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NFU annual conference, muck and tax relief

# rural law

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Geoff Tomlinson

## WELCOME

 Welcome to the spring edition of Rural Law. If the last couple of months have been anything to judge by it looks as though late spring and summer will be a very busy time for us, and I am sure that the same will be true in the farming businesses of many of our clients.

From my personal perspective I am still spending a lot of time talking to farming groups about the issue of farm succession. I was at a farm consultants' seminar recently and it was suggested that one of the objectives of a farming business must be to 'plan succession with family and professional support' – so I am not the only

one saying it! They did also say, however, that what holds back many of the businesses they see is a lack of business strategy on issues such as budgeting, succession, investment etc. If you have not done your planning yet please give us a call, because we can certainly help.

In this issue of Rural Law we have a report on the recent NFU Annual Conference, a piece about public footpaths, and a guest article by James Cornthwaite of Moore & Smalley, who is in fact the son of some longstanding farmer clients of mine!

Best regards, Geoff Tomlinson  
[Geoff.Tomlinson@napthens.co.uk](mailto:Geoff.Tomlinson@napthens.co.uk)



 As solicitors for the rural community we come across all sorts of problems with the use of public rights of way.

This can vary from users trespassing by not sticking to the designated route, to compensation claims for damage caused by users of the footpath, or by animals in the field through which the track passes.

There is very little that can be done about removing existing public rights of way but we can assist you in restricting the possibility of any new ones being created over your land.

It is becoming increasingly difficult to defend an application submitted by the public for the designation of a right of way on the grounds of long use. The burden is resting ever more with the landowner to prove that he has tried to restrict public access and had no intention to dedicate a new footpath, rather than the public having to prove the intention to create a footpath.

However, one simple step can be taken by landowners to protect against any possible claim and give them the necessary evidence to defeat almost all future claims of this nature.

## PUBLIC FOOTPATHS – PROTECTING AGAINST POSSIBLE NEW CLAIMS

The method is contained in section 31(6) of the Highways Act 1980 and is in the form of a 'statutory deposit'.

A statutory deposit is basically a declaration by the land owner with an attached plan confirming that the rights of way shown on the plan are the only ones to which the public should have access. This, along with physical steps such as locking gates and erecting signs, has been proven sufficient to defeat any possible future claims.

If you would like to discuss making a statutory deposit or require further assistance then please get in touch.

[Andrew.Holden@napthens.co.uk](mailto:Andrew.Holden@napthens.co.uk)  
 01772 904266





Opportunities still exist for current and future farmers

## REPORT FROM THE NFU ANNUAL CONFERENCE

 Andrew Holden attended the NFU Annual Conference on February 23-24 and was encouraged by the positive sounds coming from both the NFU and the several different speakers involved.

In line with our Winter 2009 in:brief newsletter article on food security, there was strong support for the idea that UK farming is the way forward. Each of the main political parties had representatives at the conference, all with a similar message; that there are still fantastic opportunities in farming for both the current and the next generation of young farmers. Although the drive for efficiency and higher standards will continue, our farmers will adapt and can compete with any other country in the world.

It was, however, recognised that there are still several big challenges facing farmers, in particular:

1. **The Common Agricultural Policy** post 2013. The main issue of concern was to put food security back in the public agenda and increase food production to cope with the projected doubling in global demand in the next four years.
2. **Single Farm Payments.** These need to be more equitable and credible, to ensure that the current "shambles and a disgrace" that is the Rural Payments Agency "deliver more from less" – to quote the words of Nick Herbert MP.
3. **Climate Change.** It was agreed that we must learn to cope with climate change in a sustainable way.
4. **Bovine TB.** This was the hot topic at the event and the subject of many of the questions at the conference – and with good reason. In 2009, 20,000 cows were lost. With approximately 55 per cent of those being from the dairy sector, it is easy to see the impact this will have, not just on dairy farmers but on the industry as a whole.

This is just a very brief overview of the content covered at the Conference and, as NFU Dairy board chairman Gwynn Jones commented in one of the several breakout sessions at the event, "the industry is changing fast and there are great opportunities ahead together with great public support."

Andrew.Holden@napthens.co.uk  
01772 904266 



# MUCK AND TAX RELIEF – NOT TO BE SNIFFED AT!

 With the impending implementation of the NVZ regulations (which come fully into force on January 1, 2012), many livestock businesses are now considering significant investment in their slurry storage facilities.

The good news is that HM Revenue & Customs have recently confirmed that slurry storage tanks (whether above or below ground) and associated channels and pipes will qualify as plant and machinery. However, as with tax relief on any capital building project, the devil is in the detail and professional advice should be sought sooner rather than later to ensure that the maximum tax relief is achievable.

Under the annual investment allowance it is possible to obtain 100 per cent tax relief on the first £50,000 of expenditure incurred on plant and machinery in a financial year. In addition,

integral features now qualify for tax relief and given the complete abolition of the agricultural buildings allowance from April 2011 they can provide a valuable source of tax relief for expenditure which may not previously have qualified for any relief. For example, cold water systems and all electrical systems now qualify for capital allowances.

In view of the upfront tax relief now provided by capital allowances the taxable profits of a farming business can fluctuate significantly. This may therefore provide an opportunity to claim working tax credits or child credits where previously annual profits were too high.

Funding towards such capital projects may be available from the Rural Development Programme for England (RDPE). Amongst other capital grants, where a priority is

identified then it may be possible to obtain a grant for up to 40 per cent of the eligible cost of roofing a new or existing midden, slurry store or dirty yard area.

Moore and Smalley Chartered Accountants and Business Advisors has developed a specialist team of farming and rural business experts across its Preston, Lancaster and Kendal offices and would be happy to advise further on any of the issues outlined above, or any other related queries.

Further details can be found at: [www.mooreandsmalley.co.uk](http://www.mooreandsmalley.co.uk) or by calling James Cornthwaite at Moore & Smalley's Preston office on 01772 821021. 

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**Preston:** 7 Winckley Square, Preston, PR1 3JD Tel: 01772 888 444 Fax: 01772 257 805 Email: [Preston@napthens.co.uk](mailto:Preston@napthens.co.uk)

**Blackburn:** St Andrew's House, Wellington Street (St John's), Blackburn BB1 8DB DX 17964 Blackburn 1 Tel: 01254 667 733 Fax: 01254 681 166 Email: [Blackburn@napthens.co.uk](mailto:Blackburn@napthens.co.uk)

**Blackpool:** 41-43 Springfield Road, Blackpool, FY1 1PZ DX 714350 Blackpool 5 Tel: 01253 622 305 Fax: 01253 295 591 Email: [Blackpool@napthens.co.uk](mailto:Blackpool@napthens.co.uk)

**Chorley:** 10-12 St Thomas's Road, Chorley, PR7 1HR DX 18412 Chorley Tel: 0845 260 2111 Fax: 01257 260 096 Email: [Chorley@napthens.co.uk](mailto:Chorley@napthens.co.uk)

Napthens LLP, registered office: 7 Winckley Square, Preston, Lancashire PR1 3JD.

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