

Electric scooters (e-scooters): a brief synopsis of the current regulatory regime

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Introduction

1. Electric scooters (e-scooters) are quickly becoming a common sight on England's streets, with trial schemes taking place across the country. They have recently appeared in London, now available to rent in Ealing, Hammersmith and Fulham, Kensington and Chelsea and Richmond-upon-Thames, as well as Canary Wharf and can be ridden throughout Tower Hamlets. A trial scheme in the City of London is expected to start in July.
2. E-scooters have also been available for purchase for some time now.¹ Outside of designated trial schemes, however, it is still illegal to use an e-scooter on public roads.
3. This note provides a brief synopsis of the current regulatory regime.

Where can I use an e-scooter legally?

4. Over thirty separate trials are now being conducted nationally, in locations ranging from Truro to Teeside and Copeland to Canterbury.² The first trials were brought forward and launched ahead of schedule in July 2020, as a means of allowing transport whilst maintaining social distancing.³

¹ Vendors should continue to be careful, however: it is an offence *to cause or permit* their use (including by their customers) in a way which breaches statutory requirements; see e.g. [sections 87\(2\) and 143\(1\)\(b\)](#) Road Traffic Act 1988. Take specific legal advice.

² <https://www.gov.uk/guidance/e-scooter-trials-guidance-for-users#trial-areas>

³ [Electric Scooter Trials and Traffic Signs \(Coronavirus\) Regulations and General Directions 2020/663](#), made under [sections 44 and 63\(5\)](#) Road Traffic Act 1988

5. E-scooters part of a trial scheme may be ridden on public roads, including bus lanes and cycle lanes. They may not be ridden in pedestrian-only zones (i.e. on pavements)⁴ or on motorways. Speeds are capped at 15.5 mph (less in some areas of London).
6. There are additional legal requirements for using a trial scheme e-scooter. Use is limited to one person at any time. Helmets are recommended but are not a legal requirement.⁵ A rider must have a full or provisional driving licence of at least Category Q, which is covered by the standard licence categories for mopeds (AM), motorcycles (A) and cars (B).⁶ E-scooters in trials also need to be covered by a motor vehicle insurance policy, though this is arranged by the trial operator and need not be obtained separately.
7. It is also legal to use a privately-owned e-scooter on private land, however for the time being it would appear that they still need to be insured.⁷

Why can't I use my own e-scooter?

8. E-scooters, referred to in a policy framework as *powered transporters*⁸, in law fall into an overarching category of *mechanically propelled vehicles*. These are treated as motor vehicles (and thus subject to the requirements below), unless specifically exempt.⁹ E-scooters are not exempt and are therefore classified in the same way as motorcycles.¹⁰
9. Theoretically, private e-scooters could be used on public roads but only if they complied with all legal requirements for motor vehicles. These include insurance¹¹, conformity with technical standards and standards of use,¹² payment of vehicle tax,

⁴ [Traffic Signs Regulations and General Directions 2016/362, Schedule 1](#)

⁵ In a consultation conducted by the Department for Transport in 2020, the majority of respondents felt that requiring motorcycle helmets was disproportionate for e-scooters, which are limited to 15.5mph.

⁶ [Motor Vehicles \(Driving Licences\) Regulations 1999/2864, Schedule 2](#)

⁷ Since the case of [Vnuk v Zavarovalnica Triglav d.d. \(Case C-162/13\)](#), insurance policies have had to cover accidents arising out of the normal function of a vehicle even whilst operated on private land. Note: on 21 February 2021 the [UK Government indicated its intention to depart from the Vnuk judgment](#), and on 29 June 2021 [a Private Member's Bill has been introduced to effect this departure](#), though at the time of writing this remains good law.

⁸ <https://www.gov.uk/government/publications/powered-transporters/information-sheet-guidance-on-powered-transporters>

⁹ [Section 189 Road Traffic Act 1988](#). This includes ride-on lawnmowers and powered bicycles, but not e-scooters. Segways, hoverboards, combustion engine-powered scooters ("go-peds"), powered unicycles are also not exempt.

¹⁰ [Section 185 Road Traffic Act 1988](#)

¹¹ [Section 143 Road Traffic Act 1988](#)

¹² [Sections 41 and 80 Road Traffic Act 1988](#)

licensing, and registration¹³; driver testing and licensing¹⁴; and the use of relevant safety equipment.¹⁵

10. Besides public roads, private e-scooters (because they are motor vehicles) are also banned from use on pavements¹⁶, cycle routes¹⁷, and footpaths, bridleways, restricted byways and the like.¹⁸

What are the legal implications?

11. Riding an e-scooter otherwise than in accordance with a trial scheme could expose someone to criminal liability in several respects, for example driving without insurance¹⁹ or riding along a footpath as set out above. As with any other motor vehicle, is it also an offence to ride any e-scooter (including those on trial schemes) under the influence of alcohol or drugs.²⁰

12. Unauthorised e-scooter use may also give rise to complications of civil law. It is expected that arguments of illegality may be raised by insurance companies seeking to deny liability to claimants for losses sustained when riding e-scooters illegally.²¹ In claims for personal injuries arising from accidents on or after 31 May 2021, it currently appears as though the new RTA Small Claims Protocol may apply to e-scooter riders, as they do not fall into the definition of “vulnerable road users” to whom the existing 2013 Protocol (with its more generous provision for legal representation costs) would still apply.²²

¹³ [Vehicle Excise and Registration Act 1994](#) and [Road Vehicles \(Registration and Licensing\) Regulations 2002](#)

¹⁴ [Section 87 Road Traffic Act 1988](#)

¹⁵ [Regulation 4 Motor Cycles \(Protective Helmets\) Regulations 1998/1807](#)

¹⁶ Under [Section 72 Highway Act 1835](#), it is an offence to ride on, or to lead or draw a carriage on a pavement. In the case of [Coates v Crown Prosecution Service \[2011\] EWHC 2032 \(Admin\)](#), it was held that a Segway fell under this prohibition so it follows that the same would apply to e-scooters.

¹⁷ [Section 21\(1\) Road Traffic Act 1988](#)

¹⁸ [Section 34 Road Traffic Act 1988](#)

¹⁹ See also [Winter v DPP \[2002\] EWHC 1524 \(Admin\)](#) and [DPP v King \[2008\] EWHC 447 \(Admin\)](#)

²⁰ [Sections 4 to 5A Road Traffic Act 1988](#)

²¹ This area of law appears to be in flux, particularly following the ruling of the Supreme Court on illegality defences in [Patel v Mirza \[2016\] UKSC 42](#). Nevertheless, cases like [Agheampong v Allied Manufacturing \(London\) Ltd \[2008\] EW Misc 4 \(EWCC\)](#) (30 June 2008) and [Morgan v Bryson Recycling \[2018\] NIQB 12](#) continue to be cited and deployed successfully at trial.

²² [Pre-Action Protocol for Personal Injury Claims below the Small Claims Limit in Road Traffic Accidents](#), paragraphs 1.2(37) and 4.3(d). Vulnerable road users are defined in the Protocol as: pedestrians; equestrians; pedal cyclists; motorcyclists and their passengers (including pillion and sidecar riders); and wheelchair, powered wheelchair or mobility scooter users. Riders of e-scooters would seem to fall outside this definition.

Will this change in future?

13. There are currently no fixed plans to change the law regarding e-scooters. The current trials may continue for some time yet, and it is likely that further consultation will take place before any legislative proposals surface.
14. At least one area of further policy development will concern the noise emitted by e-scooters. There have been several reports in recent months of e-scooters posing particular dangers to visually-impaired pedestrians.²³

Concluding remarks

15. E-scooters may yet revolutionise the way we travel, particularly in urban areas, allowing for greater mobility with reduced levels of pollution. Yet there remain significant areas of policy and legislative development that mean we are most likely years away from fully legal road use.

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²³ See e.g. BBC News reports of [14 April 2021](#), [9 June 2021](#) and [11 June 2021](#).