



PUBLIC PETITION NO.

PE01542

Name of petitioner

Evelyn Mundell on behalf of Ben Mundell and Malcolm and Caroline Smith

Petition title

Human Rights for Dairy Farmers

Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to accept that individual dairy farmers have human rights and that these have been breached by the operating rules of the Scottish ring fencing mechanism attached to the management of milk quotas which should have been carried out in accordance with objective criteria and in such a way as to ensure equal treatment between farmers and avoid market and competition distortion.

Action taken to resolve issues of concern before submitting the petition

Unsuccessfully tried to get Scottish National Farmers Union to carry out adequate consultations of all their relevant members.

Unsuccessfully tried to get the Scottish National Farmers Union to acknowledge the dire situation some dairy farmers in the Southern Isles found themselves in, when they were forced out of milk production or forced to cut back production. (eg. We were told at that time the SNFU were only able to work for those dairy farmers who were expanding production.) In response to the PPC, NFU Scotland stated "NFU Scotland is not in a position to make comment or judgement on the issue of Human Rights." (PE1263/C)

Responded to any Government Consultations when we knew they were taking place.

Made representations to several MSPs

Made representations to Rural Affairs Minister.

Several MSPs made representations to Rural Affairs Minister on our behalf.

Made complaints to Rural Affairs Ministers and Rural Affairs Department regarding lack of adequate dairy farmer consultations.

Our MSP advised us to make Complaint to the Scottish Public Services Ombudsman.

Made complaint to Scottish Public Services Ombudsman. Initially they told us they dealt with Human Rights cases. Later they told us they did not deal with Human Rights cases and that we should take our complaint to The Scottish Human Rights Commission, which, at the time was not in operation.. When the SHRC was up and running, we were advised that they were not allowed to deal with individual cases. The Ombudsman's Office, also, at first agreed that the "Ring Fencing" of Milk Quota was an on-going issue, then five months later said it was not. (This, of course, was incorrect as it was an on-going issue)

After considerable difficulty we found a Human Rights Lawyer who said "THIS WAS A

POLITICAL DECISION. THE POLITICIANS SHOULD SORT IT OUT. GO BACK TO THE POLITICIANS”

Again made complaints to MSPs.

Met with officials of Rural Affairs Department, who agreed that the individual dairy farmer owned quota but that the “Ring Fence” had been continued in the “Public Interest”.

Asked for meeting with Minister. He refused to meet with us. We were advised to consult a lawyer.

We submitted this same Petition in 2009 (PE1263) . It was closed in 2011. This Petition is categorically not about an individual but it is about an individual’s rights.

During the time our Petition was being considered by the PPC, many inaccurate statements were made by Government in their replies to the PPC. The day our Petition was closed, the Minister, Richard Lockhead gave evidence to the PPC, again making several inaccurate statements.

The following day, when we complained to the then Clerk of the Petitions Committee, we were told

- a) There was no way of having these inaccurate statements rectified and
- b) We would not be able to put our Petition back in again with the same wording. (which we now discover was inaccurate on both counts)

We are resubmitting this Petition because it is Government’s responsibility to ensure that the Human Rights of ALL citizens are upheld and that the burden of proof lies with Government to demonstrate that is the case. Nothing has been done to address this long standing injustice.

We were very dissatisfied with the outcome of the previous Petition and the fact that Government continually made misleading and inaccurate statements to the PPC. This has further compounded the stress and frustration felt by the farmers affected

We feel we have done everything possible to highlight this obvious injustice and have it rectified.

THIS BREACH OF OUR HUMAN RIGHTS WAS DISCRIMINATORY, DISPROPORTIONATE, ARBITRARY AND PLACED AN INDIVIDUAL AND EXCESSIVE BURDEN ON INDIVIDUAL DAIRY FARMERS, THE CONSEQUENCES OF WHICH ARE STILL BEING FELT.

Petition background information

Milk Quota is the property of the individual dairy farmer. Milk Quotas were introduced throughout Europe in 1984. The “Ring Fences” were also started in 1984. (The date of the introduction of “Ring Fencing” was confirmed by SPICe in their briefing note of 10/09/09 to the PPC) At that time the stated aim was to “protect creameries, dairy farmers and liquid milk to consumers.” ½ the creameries have closed, the majority of dairy farmers have given up production and there is now no milk produced in Kintyre for liquid consumption.

In 1994 the Milk Marketing Boards, who, incidentally, had been almost entirely funded by dairy farmers, were forced, by Government, to disband in the name of the “Free Market”.

Most of the Milk Quota “Ring Fences” were removed eg. from Scotland itself, from Aberdeen area and from the North of Scotland, allowing Milk Quota to be sold and/or leased from John O’Groats to Land’s End and Northern Ireland.

This was absolutely essential for the 36,700 dairy farmers in the UK as from then on no Dairy Company was under any obligation to buy any farmer’s milk, and the Farmers Co-ops were only allowed to set up when a significant number of farmers had signed up with other Dairy Companies. In the beginning of this new era of “free market”, Dairy

companies appeared anxious to sign up dairy farmers and pay a reasonable price for their milk.

Unfortunately “the new world” did not last very long, milk prices began to slide and most milk buyers took very deliberate, and in some cases dubious actions to reduce the number of farms from whom they were collecting. Small dairy farmer numbers reduced dramatically.

The Scottish Government decided to RETAIN the Southern Isles, Orkney, Shetland and the Western Isles “Ring Fences” despite the fact that eg. the Southern Isles had only one major milk buyer, making producers “captive suppliers”. THIS RESTRICTION ON THE SALE AND LEASE OF THEIR MILK QUOTA WAS PLACED UPON LESS THAN 200 OUT OF THE 36,700 DAIRY FARMERS IN THE UK.

By 1997/98 the milk price farmers were receiving was dropping further and by 1999/2000 was lower than the cost of production for most dairy farmers in the UK. Not only did dairy farmers have to contend with an unviable milk price, but due to the escalation of the BSE crisis in 1996, all cattle over 30 months old, going off farms had to be incinerated, at compensation values of a fraction of their rearing cost and there was virtually no market for dairy bred calves.

Bearing in mind that any farmer producing milk would have spent hundreds of thousands of pounds in land, stock, buildings and machinery it is little wonder that such was the financial pressure that

a) The number of dairy farmers in the UK dropped from 31,753 in 1998 to 17,915 in 2007. These farmers in the rest of the UK were able to sell their quota on the open UK market.

b) In the year 2000, 6000 dairy farmers in the UK leased out all of their milk quota. These actions allowed those dairy farmers in the rest of the UK to bring in essential capital to adjust their business, diversify and hopefully survive.

For those same years there was little market in the Southern Isles for either sale or lease of milk quota and what little market there was, was at a considerably reduced price. Some people were forced to give their quota away for nothing as if they had stopped milk production and had not sold their quota within a short period Government confiscated the quota. Others who cut back production were unable to sell or lease out their unused quota. This obviously put Southern Isles dairy farmers at an extreme competitive disadvantage with their counterparts in the rest of the UK and resulted in several being forced to give up their farms and others into difficult financial circumstances. This was far too heavy a burden to put on individual dairy farmers who were struggling to survive. It was totally unreasonable and irrational to expect them to forfeit their property (ie. Milk quota) “in the public interest”, and because of the substantial sums of money involved, at the time, deny them the right to diversify within or outwith agriculture.

GOVERNMENT CONSULTATIONS ON THE “RING FENCE”.

We wish to emphasise that no proper consultations were ever carried out by Government or on their behalf.

a) None met Government’ own criteria for consultations in terms of independence and objectivity.

b) Sometimes the wording of the consultations pre-empted the result.

c) 63 Organisations were on the Consultation List. Individual dairy farmers were not. Seldom were all quota holders consulted.

d) There was never any mention whatsoever of Human Rights in any of the consultations. So it is hardly surprising that the organisations on the Consultation List never considered the Human Rights of the farmers concerned.

e) The consultees were never even told that dairy farmers actually owned the quota or of the consequences of maintaining the “ring fence”. Most were unaware of the prospect of confiscation.

f) Most of the consultations treated the milk quota as if it was PUBLICALLY owned when in fact it was PRIVATELY owned by the individual dairy farmer.

g) There appeared to be no impact assessments done, which should have flagged up

the impossible position some dairy farmers were being put in.

INACCURATE STATEMENTS MADE BY GOVERNMENT, BY THE MINISTER OR BY HIS DEPARTMENT TO COMPLAINING DAIRY FARMERS OR MSPs ON THEIR BEHALF, IN CONNECTION WITH THE “RING FENCING” OF MILK QUOTA IN THE SOUTHERN ISLES. THESE STATEMENTS ARE ALL A MATTER OF RECORD. (MOST OF THESE STATEMENTS WERE ALSO MADE TO THE PPC.)

1) “Ring Fence guaranteed a market for farmers milk.” THERE IS NO GUARANTEED MARKET AND THERE HAS BEEN NONE SINCE THE MILK MARKETING BOARDS WERE DISBANDED. WHAT WERE DAIRY FARMERS SUPPOSED TO DO WHEN THEIR ONLY MILK PURCHASER STOPPED UPLIFTING THE FARMER’S MILK?

2) “The “ring fence” did not have a major impact on a dairy farmer’s ability to make a living.” IF A DAIRY FARMER HAD NO VIABLE MARKET FOR HIS MILK AND WAS THEN DENIED THE RIGHT TO SELL OR LEASE OUT HIS QUOTA ON THE OPEN UK MARKET THAT OBVIOUSLY HAD A CATASTROPHIC EFFECT ON HIS ABILITY TO EARN A LIVING.

3) “The “ring fence” was started in 1994.” THE “RING FENCE” WAS ACTUALLY STARTED IN 1984. (AS ALREADY STATED THIS WAS CONFIRMED BY SPICe TO THE PPC.)

4) While not allowing farmers to move quota out of the area GOVERNMENT WERE THEMSELVES CONFISCATING QUOTA FROM THE AREA.

5) “Ring Fence could not be altered only removed in its entirety”. SUBSEQUENTLY THERE WERE ALTERATIONS MADE BUT THESE ONLY INCREASED THE DISCRIMINATION AGAINST THOSE REMAINING WITHIN THE “RING FENCE.”

6) “Not a Human Rights issue, purely an agricultural issue” NOW GOVERNMENT ACCEPT IT IS A HUMAN RIGHTS ISSUE.

7) “The majority of dairy farmers wanted to keep the Ring Fence.” APART FROM THE FACT THAT THE QUOTA WAS THE PROPERTY OF THE INDIVIDUAL, THE MAJORITY OF DAIRY FARMERS IN THE SOUTHERN ISLES ARE NO LONGER PRODUCING MILK. (NB. 97% OF DAIRY FARMERS VOTED TO KEEP THE MILK MARKETING BOARDS, IN THAT INSTANCE THE MAJORITY WERE IGNORED.)

8) “Only one farmer complaining”. 5 OTHERS HAD CONTACTED THE PPC DIRECTLY COMPLAINING OF THEIR SITUATION. MANY OTHERS HAD PREVIOUSLY COMPLAINED TO THE SNFU AND TO GOVERNMENT. THIS APPEARED TO BE IGNORED BY THE PPC.

9) “30 or 35 dairy farms supply the Arran Creamery”. ONLY 3 FARMS SUPPLY THE ARRAN CREAMERY.

10) “The subsidy called the Single Farm Payment is only paid to dairy farmers in the Ring Fenced Area.” ALMOST ALL FARMERS IN THE EEC ARE ELIGIBLE TO RECEIVE THE SINGLE FARM PAYMENT. ALSO QUOTE FROM ROSS FINNIE 06/03/06 “THE DAIRY PREMIUM ELEMENT OF THE SINGLE FARM PAYMENT WAS NOT AFFECTED BY THE RING FENCE ARRANGEMENTS”. (In any event, irrelevant to those forced out of their farms.)

11) “The Less Favoured Area Payment is only paid to dairy farmers in the Ring Fenced Area.” LFA PAYMENTS ARE MADE TO MOST DAIRY FARMERS IN EUROPE WHO OPERATE IN THE LESS FAVOURED AREAS. ALSO quote from SAC Review 2006, page 9, “IT IS IMPORTANT TO NOTE THAT THE AREA COVERED BY LFASS IS NOT EXACTLY THE SAME AS THE RING FENCED AREA.” (again irrelevant to those forced out of their farms) IT SHOULD BE POINTED OUT THAT EVEN WITH THOSE “SUBSIDY” PAYMENTS MOST DAIRY FARMERS WILL HAVE BEEN OPERATING AT A LOSS OVER MOST OF THE LAST 16 YEARS.

12) On 19/03/02 the then Minister wrote “I agreed to remove Islay from the ring fenced area to allow milk quota holders on Islay to sell their quota on the national milk quota market to help them through this difficult period and to assist them in the financing of new business ventures.” He also said “This will raise more cash than the restricted

ring fence market” DAIRY FARMERS IN KINTYRE AND THE REMAINDER OF THE SOUTHERN ISLES WERE DENIED THAT ABILITY TO REALISE THE FULL CAPITAL VALUE OF THEIR OWN PROPERTY AND CONSEQUENTLY ALLOW THEM TO DIVERSIFY.

13) The stated aim of the 1996 Government Consultation Document on Milk Quotas was “to make the quota system as flexible as possible and to enable producers to make full use of their quota within the constraints of the EEC legislation”. DAIRY FARMERS WITHIN THE RING FENCED AREAS WERE DENIED THAT FLEXIBILITY AND ABILITY.

14) Government can more or less do whatever they like in the “public Interest”. IF GOVERNMENT DOES SOMETHING “IN THE PUBLIC INTEREST” A FAIR BALANCE HAS TO BE STRUCK BETWEEN THE RIGHT OF THE INDIVIDUAL AND THAT OF THE STATE. AS THE SCOTTISH HUMAN RIGHTS COMMISSION STATED IN REPLY TO THE PPC PREVIOUSLY “A FAIR BALANCE WILL NOT HAVE BEEN STRUCK WHERE THE INDIVIDUAL PROPERTY OWNER IS MADE TO BEAR AN INDIVIDUAL AND EXCESSIVE BURDEN.” (PE1263/D)

WE ARE QUITE CONVINCED GOVERNMENT ARE FULLY AWARE THAT THE WAY “RING FENCING” OF MILK QUOTA OPERATED IN SCOTLAND DID NOT COMPLY WITH HUMAN RIGHTS LEGISLATION, COMPETITION LAW AND THE “FREE MARKET” HENCE THE REASON THAT IN 2004 WHEN A CONSULTATION DOCUMENT WAS SENT OUT BY GOVERNMENT REGARDING THE TRADING OF ENTITLEMENTS FOR “SINGLE FARM PAYMENT” THAT THE WORDING WAS AS FOLLOWS:-

“IT WOULD BE POSSIBLE TO RESTRICT THE TRANSFER OF ENTITLEMENTS WITHIN SCOTLAND. REGIONS WOULD NEED TO BE DEFINED AT AN APPROPRIATE TERRITORIAL LEVEL IN ACCORDANCE WITH OBJECTIVE CRITERIA AND IN SUCH A WAY AS TO ENSURE EQUAL TREATMENT BETWEEN FARMERS AND TO AVOID MARKET AND COMPETITION DISTORTION.”

IT WOULD SEEM OBVIOUS TO US THAT THE LAW OFFICER’S OPINION WAS SOUGHT IN WORDING THAT CONSULTATION, TAKING INTO ACCOUNT “COMPETITION LAW”, “THE FREE MARKET” AND “HUMAN RIGHTS LEGISLATION.”

IT WOULD ALSO APPEAR OBVIOUS THAT THE LAW OFFICER/OFFICERS, IF THEIR OPINION WAS SOUGHT REGARDING THE CONTINUATION OF THE SCOTTISH MILK QUOTA “RING FENCES”, DID NOT FULLY TAKE INTO ACCOUNT “COMPETITION LAW”, “THE FREE MARKET” AND “HUMAN RIGHTS LEGISLATION”

IT IS EXTREMELY DIFFICULT TO UNDERSTAND HOW GOVERNMENT COULD BE OBLIVIOUS TO THE GENUINE DISTRESS, HEARTACHE AND MISERY THIS HAS CAUSED TO MANY FARMING FAMILIES WHOSE ONLY VICE WAS WANTING TO USE THEIR OWN PROPERTY TO RUN THEIR OWN BUSINESS.

Unique web address

<http://www.scottish.parliament.uk/GettingInvolved/Petitions/PE01542>

Related information for petition

Do you wish your petition to be hosted on the Parliament's website to collect signatures online?

NO

How many signatures have you collected so far?

1

Closing date for collecting signatures online

N/A

Comments to stimulate online discussion