s coasts where’s the Just Transition?

**The Incident**

On Sunday 22nd January 2023 a man tragically went missing some 98 miles east of Aberdeen from Valaris 121, a Mobile Offshore Drilling Unit being towed to Dundee. Police Scotland investigated and whilst satisfied that no criminal investigation was required thought there were wider potential health and safety at work factors which they referred to the Health and Safety Executive, (HSE).

HSE wouldn’t normally investigate an incident whilst such a rig in the offshore oil and gas or wind sector is under tow, as at that stage it’s classed as a “vessel” and falls out with the scope of HSE regulatory enforcement. However, due to specific circumstances found by the Police and the fact HSE have jurisdiction over oil and gas operations, the HSE were asked to look at the incident.

However, this tragedy raises issues on enforcement and protection as they relate to offshore wind vessels, as HSE does not have jurisdiction and cannot take any action. That’s as this is classified as a marine safety investigation, rather than health and safety at work, and jurisdiction falls to the Maritime authorities. But, in maritime cases beyond territorial waters of 12 miles, the enforcing and investigatory authority is the vessels Flag state. Valeris 121 is registered in Liberia.

Thus, the death of a man at work, some 100 miles from Scottish shores in circumstances that raise questions, if not concerns, regarding working practices or the site will be investigated by the Liberian authorities. A country on the other side of the world and where there are concerns regarding their supervision of vessels, let alone seafarers.

That cannot be just.

**The Issue**

Had this been an accident on a turbine or vessel in a port in Scotland or indeed elsewhere in the UK then Health and Safety at Work legislation, along with other employment rights such as the protections of the Minimum Wage would apply.

Such rights would also accrue to all workers operating in the oil and gas sector whether on rigs or on vessels and whether within the UK Territorial Limit of 12 miles, or even within the UK Continental Shelf or the Exclusive Economic Zone of 200 miles limit. The Health and Safety at Work etc. Act 1974 (Application outside Great Britain) Order 2013 applies to such sites.

The issue relates to offshore wind farms where many in the oil and gas sector will be transitioning to, just as big corporations are transitioning from oil fields to wind farms. Many, if not most, of these wind farm fields will be beyond the UK 12-mile territorial limit and instead operating in the 200 mile UK Economic Exclusive Zone and Continental Shelf. Protections for many workers in the new offshore wind sector are missing.

**The Injustice**

As disclosed in Parliamentary Answer 139284 from the Department of Work and Pensions protection is provided to those operating in the offshore wind sector when on a “structure or machine” with the provisions applying to “structures for the production of energy from wind” and to the operation of cables for “transmitting electricity from an energy structure”.

However, the answer specifically states that:

“Ships are not defined as energy structures for the purposes of this legislation”

And therein rests the injustice.

Not only is it an unfair transition but it doesn’t reflect the changes in the new sector of offshore wind. Protection is provided when operating on a turbine structure but this is a small part of the construction and maintenance of them. Workers do not stay on turbines and work on them is limited largely to repairs.

Even rigs or equipment such as applied in the Valaris 121 incident which was a mobile drilling unit are not covered unless formally fixed to the seabed at the time of the accident. As in this case when it was sailing, it was treated as a vessel, and protections do not apply.

Employment in the sector, which is growing quickly, is going to be largely based on vessels, rigs or equipment sailing in the UK waters but not attached to any “structure or machine”, or as in oil and gas, the seabed. Many, if not most, of the vessels operating will be flagged not in the UK but in countries such as Liberia or Panama.

This affects hundreds if not thousands of workers with the number increasing exponentially as technology improves and transition demands. Crews on vessels going from Aberdeen, Dundee, Eyemouth, Montrose, Wick or any other port in Scotland, and ports in England or Wales serving wind installations in the North Sea off Humberside, East Anglia or Yorkshire or in the Celtic Sea will be denied protections that accrue to those in the oil and gas sector.

It’s not just Health and Safety rights but the lack of cover also applies to employment protections such the minimum wage legislation to those operating in UK Economic Zone waters.

**The Unjust Transition Must End**