



ALL YOU NEED TO KNOW ABOUT E-SCOOTERS

With e-scooters now being trialled across the capital, **Andrew Middlehurst**, solicitor at Osbornes Law, explains about where they sit legally and how they fit into the transport mix

MANY FELLOW LCC members will be aware there have recently been some changes to micro-mobility regulations, which for the first time have allowed e-scooters to be

ridden legally on some of London's streets.

You'll doubtless have noticed e-scooters on the roads or pavements around town for many months, if not for the past few years. They are a form of low-carbon transport that have proved popular in other world cities. However, >



it may surprise many members to learn that all e-scooters they may have seen prior to June 2021 were being ridden illegally and that even now only e-scooters hired from certain hire companies taking part in a government trial scheme are considered legal.

It is unclear whether adequate infrastructure and education is in place yet to ensure the safety of all road users and the general public. It is also unclear whether people are aware of the distinction between illegal and legal e-scooters.

What are e-scooters?

They are two-wheeled scooters propelled by an electric, battery-powered motor. The rider stands on the footplate and controls the speed with a hand-operated throttle and the direction is controlled using a handlebar.

They are considered to be 'powered transporters'. This is a term used to cover a number of different types of powered micro-mobility transport, including Segways, hoverboards and electric unicycles.

There are no specific regulations yet relating to powered transporters and therefore e-scooters are considered to be motor vehicles under the Road Traffic Act (1988) which defines

Click and go: using a phone app to access the new e-scooters

motor vehicles as "any mechanically propelled vehicle intended or adapted for use on roads".

As a result of their definition as motor vehicles, e-scooters must comply, in order to be legal, with a number of regulations including, among others, the requirement for insurance, payment of vehicle tax and licensing.

Legal and illegal e-scooters

With the aim of a 'green restart' following the pandemic lockdowns, and with reduced public transport use in mind, the government has decided to allow trials of rental e-scooters within specified areas across the UK.

The government has therefore made limited amendments to the existing regulations to allow the trials to take place. However, despite the amendments this still means that privately-owned e-scooters remain illegal to ride unless on private land with the landowner's permission. Whereas e-scooters hired through the trial scheme can now be ridden legally.

The actual design of the e-scooters tend to be similar whether they are private or hired. There are only a few differences such as hired e-scooters being limited to a maximum speed of 12.5mph within London, whereas private



e-scooters are subject only to the limit installed by the manufacturer.

The only other major practical difference is that e-scooters hired through a scheme have the benefit of insurance, which is a requirement for all motor vehicles used in public.

Where can e-scooters be hired legally in London?

E-scooters can only be hired in areas participating in the trial scheme.

Within London this includes: the City of London, the boroughs of Ealing, Hammersmith & Fulham, Kensington & Chelsea, Richmond (but not within Richmond Park), the northern area of Southwark, the northern area of Lambeth, Westminster, plus they can be hired and ridden in Canary Wharf (Tower Hamlets).

'E-fencing' is in place to prevent the hire scheme e-scooters from leaving these areas. E-scooters hired through the scheme can only be ridden within these areas on the roads, in cycle lanes or on cycle tracks. Riding on the pavement is forbidden.

There is a potential for road users to come into conflict with each other unless infrastructure keeps pace with the demand for

Coming to a street near you: e-scooters could be an option for short local trips

hired e-scooters. If roads are busy with traffic, particularly large vehicles, there is a potential for riders to use pavements in order to keep themselves safer. This could then cause issues for pedestrians on the pavement and means the rider is riding unlawfully. On roads in the trial areas, small changes to infrastructure could be made to avoid these problems, such as a reallocation of space so that cycle lanes are widened, or by creating LTNs.

What are the requirements for hiring a legal e-scooter?

In London, in order to hire an e-scooter through the scheme, riders will need to be aged over 18 and have a driving licence. This can be a UK provisional or full licence, or an overseas full licence if the rider is an overseas resident.

Helmets are recommended in the regulations, but it is not a legal requirement to wear them.

Penalties for riding private e-scooters in public

There are several criminal penalties if riders of private e-scooters are caught by the police:

- A £300 fine and/or 6 points on the rider's driving licence for riding without insurance;
- The e-scooter can also be seized for riding without insurance and there will be a fee to have this returned by the police;
- A £100 fine and/or 3-6 points for riding without a driving licence which can be applied to any future driving licence.





What can you do if you're injured in a collision with an e-scooter rider?

Prior to the start of the trial scheme Osbornes had started to receive instructions from pedestrians injured by e-scooter riders, in addition to e-scooter riders injured by vehicle drivers.

If you are injured in a collision, whether on your bike or as a pedestrian, and the e-scooter rider was at fault, you can seek damages.

If the rider has hired the e-scooter within a hire scheme you should make a claim to the insurers of the scheme.

If the rider is riding a private e-scooter you can seek damages from the Motor Insurers Bureau. This is a body set up to compensate people involved in collisions with uninsured drivers or drivers who flee the scene of collisions. As e-scooters are classed as motor vehicles, it is for the MIB to compensate those injured in collisions with them where the rider is uninsured or untraced.

What can you do if you're an e-scooter rider injured by another road user?

You are entitled to seek damages for injury from another road user's insurance company whether you are riding a private e-scooter or a hired e-scooter. E-scooter riders are still owed a duty of care by other road users whether they are privately owned or hired through a trial scheme.

Given their size, e-scooter riders should be



Join the Dotts: Dott is one of the three operators now being trialled in London (alongside Lime and Tier)

considered within the category of vulnerable road users defined in the Highway Code, in a similar way to cyclists. This means additional care should be taken by drivers of vehicles.

Although we're not aware of any reports of civil cases involving private e-scooters to date, we would expect that when the courts do come to assess these cases they are likely to make a finding of contributory negligence on the part of the private e-scooter rider. This means a percentage would be deducted from any damages to reflect an apportionment of blame between the parties. The justification could be that the private e-scooter rider took a risk by riding a motor vehicle which was illegal.

The Future

The government has indicated that it may look to amend the law in future to ensure all e-scooters become legal. In order to do that they propose treating e-scooters more like e-bikes, which are not motor vehicles. We think ultimately the government will make these changes, so the e-scooter it seems will be here to stay.

LCC welcomes the trial as an important step towards reducing dependency on private cars and cutting carbon emissions and pollution. And while e-scooters don't offer the full benefits of active travel, they are small, electric-powered, and offer an alternative to car use for shorter trips.