

## E-scooters

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**Note:** although the United Kingdom has left the European Union, certain pieces of legislation (formally known as 'retained EU law') will still apply until such time as they are replaced by new UK legislation; this means that you will still see references to EU regulations in our guidance.

### **This guidance is for England, Scotland and Wales**

The UK Government recognises that e-scooters may be a popular alternative to public transport in large cities and towns due to the impact of coronavirus (COVID-19) and air pollution. E-scooters fall within the definition of 'power transporters' or 'personal light electric vehicles' (PLEVs). As such, they are not currently legal for use on roads or other public highways.

There are new European safety standards, adopted by the UK, that apply to these products.

When assessing the safety of these products, a number of matters are taken into consideration and anyone in the supply chain, including retailers, can be held liable for the supply of unsafe products.

### **Legal framework for the use of e-scooters**

There is no specially-designed legal regime for the use of e-scooters. This means that they are covered by the same laws that apply to all motor vehicles.

The definition of 'motor vehicle' as set out in the Road Traffic Act 1988 is "any mechanically propelled vehicle intended or adapted for use on roads". However, there are specific restrictions as to where e-scooters can be used. It is an offence to use privately owned e-scooters on the pavement, public footpaths, bridleways or restricted by-ways. Privately owned e-scooters are also prohibited from using cycle tracks,

cycle lanes on roads, or other spaces dedicated to pedal cycle use only from which electrically assisted pedal cycles and mobility scooters have an exemption.

## Product safety

The law requires that any product sold to consumers must be safe. Products should not present any unnecessary risk to anyone when used in a normal or reasonably foreseeable way. When assessing the safety of a product, the following must be taken into account:

- packaging, labelling and instructions
- effect of the product on other products with which it might be used
- special needs of particular types of people, such as elderly people or those with disabilities

Where there are national, European or international standards relating to the product, these standards will also need to be taken into account. Not all PLEVs are approved for use in the same way.

## Safety requirements

A recently published European Standard (BS EN 17128: *Light motorized vehicles for the transportation of persons and goods and related facilities and not subject to type-approval for on-road use. Personal light electric vehicles (PLEV). Requirements and test methods*) is intended to ensure that e-scooters meet the safety requirements of the Supply of Machinery (Safety) Regulations 2008, which have been amended by the Product Safety and Metrology etc (Amendment etc) (EU Exit) Regulations 2019.

Manufacturers, their representatives and importers have to ensure that when their e-scooters, components or separate technical components are placed on the market or are entering into service, they are manufactured and approved in accordance with the requirements set out in the Regulations. Should e-scooters become legal for road use, it is likely to only apply to certain e-scooters that have been manufactured to specific technical standards. Other e-scooters may remain illegal for road use, perhaps because they are designed for use by children or young people under the age of 16.

Manufacturers should draw up technical documentation that clearly identifies the intended use of the e-scooter and take responsibility for the type approval and conformity necessary for that vehicle. If anyone in the supply chain modifies an e-scooter, they become a manufacturer of a modified vehicle; they take on the manufacturer's responsibility and need to ensure that the e-scooter meets the approval and conformity necessary for any new intended use.

E-scooters must be supplied to consumers with the appropriate instructions concerning their legal and safe use. This will include the type of personal protective equipment that may be appropriate, appropriate age markings, the maximum carriage weight and any instructions for assembly and/or use of any folding mechanism. There should also be any warnings against the dangers of misuse.

## Electrical compliance

The battery and charger for the product must be compatible to meet safety requirements. The battery must meet the appropriate standards for batteries and the charger must be both compatible with the battery and meet the Standard BS EN 60335-2-29: *Household and similar electrical appliances. Safety. Particular requirements for battery chargers*.

## Labelling requirements, instructions and warnings

E-scooters that are to be supplied to the GB market are required to be UKCA-marked, as is the battery charger. The e-scooter should have appropriate warnings in accordance with the requirements of the Supply of Machinery (Safety) Regulations 2008. Labelling should include the:

- business name and full address of the manufacturer and, where applicable, the manufacturer's authorised representative
- designation of the machinery
- designation of series or type
- serial number
- the year of construction - that is, the year in which the manufacturing process is completed

If battery chargers are to be supplied separately, they should have sufficient information on them to comply with the Electrical Equipment (Safety) Regulations 2016, including:

- the manufacturer's and importer's name or trade name and their address
- an indication of the input and output ratings
- the type of insulation used
- a batch code
- any other instructions and warnings as appropriate

## Technical documentation

The Regulations also place an obligation for manufacturers and importers that place e-scooters on the market to:

- ensure that the technical documentation is compiled and made available in accordance with the requirements
- provide information as necessary to operate it safely, such as instructions for use, repair and maintenance
- follow appropriate conformity assessment procedures as prescribed by the Regulations
- ensure that there is a UKCA declaration of conformity undertaken by the manufacturer in accordance with regulation 7 of, and Part 2 of Schedule 2 to, the Supply of Machinery (Safety) Regulations 2008

## UKCA, UKNI and CE marking

There is a legal requirement for certain products to have the UKCA mark when placed on the internal UK market. UKCA marking is a key indicator of a product's compliance with UK legislation. By affixing the UKCA mark on a product a manufacturer is declaring conformity with all of the legal requirements to achieve UKCA marking. This may mean that there is more than one set of legal requirements that apply to a product.

For those PLEVs that are to be used on-road, and:

- a) are not (or are only partly) manufactured in accordance with the published harmonised standards that relate to them, or
- b) where the harmonised standards in accordance with which the machinery is manufactured do not cover all the applicable essential health and safety requirements

... the responsible person must follow one of the following conformity assessment procedures:

- **examination by UK-approved bodies.** This means that the manufacturer must use an approved body (such as BSI - the British Standards Institution) to test or review the product to enable the application of the UKCA mark via a type-examination procedure
- **self-declaration.** This does not require any independent testing or review and it is therefore the manufacturer's own statement that they believe the product meets the relevant regulations. However, a full quality assurance procedure as prescribed in Part 10 of Schedule 2 to the Supply of Machinery (Safety) Regulations 2008 must be carried out (a link to the Regulations can be found in '**Key legislation**' below)

It is the manufacturer's responsibility to carry out the conformity assessment, to set up the technical file (including test reports and risk assessments), to issue the declaration of conformity and to affix the UKCA mark. There is no visual difference between a mandatory or self-declared UKCA mark and so a small business or consumer cannot tell whether the product has been tested or not. Therefore distributors must take care and must verify the presence of both the UKCA mark and the necessary supporting documentation.

If a product requires a UKCA mark but does not have one, it is illegal to place it on the UK market. However, do remember that not all products sold in the UK need to bear UKCA marking, so distributors must have a basic knowledge of the legal requirements. Every member of the supply chain should know what products must bear the UKCA mark and the accompanying documents required and should be able to identify products that are clearly not in compliance.

The UKCA mark logo consists of the letters 'UK' stacked above 'CA' in a bold, black, sans-serif font.

There will be a crossover period for the UKCA mark, and in most cases the CE mark can still be used on the GB market until 31 December 2021. The UKCA mark can only be placed on products by UK approved bodies.

Where Northern Ireland is involved, there is a further mark that is used: the UKNI mark.

The UKNI mark logo consists of the letters 'UK' stacked above 'NI' in a bold, black, sans-serif font.

Some of the provisions apply differently in NI for as long as the Northern Ireland Protocol is in force. In Northern Ireland, machinery needs to have the CE mark or both the CE and the UKNI marks affixed.

The CE mark logo consists of the letters 'C' and 'E' in a bold, black, sans-serif font, with the 'C' partially overlapping the 'E'.

For more information on the UKCA, UKNI and CE marks, please see 'Product safety: due diligence'.

## **Retailers' responsibilities**

Retailers may not have the same degree of technical knowledge and expertise as a manufacturer or importer; however, they may be able to carry out certain checks on the safety of e-scooters.

Retailers should ensure that the e-scooter has undertaken any relevant conformity certification and has a 'declaration of conformity' certificate. They also need to ensure that each e-scooter is marked visibly, legibly and indelibly with the following particulars:

- the business name and full address of the manufacturer, and where applicable, the manufacturer's authorised representative in the UK
- the designation of the machinery, series and type
- the serial number
- the UKCA marking
- the year of construction
- any information that is essential for safe use as per the manufacturer's responsibilities, as listed above

Retailers should ensure that each vehicle is supplied with adequate written instructions. Reliance on verbal instructions only would make it very difficult to prove what you have said and may not reach the end user (if the e-scooter is a gift, for example). Instructions for maintenance are particularly important to pass on in written form, as they will be relied on for safe use for the entire expected life of the product. If there are parts of the instructions that have a particular relevance to safety, you may wish to highlight them.

You should also examine each vehicle before you supply it and carry out basic checks - for example:

- all fixings, nuts and bolts are correctly and securely fastened
- the frame is not damaged
- the condition and inflation of tyres
- brakes are working effectively
- no sharp edges and entrapment hazards
- ensure that the steering is aligned
- ensure that you can supply full instructions for use

You may wish to offer advice on the appropriate safety equipment that needs to be used with the e-scooter - for example, a cycle helmet and suitable clothing - and to offer to supply this equipment. Any such advice should also be included in the written instructions.

## **Product quality**

Under the Consumer Rights Act 2015, the goods you sell must be of satisfactory quality, fit for their purpose and match the description given. A consumer may be expected to have to carry out some maintenance and replace some parts over time, but e-scooters should be sufficiently robust to last for a reasonable service life.

If an e-scooter fails prematurely, the consumer may be entitled to claim their losses from the retailer. This could include a repair, replacement, full or partial refund and/or compensation.

If the manufacturer offers a guarantee, remember that this does not take away a consumer's rights. Your

consumer may still have a claim against you even after the manufacturer's guarantee has expired.

See 'The sale and supply of goods' for more information.

## **Legal and illegal use of e-scooters: information for your consumers**

Consumers may not be fully aware of the legal restrictions that apply to the use of e-scooters. Under the Consumer Protection from Unfair Trading Regulations 2008 (CPRs), retailers are obliged to disclose information that might affect a consumer's decision to buy, even if the consumer does not ask for it. You should therefore make it clear to prospective customers that the e-scooter that they buy may have restrictions on its use or capability, and to advise them to only purchase one that meets their requirements.

They may well be disappointed if they buy an e-scooter expecting to be able to ride it in a local park or common, only to find out later that they cannot do so.

For more information on the CPRs, please see 'Consumer protection from unfair trading'.

## **Penalties**

Failure to comply with trading standards law can lead to enforcement action and to sanctions, which may include a fine and/or imprisonment. For more information please see 'Trading standards: powers, enforcement and penalties'.

## **Key legislation**

Road Traffic Act 1988

Consumer Protection from Unfair Trading Regulations 2008

Supply of Machinery (Safety) Regulations 2008

Regulation (EU) No 168/2013 *on the approval and market surveillance of two- or three-wheel vehicles and quadricycles*

Consumer Rights Act 2015

Electrical Equipment (Safety) Regulations 2016

Product Safety and Metrology etc (Amendment etc) (EU Exit) Regulations 2019

Last reviewed / updated: March 2021

## **In this update**

More information added to the 'Retailers' responsibilities' section

## Please note

This information is intended for guidance; only the courts can give an authoritative interpretation of the law.

The guide's 'Key legislation' links may only show the original version of the legislation, although some amending legislation is linked to separately where it is directly related to the content of a guide. Information on amendments to legislation can be found on each link's 'More Resources' tab.

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