

FARRIERS (REGISTRATION) ACT 2017

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Farriers (Registration) Act 2017 (c. 28) which received Royal Assent on 27 April 2017.

- These Explanatory Notes have been prepared by the Department for Environment, Food and Rural Affairs (Defra), in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Act will mean in practice; provide background information on the development of policy; and provide additional information on how the Act will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Act. They are not, and are not intended to be, a comprehensive description of the Act.

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Overview of the Act

- 1 The principal objective of the Farriers (Registration) Act 2017 is to make changes to the constitution of the Farriers Registration Council and its committees.

Policy background

- 2 The Farriers Registration Council (FRC) is the regulatory body for the farriery profession in Great Britain (GB). It has statutory responsibilities as set out in the Farriers (Registration) Act 1975 (FRA) to maintain a register of farriers, determining who is eligible for registration and to regulate farriery training. The FRC investigates and, where necessary, determines disciplinary cases through the statutory Investigating Committee and Disciplinary Committee. In common with other statutory regulatory bodies its primary function is to protect and maintain the public interest; in doing so this also serves to act in the interests of animal welfare.
- 3 The FRA was introduced in the 1974/75 session of Parliament as a Private Member's Bill. The FRA introduced a legal requirement of ensuring that only suitably qualified, approved and registered persons could shoe horses.
- 4 The FRC has explained how the constraints of the FRA meant that they were experiencing operational difficulties, and has sought Government help to remedy the deficiencies it sees within the FRA.
- 5 The Government, in conjunction with the Scottish and Welsh devolved administrations, has worked with the FRC to consider the most appropriate way to reform its constitution and its committees as well as introducing flexibility for the future into the FRA. The regulatory reforms within this Act relate only to the internal governance, structure and operation of the regulatory body itself.
- 6 The Act:
 - a. eliminates practical difficulties encountered by the FRC;
 - b. modernises the regulatory structure and internal practices of the FRC;
 - c. eliminates the risk of legal challenge and bring the regulation of the farriery profession into line with other professions;
 - d. builds flexibility into the FRA by allowing future changes to be made by secondary rather than primary legislation.
- 7 The Government's position is that reforms will provide a better fit with the five principles of Better Regulation, as established by the Legislative and Regulatory Reform Act 2006. This Act obliges regulatory bodies to have regard to certain principles, which are:
 - a. Proportionality – intervene only when necessary; remedies appropriate to the risks posed;
 - b. Accountability – decisions need to be justified and subject to public scrutiny;
 - c. Consistent – rules and standards must be joined-up and implemented fairly;
 - d. Transparent – regulators should be open with simple, user-friendly rules and regulations;
 - e. Targeted – regulation needs to focus on the problem and should minimise side-effects.

- 8 A joint 6-week consultation held by Defra and the Scottish and Welsh Governments was launched on the 12 November 2013. This consultation was in line with Cabinet Office consultation principles published in July 2012.
- 9 The responses to the consultation were analysed and were used to inform the final proposals for the required legislative changes. This Act makes the legislative changes needed to take forward those reforms.
- 10 The Act:
 - a. Replaces the current legal prescription requiring both self-employed and employed working-farrier members of the FRC. In the Government's view, this distinction is no longer necessary, or representative as 96% of registered farriers are self-employed.
 - b. Stipulates that the chair of the FRC must be elected by the FRC.
 - c. Alters the membership of the statutory Investigating Committee and Disciplinary Committee. Instead of the committees constituted from members of the FRC the reverse will apply; membership must not be members of the FRC. This seeks to achieve a 'separation of powers' ensuing that those who set standards for the profession are not the same as those who investigate and adjudicate upon potential breaches of those standards. In the Government's view, the current system is out of date and at risk of legal challenge on the grounds of insufficient independence and lack of impartiality. Such a challenge might arise in the form of a judicial review or on the basis that the Act is incompatible with the European Convention on Human Rights (ECHR).
 - d. Introduces 'fitness to serve' requirements for all members of the FRC and the statutory committees. This is the practice in other regulatory bodies, as well as defined terms of office;
 - e. Provides that any future amendments to the governance arrangements of the FRC and committees can be made by secondary legislation.

Legal background

- 11 The existing constitution of the FRC and its committees, and related provisions, are currently laid down prescriptively in the primary legislation, the FRA and its Schedules.
- 12 The FRC's functions are (references are to the FRA):
 - a. to appoint a registrar (paragraph 10 of Schedule 1);
 - b. to maintain a register of farriers (section 3) and to determine who is entitled to be registered in it (sections 7, 8 and 9);
 - c. to make rules with respect to the form and keeping of the register (section 4);
 - d. to approve courses, qualifications and institutions providing training in farriery and keep itself informed of approved institutions and examinations (sections 11 and 12);
 - e. to undertake preliminary investigation of disciplinary cases through an Investigating Committee (section 13);
 - f. to determine disciplinary cases through a Disciplinary Committee (sections 14 and 15).

- 13 The FRC is the competent authority for the profession of farriery in Great Britain in accordance with the requirements of the European Union (Recognition of Professional Qualifications) Regulations 2015 (SI 2015 No. 2059 (Regulation 4 and Schedule 1)).
- 14 The FRA will continue to be the primary Act dealing with the constitution of the FRC, and this Act inserts new provisions into that Act.

Territorial extent and application

15 The provisions of the Act extend to England and Wales and Scotland.

Commentary on provisions of Act

16 The Act makes changes to the FRA.

Section 1: Constitution of Farriers Council and its Committees

17 Section 1 introduces a Schedule which amends the FRA and makes changes to the constitution of the following:

- a. The FRC;
- b. The Investigating Committee of the FRC; and
- c. The Disciplinary Committee of the FRC.

Section 2: Power to make further changes to the constitution of Council and its Committees

18 Section 2 inserts a new section 17A into the FRA.

19 New section 17A, subsection 1 gives the Secretary of State power to make regulations to amend, or replace any, or all of the following:

- a. Part 1 of Schedule 1 (constitution of the Council);
- b. Schedule 2 (constitution of the Investigating Committee);
- c. Part 1 of Schedule 3 (constitution of the Disciplinary Committee).

20 New section 17A, subsection 2 requires that, before making regulations under section 17A, the Secretary of State must obtain the consent of the Scottish Ministers and the Welsh Ministers.

21 New section 17A, subsection 3 requires the Secretary of State to consult the FRC as well as any other person that the Secretary of State considers appropriate before making regulations under section 17A of the amended Act.

22 New section 17A, subsection 4 contains provision that requires that any regulations under section 17A be made by statutory instrument and provides that the regulations may include incidental, supplementary, consequential, transitional, transitory or saving provisions.

23 New section 17A, subsection 5 sets out the requirement that any statutory instrument made under section 17A will be subject to the negative resolution parliamentary procedure.

Section 3: Extent, commencement and short title

24 Section 3, subsection 1 provides that this Act extends to England and Wales and Scotland.

25 Section 3, subsection 2 and 3 makes provision that this Act (apart from section 3 which has immediate effect) will come into force in the future and enables the Secretary of State to appoint, by regulations, the day or days that the Act will come into force.

26 Section 3, subsection 4 allows the Secretary of State to make transitional, transitory or saving provision arrangements in connection with commencement.

27 Section 3, subsection 5 requires that any regulations which are made to bring this Act into force be made by statutory instrument.

28 Section 3, subsection 6 provides that this Act will be known as 'The Farriers (Registration) Act 2017'

Schedule: Constitution of Farriers Registration Council

29 Paragraph 1 substitutes a new Part 1 of Schedule 1 to the FRA (constitution of the FRC).

New Part 1 of Schedule 1 to the FRA: Constitution

Membership

- 30 Sub-paragraph (1) of paragraph 1 provides and lists the membership of the FRC.
- 31 Sub-paragraph (2) gives the names of the appointing bodies that are able to appoint one lay person as a member of the FRC.
- 32 Sub-paragraph (3) makes provision about the FRC scheme under which four farriers are to be appointed. The scheme may provide for elections to be held to choose those who are to be appointed.
- 33 Sub-paragraph (4) requires that the FRC must consider the need for the FRC to represent all parts of Great Britain when setting up, amending or replacing any election process for appointing four registered farriers.
- 34 Sub-paragraph (5) provides the definition for the meaning of “lay person” within the Act.

Term of office

- 35 Paragraph 2 (1) of Schedule 1 provides that this Act will restrict members of the FRC to a term of no more than 4 years.
- 36 Paragraph 2 (2) of Schedule 1 provides that this Act will restrict members of the FRC to serving no more than two terms of office (i.e. they may be appointed and then reappointed only once).
- 37 Paragraph 2 (3) of Schedule 1 provides that members of the FRC may resign at any time by giving notice to the FRC registrar.
- 38 Paragraph 2 (4) of Schedule 1 provides that members whose conduct falls below, or is in breach, of the conditions about fitness determined by the FRC may be removed.
- 39 Paragraph 2 (5) of Schedule 1 provides and requires that the procedures for removing a member of FRC are to be determined by the FRC.

Casual vacancies

- 40 Paragraph 3 (1) of Schedule 1 concerns the requirement that, when a FRC position becomes vacant outside of the normal appointment cycle, that position must be filled and cannot be 'left open'.
- 41 Paragraph 3 (2) of Schedule 1 sets out a requirement that, as far as possible, any FRC position that becomes vacant during the appointment cycle should be filled at the same time that the position becomes vacant.
- 42 Paragraph 3 (3) of Schedule 1 sets out a provision that FRC members who are appointed outside of the appointment cycle will fit back into the appointment cycle of the original position. Therefore, their appointment cycle and time of re-appointment will be the same as that for the other FRC members and, as if, the position had never been vacated or temporarily filled.
- 43 Paragraph 3 (4) of Schedule 1 sets out that, if a FRC position is filled outside of the normal appointment cycle, that appointment will not count towards that FRC member's number of appointments to the FRC.

Procedure

- 44 Paragraph 4 (1) of Schedule 1 provides that the quorum for a FRC meeting is seven (7), unless a different number is chosen by the FRC itself.
- 45 Paragraph 4 (2) of Schedule 1 requires that the FRC must elect one of its members to act as a chair of the FRC.
- 46 Paragraph 4 (3) of Schedule 1 provides that the FRC may make the rules governing its meetings and procedures itself.
- 47 Paragraph 4 (4) of Schedule 1 provides that the FRC may make rules and procedures to deal with absences of its Chair. This sub-paragraph specifies that it may make the rules governing the procedures for a member of the FRC to act as Chair of the FRC in the rightfully appointed Chair's absence as well as the rules governing for a member acting as Chair, in the absence of the rightfully appointed Chair, to have an additional casting vote.

Validity of acts

- 48 Paragraph 5 of Schedule 1 makes provision to confirm that anything done by the FRC will not be affected by either a vacancy within the FRC itself or as a result of a defect in the procedures followed in the appointment or the election of any member of the FRC.

Amendment of Part 2 of Schedule 1 to FRA (supplementary provisions about the FRC)

- 49 Paragraph 2 (1) of the Schedule to the Act amends Part 2 of Schedule 1 to the FRA.
- 50 Paragraph 2 (2) removes paragraphs 7 and 8 of Schedule 1 to the FRA.
- 51 Sub-paragraph 2 (3) (a) provides that the existing text within paragraph 9 (which provides that the FRC may set up additional committees or area councils) will become sub-paragraph (1) of that paragraph.
- 52 Sub-paragraph 2 (3) (b) inserts two new sub-paragraphs into paragraph 9 which provide that the FRC may make rules governing the meetings and procedures of its additional committees or area councils, including rules about the chair of those bodies..
- 53 Paragraph 3 of the Schedule to the Act provides for the definition of “registered person”, “veterinary practitioner” and “veterinary surgeon”.

Constitution of the Investigating Committee

- 54 Paragraph 4 of the Schedule to the Act removes the wording "from among its members" from section 13 (1) of the FRA so that section 13 (1) should read: " The Council shall set up a committee to be known as the Investigating Committee, for the preliminary investigation of cases (hereinafter referred to as " disciplinary cases ") in which it is alleged that a person is liable to have his name erased from the register on any grounds specified in section 15 of this Act." Along with the proposed amendment to section 14 (1) of the FRA (see below) this will mean that FRC will be required to set up both Investigating and Disciplinary committees but, will not be required to establish these committees from within its own membership .
- 55 Paragraph 5 of the Schedule to the Act substitutes Schedule 2 to the FRA with a new Schedule which makes changes to the constitution of the FRC's Investigating Committee.

New Schedule 2: Constitution of the Investigating Committee

Membership

- 56 Sub-paragraph 1 (1) of the new Schedule 2 states that the Investigating Committee will consist of six (6) members and will be appointed by the FRC.
- 57 Sub-paragraph 1 (2) of Schedule 2 states of the 6 members making up the Investigating Committee, at least two (2) must be registered farriers.
- 58 Sub-paragraph 1 (3) of Schedule 2 is a provision that prevents the Investigating Committee from having on it either members of the FRC, officers or servants of the FRC, or members of the Disciplinary Committee.
- 59 Sub-paragraph 1 (4) of Schedule 2 requires that the chair of the Investigating Committee will be designated by the FRC.
- 60 Sub-paragraph 1 (5) of Schedule 2 permits the FRC to delegate the appointment of the Investigating Committee.

Terms of office

- 61 Sub-paragraph 2 (1) of Schedule 2 provides that the term of office for a member of the Investigating Committee will be determined by the FRC.
- 62 Sub-paragraph 2 (2) of Schedule 2 provides that members of the Investigating Committee may resign at any time by giving notice to the FRC registrar.
- 63 Sub-paragraph 2 (3) of Schedule 2 provides that the Act makes a provision allowing the FRC to remove from office members whose conduct falls below, or is in breach of, the conditions about fitness determined by the FRC.
- 64 Sub-paragraph 2 (4) of Schedule 2 provides and requires that the procedures for removing a member of the Investigating Committee are to be determined by the FRC.

Procedure

- 65 Sub-paragraph 3 (1) of Schedule 2 is a provision that states that the quorum of the Investigating Committee is three (3), one of whom must be a registered person.
- 66 Sub-paragraph 3 (2) of Schedule 2 is a provision that requires the FRC to make rules governing the Committee's meeting and procedure.
- 67 Sub-paragraph 3 (3) of Schedule 2 is a provision relating to specific rules that the FRC may wish to include when making the governing procedures of the Committees.

Validity of acts

- 68 Sub-paragraph 4 of Schedule 2 is a provision to prevent the Investigating Committee's procedures being invalidated by matters such as a vacancy or a defect in the appointment of a member.

Constitution of the Disciplinary Committee

- 69 Paragraph 6 of the Schedule to the Act makes certain changes to Section 14 of the FRA with regards to the following:
- 70 Sub-paragraph (a) ensures that members of the Disciplinary Committee can no longer be members of the FRC.

- 71 Sub-paragraph (b) states that the provisions of Schedule 3 to the FRA shall apply with respect to the constitution of, and to proceedings before, the Disciplinary Committee.
- 72 Paragraph 7 substitutes Part 1 of Schedule 3 to the FRA with new wording, which makes changes to the constitution of the FRC's Disciplinary Committee.

Schedule 3 to the FRA: New Part 1 - Constitution of Disciplinary Committee

Membership

- 73 Sub-paragraph 1 (1) states that the Disciplinary Committee will consist of nine (9) members who are appointed by the FRC.
- 74 Sub-paragraph 1 (2) states that at least three (3) of the nine (9) members making up the Disciplinary Committee must be registered farriers.
- 75 Sub-paragraph 1 (3) is a provision that prevents the Disciplinary Committee from having on it either members of the FRC, officers or servants of the FRC, or members of the Investigating Committee.
- 76 Sub-paragraph 1 (4) is a provision relating to the appointment of the Chair, who must be designated by the FRC from amongst the Disciplinary Committee members.
- 77 Sub-paragraph 1 (5) states that the FRC may delegate the function of appointing the members of the Disciplinary Committee.

Terms of office

- 78 Sub-paragraph 2 (1) provides that the term of office for members of the Disciplinary Committee will be determined by the FRC.
- 79 Sub-paragraph 2 (2) provides that members of the Disciplinary Committee may resign at any time by giving notice to the FRC registrar.
- 80 Sub-paragraph 2 (3) provides that the FRC may remove from office members whose conduct falls below, or is in breach of, the conditions about fitness determined by the FRC.
- 81 Sub-paragraph 2 (4) provides and requires that the procedures for removing a member of the Disciplinary Committee are to be determined by the FRC.

Procedure

- 82 Sub-paragraph 3 (1) is a provision that states that the quorum of the Disciplinary Committee is five (5), one of whom must be a registered person.
- 83 Sub-paragraph 3 (2) is a provision that states that where a person who investigated a case as a member of the Investigating Committee subsequently becomes a member of the Disciplinary Committee, he or she may not act as a member of the Disciplinary Committee in relation to that case.
- 84 Sub-paragraph 3 (3) is a provision that requires the FRC to make rules governing the Committee's meeting and procedure.
- 85 Sub-paragraph 3 (4) is a provision relating to specific rules that the FRC may wish to include when making the governing procedures of the Committee.
- 86 Sub-paragraph 3 (5) makes provision that prevents the committee using its power to make rules that could have been made under paragraph 4 of the existing Schedule 3 to the FRA

Validity of acts

- 87 Paragraph 3A prevents the Disciplinary Committee's procedures being invalidated by matters such as a vacancy or a defect in the appointment of a member.
- 88 Paragraph 8 of the Schedule to the Act clarifies that Part 2 of Schedule 3 to the FRA relates to proceedings before the Disciplinary Committee and are not part of the governance procedures of the Committee.

Commencement

- 89 Section 3 of the Act comes into force on the day on which it is passed. Sections 1 and 2 and the Schedule come into force on such day as the Secretary of State may by Regulations appoint.

Related documents

- 90 The following documents are relevant to the Act and can be read at the stated locations:

- The Farriers Registration Act 1975 - <http://www.legislation.gov.uk/ukpga/1975/35/contents>
- The consultation for the Reform of the governance, structure and operation of the Farriers Registration Council, the statutory regulator for the farriery profession November 2013 document - https://consult.defra.gov.uk/veterinary-services/reform-of-frc-statutory-governance-structure/supporting_documents/FRA%20consultation%20document.pdf
- The consultation on a proposal to reform the governance, structure and operation of the Farriers Registration Council, the statutory regulator for the farriery profession 12 November – 23 December 2013 - Summary of responses document - https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/293093/farriers-consult-sum-resp.pdf

Annex A - Hansard References

91 The following table sets out the dates and Hansard references for each stage of the Act's passage through Parliament.

Stage	Date	Hansard Reference
<i>House of Commons</i>		
Introduction	29 June 2016	Vol. 612 Col. 342
Second Reading	27 January 2017	Vol. 620 Col. 638
Public Bill Committee	7 March 2017	First Sitting
Report and Third Reading	24 March 2017	Vol. 623 Col. 1107
<i>House of Lords</i>		
Introduction	27 March 2017	Vol. 782 Col. 359
Second Reading	6 April 2017	Vol. 782 Col. 1189
Grand Committee	26 April 2017	Vol. 782 Col. 1391
Third Reading	27 April 2017	Vol. 782 Col. 1446
Royal Assent	27 April 2017	House of Commons N/A
		House of Lords Vol. 782 Col. 1528

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