

## Outline legal framework for Climate and Just Transition at Work

### 1. Tough laws needed to tackle climate crisis

The need for a zero-carbon legal framework is an essential measure for any Government that is serious about workers' rights and a just transition. Voluntary 'targets' for employers aren't working. This paper argues for new legislation to enact a Climate Change and Just Transition at Work Bill.

The Climate Change Act 2008 makes carbon budgets legally binding, but it does not address the process by which this is achieved. The UK's 2050 net-zero target means that all employers will need to prove their alignment in the long term. But, at present, there is no mandatory requirement for businesses to set targets or develop delivery strategies.

When the UK signed up to the Paris Agreement<sup>1</sup> and adopted the Sustainable Development Goals in 2015 it imposed new obligations. No legislation has been introduced to implement them. On 20 December 2019, the Dutch Supreme Court, the highest court in the Netherlands, upheld the previous decisions in the Urgenda Climate Case.<sup>2</sup> It found that the Dutch government has obligations to urgently and significantly reduce emissions in line with its human rights obligations, a decision supported by the UN High Commissioner for Human Rights.<sup>3</sup> As recognised by the International Labour Organisation (a tripartite body of workers, employers and governments), workers' rights are human rights, and it has produced "Guidelines for a just transition towards environmentally sustainable economies and societies for all."<sup>4</sup> Accordingly, the requirements on a just transition and decent work (SDG 8) need to be transposed into law by the UK.<sup>5</sup>

### 2. The voluntary approach is not working

A survey conducted by edie in July 2021, showed that only approximately half of businesses responding had a 2050 net-zero strategy. As this was a survey conducted among sustainability professionals it suggests that in the wider economy, where most employers do not have these staff, that the percentage is much smaller. There is no requirement to disclose all key climate information and little consistency in corporate pledges making it all but impossible to benchmark progress and soft law instruments with voluntary adherence are insufficient for the task. <sup>6</sup>

Even those with targets rarely included Scope 3 (indirect) emissions for the vital decade for action up to 2030. Despite the record number of corporate climate pledges, an analysis of 9,300 listed companies from index provider MSCI published in July 2021 found that they are still on course to exceed their "carbon budgets" – the total amount of emissions they can release and still keep in line with 1.5C of warming within the next 6 years. <sup>7</sup>

**Workplace organisation is the key ingredient** – Relying on employers to deliver a just transition is wishful thinking, but the law on its own won't do this either. **The legal changes being advocated here are designed to support workers self-organisation not to replace it.** Unions need to prioritise climate and environmental strategies from the workplace up, alongside advocating for improvements in the law.

### 3. Lessons from Health and Safety legislation

The most effective piece of legislation from an industrial relations perspective passed in the last 50 years is the Health and Safety at Work Act 1974. It provides for the appointment of union safety reps and gives them rights to be consulted on the employer's policies. The accompanying Safety Reps and Safety Committee Regulations 1977 reinforces these duties and provides for the right to be paid for training and to carry out the functions of a rep. The equivalent for union reps and consultation rights on climate policies is now an absolute priority.

1. **International comparison:** In Canada attempts are being made to link up health and safety and climate. The National Union of Public and General Employees (NUPGE) and the Canadian Environmental Law Association (CELA), with the support of Adapting Canadian Work and Workplaces in Canada (ACW), released a report that explores the presence of and potential for, workers' environmental rights in Canada. <sup>8</sup>
2. **The UK Climate and Ecological Emergency Bill:** The Bill requires the UK to take responsibility for its fair share of greenhouse gas emissions, to actively restore biodiverse habitats, and to stop damaging our natural world through the production, transportation, and disposal of the goods we consume. <sup>9</sup>



*The Bill has participative democracy at its heart. The transition to a zero-carbon future is not something that should be done to the people; it is something that should be done with people. Only then will it be a just transition.*

The CEE Bill deserves support, but it lacks clear references to imposing new duties on employers and related union rights for a just transition in the workplace. It's the reason that the GJA is calling for additional legislation to give workers the right to tackle the climate crisis at work.

#### 4. GJA proposal: The Climate and Just Transition at Work Bill

**General principles:** This bill will place a duty on employers to publish a climate and environment policy. The policy must include greenhouse gas emissions reduction measures, vocational education, and training policies to meet the needs of the current and future workforce. It will place duties on employers to people other than their employees. It will also place duties on manufacturers and suppliers. Further guidance and evidence regarding the importance of including trade unions in building a Just Transition is provided by the European Trade Union Confederation. <sup>10</sup>

**Application:** The bill will apply to employers in the public and private sector in the UK. It will cover the adoption and implementation of climate policies at relevant workplace, sector, and national levels.

Devolved nations – It will reference the interaction with devolved policies such as the Fair Work Act in Scotland, and the Future Generations Act in Wales, and subsequent related legal developments passed in individual nations in the UK.

**Enforcement:** The duties and rights in the legislation will be subject to external monitoring and will be subject to enforcement action. This will include the issuing of improvement and prohibition notices by independent agencies and ultimately criminal prosecution for breach of the duties.

**Enabling legislation:** Supplementary standards made under the Act will take the form of Regulations and Approved Codes of Practice drawn up by a newly formed Just Transition Commission consisting of employers, unions, local authorities, and civil society organisations.

**Scope:** The Climate Policy must include the mitigation and climate adaptation measures and be subject to consultation with the workforce and any recognised trade unions. There will be considerable overlap with health and safety measures and co-ordination between the respective agencies will be essential. The policy will also be informed by any relevant collective bargaining procedures and agreements.

#### General rights for workers

1. Right to safe and healthy working conditions, including environmentally sustainable workplaces and work activities, and a duty of employers to prevent unsafe exposure to hazardous substances
2. Right to information (right to know) about the environmental and climate change impacts of their work, workplace activities, and production outputs
3. Right to participate in workplace decision-making where it may have environmental or climate change impacts
4. Right to advocate for effective standards of environmental protection at the workplace and in the broader public arena

5. Right to inform the public about potentially environmentally damaging workplace practices, or production outputs, without fear of discipline or dismissal (whistle-blower protection)
6. Right to refuse environmentally damaging work.
7. Right to withdraw from workplaces where there has been a failure to implement the legal duties and related climate policies. (Section 44 of the Employment Act protection)

### **Specific duties on employers**

1. Legal requirement for employers to publish a Climate and Environment Response Policy.
2. The policy must be consistent with UK Carbon budgets, the Paris Agreement, and the latest scientific evidence from the IPCC, to achieve a 'suitable and sufficient' standard.
3. The policy must include the management of 'Scope 3 emissions' including those generated by the supply chains operating across the activities of the organisation.
4. The policy must cover the mitigation and adaptation policies needed to address climate change risks.
5. The policy must include a Skills Audit which matches climate and environmental action with the vocational education and training needed to deliver it.
6. The policy must include sector relevant targets for driving up the diversity of the workforce.
7. The policy must be subject to the consultation and negotiation procedures agreed with any recognised trades unions.
8. The policy must be subject to an annual review and signed off by the most senior individual within the organisation.
9. Failure to produce a 'suitable and sufficient' policy incorporating the above points will be subject to independent assessment and referral to enforcement action if necessary.
10. To ensure a just transition at all levels of the organisation there must be a statutory right for any recognised unions to appoint environment / green reps.
11. Union reps must be afforded training and facility time that are comparable to the legal rights of union health and safety reps.
12. Unions should have the right of access to workplaces to advise and support workers about the implementation of their Climate and Environment Response Policy.

In line with the recommendations of the Green Jobs Task Force, the government should also introduce legislation to establish a **UK-wide Just Transition Commission** with national representation to ensure momentum and coherence on workforce transition, including progress in delivery. The national body should be supported by local transition bodies to ensure effective place-based strategies for the transition.<sup>11</sup> National membership should comprise representatives of national government, industry, and unions with an ability to co-opt experts as appropriate. Representation from the Devolved Administrations should help to ensure a joined-up approach across all nations.

## **5. Next steps**

The GJA is keen to open a dialogue with trade unions, NGOs, and others on this outline legal framework. Our experience in the UK with legal rights for unions on health and safety is that the law has assisted union organising rather than been an obstacle to building it. We feel the time has come to campaign for a set of legal duties and rights on climate and just transition in the workplace. This framework is part of a more detailed discussion document. Please contact us if you would like further information or to be part of this campaign.

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## References

United National Framework Convention on Climate Change (UNFCCC) (2015) The Paris Agreement  
<https://unfccc.int/process-and-meetings/the-paris-agreement/the-paris-agreement>

<sup>2</sup> <https://www.urgenda.nl/en/themas/climate-case/>

<sup>3</sup> <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25450&LangID=E>

<sup>4</sup> ILO (2015) Guidelines for a just transition towards environmentally sustainable economies and societies for all. [http://www.ilo.org/wcmsp5/groups/public/---ed\\_emp/---emp\\_ent/documents/publication/wcms\\_432859.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_emp/---emp_ent/documents/publication/wcms_432859.pdf)

<sup>5</sup> International Labour Organization (ILO) (2010) ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up.  
<https://www.ilo.org/declaration/thedeclaration/textdeclaration/lang--en/index.htm>

<sup>6</sup> 45% of UK businesses yet to set net-zero targets, survey reveals (edie.net)

<sup>7</sup> The MSCI Net-Zero Tracker

<sup>8</sup> Workers' Environmental Rights in Canada - Adapting Canadian Work and Workplaces to Respond to Climate Change[:fr]Adapting Canadian Work[

<sup>9</sup> Zero Hour (ceebill.uk)

<sup>10</sup> European Trade Union Congress (ETUC) (2018) Involving Trade Unions in Climate Action to Build a Just Transition.  
<https://www.etuc.org/sites/default/files/publication/file/2018->

<sup>11</sup> Green Jobs Taskforce Report July 2021 Green Jobs Taskforce report - GOV.UK ([www.gov.uk](http://www.gov.uk))