

**2002 No 1597**

**PROFESSIONAL QUALIFICATIONS**

**The European Communities (Recognition of Qualifications and Experience) (Third General System) Regulations 2002**

<i>Made</i> - - - - -	<i>18th June 2002</i>
<i>Laid before Parliament</i>	<i>18th June 2002</i>
<i>Coming into force</i> - -	<i>16th July 2002</i>

The Secretary of State being a Minister designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to measures relating to recognition of higher-education diplomas, qualifications or experience required for the pursuit of professions or other occupations, in exercise of the powers conferred on her by that section hereby makes the following Regulations:—

**Citation and commencement**

1.—(1) These Regulations may be cited as the European Communities (Recognition of Qualifications and Experience) (Third General System) Regulations 2002.

(2) These Regulations shall come into force on 16th July 2002

**Interpretation**

2. In these Regulations, “the Directive” means the Directive 1999/42/EC of the European Parliament and of the Council of 7th June 1999(c) establishing a mechanism for the recognition of qualifications in respect of the professional activities covered by the Directives on liberalisation and transitional measures and supplementing the general systems for the recognition of qualifications.

**PART 1**

**Production of certificates of experience**

3.—(1) The Secretary of State shall issue a certificate, to be called a “Certificate of Experience”, to a person who makes an application to her for the issue of such certificate in respect of a relevant activity and satisfies her as to his relevant experience and qualifications gained in the United Kingdom as set out in Schedule 1.

(2) A relevant activity is an activity which falls within the lists of activities set out in Annex A to the Directive.

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(a) Designation Order S.I. 2002/248.

(b) 1972 c. 68.

(c) OJ L201/77 of 31 July 1999, extended to the EEA by Decision of the EEA Joint Committee 88/2000, adopted on 27 October 2000, OJ (supplement) L007/05 of 1 January 2001.

## **False Representations or Declaration**

4. Any person who procures or attempts to procure the issue of a certificate by making or producing or causing to be made or produced any false or fraudulent representation or declaration, either orally or in writing, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

5.—(1) Where the Secretary of State is satisfied that—

- (a) a certificate was issued in reliance upon a representation or declaration in respect of which a person has been convicted of an offence under regulation 4; or
- (b) information in reliance upon which a certificate has been issued is not correct or is not correct in a material particular and that the experience or qualifications to which the certificate attests have not been attained, she may revoke the certificate by notice in writing sent to the person named in the certificate subject to the conditions in paragraph (2).

(2) The condition is that before revoking the certificate the Secretary of State shall serve on the person named in the certificate a notice specifying—

- (a) that she is minded to revoke the certificate; and
- (b) the false representations or declarations in respect of which a person has been convicted of an offence; or
- (c) the incorrect information; and
- (d) the effect of (b) and (c) on the truth of the certificate,

and inviting that person within a reasonable period of not less than 28 days to submit representations in writing as to—

- (i) the relevance of any conviction for an offence in relation to the certificate or the matters to which it attests; and
- (ii) any other reason why the Secretary of State should not revoke the certificate

and the Secretary of State shall consider any representation submitted within the period specified in the notice.

## **PART 2**

### **Amendment of the Farriers (Registration) Act 1975**

6. The Farriers (Registration) Act 1975(a) shall be amended as set out in Schedule 2.

*Melanie Johnson,*  
Parliamentary Under Secretary of State,  
for Competition, Consumers and Markets,  
Department of Trade and Industry

18th June 2002

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(a) 1975 c. 35.

## Qualifications and Experience for Certificates of Experience

1. In this Schedule, “applicant” means a person who has made an application to the Secretary of State for the issue of a Certificate of Experience.

2.—(1) In the case of activities appearing in Part One of Annex A to the Directive the relevant qualifications and experience are that the applicant has pursued the activity in the United Kingdom—

- (a) in the case of activities in List I:
- (i) for six consecutive years in either a self-employed capacity or as a manager of an undertaking; or
  - (ii) for three consecutive years in a self-employed capacity or as a manager of a undertaking where he proves that he has received at least three years’ prior training for the activity in question, attested by a nationally recognised certificate or regarded by a competent professional or trade body as fully satisfying its requirements; or
  - (iii) for three consecutive years in a self-employed capacity where he proves that he has pursued the activity in question for at least five years in an employed capacity; or
  - (iv) for five consecutive years in a managerial capacity of which at least three years were spent in technical posts with responsibility for one or more departments of the undertaking where he proves that he has received at least three years’ prior training for the activity in question, attested by a nationally recognised certificate or regarded by a competent professional or trade body as fully satisfying its requirements, and
- in the cases referred to in sub-paragraphs (i) and (iii), the applicant shall have pursued the activity during a period ending not more than 10 years prior to the application; or
- (b) in the case of the activities in List II:
- (i) for six consecutive years in either a self-employed capacity or as a manager of an undertaking; or
  - (ii) for three consecutive years in a self-employed capacity or as a manager of an undertaking where he proves that he has received at least three years’ prior training for the activity in question, attested by a nationally recognised certificate or regarded by a competent professional or trade body as fully satisfying its requirements; or
  - (iii) for four consecutive years in a self-employed capacity or as a manager of an undertaking where he proves that he has received at least two years’ prior training for the activity in question, attested by a nationally recognised certificate or regarded by a competent professional or trade body as fully satisfying its requirements; or
  - (iv) for three consecutive years in a self-employed capacity or as a manager of an undertaking where he proves that he has pursued the activity in question for at least five years in an employed capacity; or
  - (v) for five consecutive years in an employed capacity where he proves that he has received at least three years’ prior training for the activity in question, attested by a nationally recognised certificate or regarded by a competent professional or trade body as fully satisfying its requirements; or
  - (vi) for six consecutive years in an employed capacity where he proves that he has received at least two years’ prior training for the activity in question, attested by a nationally recognised certificate or regarded by a competent professional or trade body as fully satisfying its requirements, and
- in the cases referred to in sub-paragraphs (i) and (iii), the applicant shall have pursued the activity during a period ending not more than 10 years prior to the application; or
- (c) in the case of the activities in List III:
- (i) for six consecutive years in either a self-employed capacity or as a manager of an undertaking; or
  - (ii) for three consecutive years in a self-employed capacity or as a manager or an undertaking, where he proves that he has received at least three years’ prior training for the activity in question, attested by a nationally recognised certificate or regarded by a competent professional or trade body as fully satisfying its requirements; or
  - (iii) for three consecutive years in a self-employed capacity where he proves that he has pursued the activity in question for at least five years in an employed capacity, and
- in the cases referred to in sub-paragraphs (i) and (iii), the applicant shall have pursued the activity during a period ending not more than 10 years prior to the application; or
- (d) in the case of the activities in List IV:
- (i) for five consecutive years in either a self-employed capacity or as a manager of an undertaking; or

- (ii) for two consecutive years in a self-employed capacity or as a manager of an undertaking where he proves that he has received at least three years' prior training for the activity in question, attested by a nationally recognised certificate or regarded by a competent professional or trade body as fully satisfying its requirements; or
  - (iii) for three consecutive years in a self-employed capacity or as a manager of an undertaking where he proves that he has received at least two years' prior training for the activity in question, attested by a nationally recognised certificate or regarded by a competent professional or trade body as fully satisfying its requirements; or
  - (iv) for two consecutive years in a self-employed capacity or as a manager of an undertaking where he proves that he has pursued the activity in question for at least three years in an employed capacity; or
  - (v) for three consecutive years in an employed capacity where he proves that he has received at least two years' previous training for the activity in question, attested by a nationally recognised certificate or regarded by a competent professional or trade body as fully satisfying its requirements; or
- (e) in the case of the activities in List V(a) and (b),
- (i) for three years in a self-employed capacity or as a manager of an undertaking, provided that pursuit of the activity in question did not cease more than two years before the date on which the application is made;
  - (ii) for three years in a self-employed capacity or as a manager of an undertaking, provided that, except in cases where the Member State in which the activity in respect of which the Certificate of Experience is sought permits its nationals to interrupt their pursuit of that activity for a longer period, pursuit of the activity in question did not cease more than two years before the date on which the application is made; or
- (f) in the case of the activities in List VI:
- (i) for three consecutive years in either a self-employed capacity or as a manager of an undertaking; or
  - (ii) for two consecutive years in a self-employed capacity or as a manager of an undertaking where he proves that he has received prior training for the activity in question, attested by a nationally recognised certificate or regarded by a competent professional or trade body as fully satisfying its requirements; or
  - (iii) for two consecutive years in a self-employed capacity or as a manager of an undertaking where he proves that he has pursued the activity in question for at least three years in an employed capacity; or
  - (iv) for three consecutive years in an employed capacity where he proves that he has received previous training for the activity in question, attested by a nationally recognised certificate or regarded by a competent professional or trade body as fully satisfying its requirements, and
- in the cases referred to in sub-paragraphs (i) and (iii), the applicant shall have pursued the activity during a period ending not more than 10 years prior to the application;.

(2) In the case of other activities referred to in Annex A, the relevant experience and qualifications are possession of general, commercial or professional knowledge or ability evidenced by the pursuit in the United Kingdom of the activity in question

3. If an applicant has worked as mentioned in subparagraphs (a)(ii) and (iv), (b)(ii) and (iv), (c)(ii), (d)(ii), (iii) and (v), and has received at least two years but less than three years prior training, the requirements of paragraph 1 shall be satisfied if the time he has spent working and the time he has spent training together equal—

- (a) 6 years, in the cases of subparagraphs (a)(ii), (b)(ii) and (c)(ii);
- (b) 8 years, in the cases of subparagraphs (a)(iv) (b)(ii) and (iv);
- (c) 5 years, in the case of subparagraph (d)(ii)(iii) and (v).

4. A person shall be regarded as having pursued an activity as a manager of an undertaking for the purposes of this Schedule if he has pursued such an activity in an undertaking in the occupational field in question:

- (a) as a manager of an undertaking or a manager of a branch of an undertaking; or
- (b) as a deputy to the proprietor or the manager of an undertaking where that post involves responsibility equivalent to that of the proprietor or manager represented; or
- (c) in a managerial post with duties of a commercial and/or technical nature and with responsibility for one or more departments of the undertaking.

## Amendment of the Farriers (Registration) Act 1975

1. In section 7(1), after paragraph (b) insert—
  - “(ba) that he is the holder of a qualification obtained in another EEA State which demonstrates a level of knowledge and skill in farriery which substantially corresponds to that of a person falling within paragraph (b) ; or
  - (bb) that he is the holder of a qualification obtained in another EEA State which does not fall within paragraph (ba), but he has acquired or demonstrated the required level of knowledge and skill in accordance with section 7A(3); or
  - (bc) that he possesses appropriate experience in shoeing horses obtained in another EEA State as set out in section 7A; or
  - (bd) that he is registered in Part II or Part IV of the Register and possesses appropriate experience in shoeing horses obtained in the United Kingdom as set out in section 7A; or”.
2. In section 7(1)(e), for the words “outside the United Kingdom” substitute “other than in an EEA State”.
3. After section 7(1), insert—

“(1A) For the purposes of this section and section 7A, “EEA State” means any State which is a Contracting Party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992, as adjusted by the Protocol signed at Brussels on 17th March 1993.”

4. After section 7, insert—

**“Corresponding qualifications, etc**

- 7A.—(1) A person (“the applicant”) who—
- (a) holds any qualification in farriery obtained in another EEA State and intends to apply for registration under section 7(1)(ba) or (bb); or
  - (b) has experience in shoeing horses and intends to apply for registration under section 7(1)(bc); or
  - (c) has experience in shoeing horses and intends to apply for registration under section 7(1)(bd).

shall, before applying for registration, apply to the Council for a determination under subsection (2).

- (2) On an application under sub-section (1), the Council shall determine whether—
  - (a) (in the case of an applicant falling within subsection (1)(a)), the qualification demonstrates a level of knowledge and skill in farriery which substantially corresponds to that of a person falling within paragraph (b) of section 7(1); or
  - (b) (in the case of an applicant falling within subsection (1)(b) or (1)(c)), the applicant has appropriate experience.
- (3) If in the case of an applicant falling within subsection (1)(a) the Council determine that the qualification does not demonstrate a level of knowledge and skill in farriery which substantially corresponds to that of a person falling within section 7(1)(b), the Council may for the purposes of registration under section 7(1)(bb) require the applicant—
  - (a) to acquire that level of knowledge and skill during a period of engagement in the shoeing of horses under the supervision of a person who is registered in Part 1 of the Register, in accordance with such rules as the Council may make from time to time as to the provision of training for persons intending to seek registration under section 7(1)(b); or
  - (b) to demonstrate that level of knowledge and skill by passing such test or examination as the Council may require for the purpose.
- (4) An applicant to whom subsection (3) applies may choose to comply either with paragraph (a) or paragraph (b) of that subsection.
- (5) An applicant has “appropriate experience” in the shoeing of horses if—
  - (a) he has worked in that activity during a period ending not more than 10 years prior to his application under subsection (1), for at least six consecutive years in either a self-employed capacity or as a manager of a farriery undertaking; or
  - (b) he has worked in that activity for at least three consecutive years in a self-employed capacity or as a manager of an undertaking and he has received at least three years’ prior training in the shoeing of horses; or
  - (c) he has worked in that activity, during a period ending not more than 10 years prior to his application under subsection (1), for three consecutive years in a self-employed capacity and for at least five years in an employed capacity; or

(d) he has worked in that activity for at least five consecutive years in a managerial capacity of which at least three years were spent in technical posts with responsibility for one or more departments of the undertaking and he received at least three years' prior training in shoeing horses.

(6) For the purposes of subsection (5)(b) and (d), the training must be attested by a nationally recognised certificate or regarded by a competent professional or trade body as fully satisfying its requirements.

(7) If an applicant has worked as mentioned in paragraph (b) or (d) of subsection (5), and has received at least two years but less than three years prior training, he falls within the paragraph if the time he has spent working and the time during which he has received training together equal—

- (a) at least six years (in respect of paragraph(b));
- (b) at least eight years (in respect of paragraph (d)).

(8) For the purposes of this section, a certificate issued by a competent authority of an EEA State in accordance with Article 8 of the Directive 1999/42 of the European Parliament and of the Council is proof of the matter which it certifies.

(9) The Directive referred to in subsection (8) is the Directive of 7 June 1999 establishing a mechanism for the recognition of qualifications in respect of the professional activities covered by Directives on liberalisation and transitional measures and supplementing the general systems for the recognition of qualifications.

(10) A person shall be regarded as having pursued an activity as a manager of an undertaking within the meaning of this section if he has pursued such an activity in an undertaking engaged in the shoeing of horses—

- (a) as a manager of an undertaking or a manager of a branch of an undertaking;
- (b) as a deputy to the proprietor or the manager of an undertaking where that post involves responsibility equivalent to that of the proprietor or manager represented; or
- (c) in a managerial post in the undertaking with duties of a commercial or technical nature and with responsibility for one or more departments of the undertaking.”.

5. After section 7A insert—

**“Determination of applications.**

**7B.—**(1) The Council must determine an application under section 7 or 7A as soon as reasonably practicable and no later than four months after the date on which the application is received.

(2) The Council must notify a person who makes an application under section 7 or 7A of the Council’s decision in respect of the application and the reasons for the decision.”.

**6.—**(1) Section 9 (Determination of questions as to qualifications) shall be renumbered as subsection (1) of that section.

(2) After that subsection insert—

“(2) A person who makes an application under section 7A may appeal to the Disciplinary Committee in respect of—

- (a) a failure by the Council to make a decision in respect of the application; or
- (b) a determination or decision of the Council in respect of the application.

(3) On an appeal under subsection (2) the Committee shall have the power to direct the Council to make any determination, or to take any decision, which the Council has power to make or take under section 7A.”.

## **EXPLANATORY NOTE**

*(This note does not form part of the Regulations)*

These Regulations implement Directive 99/42 which provides for mutual recognition in the Member States of qualifications in respect of the activities described in the Annexes to the Directive. The Directive provides for the recognition of experience as a means of entry to these activities on the same basis as for persons having the formal qualifications required in particular Member States. These activities are described using the descriptions in the various directives whose provisions are consolidated or modernised. Part 1 of the Regulations makes provision for the issuing of certificates of experience by the Secretary of State. The profession of farrier is an activity within the scope of the Directive to which access in the United Kingdom is regulated by law on the basis of particular qualifications or experience. Part 2 of the Regulations provide for the amendment of the Farriers (Registration) Act 1975 to bring its provisions into line with the requirements of the Directive.

A transposition note is available and copies of it have been placed in the libraries of both Houses of Parliament. Copies of the transposition note are also available from the Diplomas Unit, Europe and World Trade Directorate of the Department of Trade and Industry, Room 212, Kingsgate House, 66-74 Victoria Street, London SW1E 6SW.

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