

Frequently-Asked Questions

This document has been produced jointly by BSIF and Hertfordshire Trading Standards, our Primary Authority partner.

Q1. Is motorcyclists' clothing covered by the PPE Regulation?

A1. Yes.

In January 2016, the European Parliament decreed that the new Regulation would apply equally to motorcyclists' clothing – jackets, trousers, suits, gloves and footwear, as well as components such as back protectors, limb impact protectors and inflatable body protection. In subsequent clarification, rainwear for non-professional use has been identified as the single exclusion from the motorcyclist's wardrobe, but only if impact protectors cannot be fitted. Rain jackets and trousers with pockets for protectors, for example, fall within the requirements of the PPE Regulation.

Q2. When does this all happen – I have heard conflicting information?

A2. It has already happened.

The PPE Regulation was fully implemented on 21st April 2018. Between April 2018 and April 2019 manufacturers could supply products compliant to either the previous Directive or the new Regulation. However, after April 2019 only products compliant with the Regulation can now be placed on the market for the first time. In other words, compliant product with the Directive and placed on the market prior to April 2019 can legally continue to be sold through. Any new products which are being placed on the market for the first time after April 2019 must comply fully with the Regulation. For any motorcycle clothing that was not within scope of the Directive, yet is now within scope of the Regulation it must now comply. It is ultimately the responsibility of the economic operator to ensure that evidence is available to indicate when the product was placed on the market showing compliance to the relevant Directive or Regulation.

Q3. I supply motorcycle clothing. What are my responsibilities?

A3. The PPE Regulation explains the distinctions between the responsible persons in the supply chain, which are collectively known as "economic operators", which includes manufacturers, authorised representatives, importers and distributors including retailers:

- 'manufacturer' means any natural or legal person who manufactures PPE, or has it designed or manufactured, and markets it under his name or trademark. The manufacturer is considered to be best placed to carry out the conformity assessment procedure (testing and certification).
- 'authorised representative' means a person or company which has received a written mandate from a manufacturer to act on his behalf in relation to specified tasks. They are responsible for making available the EU Declarations of Conformity and for liaison with the market surveillance and other competent national authorities.
- 'importer' means a person or company which places PPE from a third country (non-EU country) on the market. They are responsible, for example, for performing thorough due diligence, before placing PPE on the market, including ensuring the correct testing and certification processes have been completed, that all documentation is in order, maintaining a record of any complaints received about the product and running checktesting to ensure standards are maintained across different production runs.
- 'distributor' means a person or company other than the manufacturer or the importer, who makes PPE available on the market, mostly retailers. They are also required to exercise due diligence; primarily ensuring that the correct product labels and user information are present.

Q4. I am a retailer. What are my responsibilities under the legislation?

A4. Retailers have the same responsibilities and obligations as a distributor; however, if you are a retailer placing your own brand motorcycle clothing on the market, then it is most likely that you will be the manufacturer and will have to comply with those responsibilities. (see Q6).

Q5. I am a retailer. What happens to the stock I already have in my shop? Can I continue to sell it?

A5. For compliant products first placed on the market before April 2019, the answer is yes, and that stock can continue to be sold indefinitely. (see Q2) If you received top-up stock of the same styles on or after 21st April 2019, however, then depending upon when and where in the supply chain it was first placed on the market, it is possible that it should have been CE marked. Yet, economic operators will need to ensure they can make available, when requested, evidence of when the products were placed on the market and evidence of compliance with the Directive. For new product ranges for 2019, the situation is much clearer cut; these should conform to the requirements of the PPE Regulation.

Q6. I am a retailer, but I sell a range of own-brand motorcycle clothing that I purchase

from a factory outside the EU. How does this affect me?

A6. As you import clothing bearing your own brand from outside the EU, you have the same responsibilities as those of a manufacturer. You must arrange for your products to be independently tested and certified. Were the manufacturer you purchase from to be located within the EU, then your responsibilities might be those of a manufacturer, importer or distributor, depending upon the nature of the commercial agreement you have with the factory producing your own-branded products. Specialist advice should be sought if this is the situation which applies to your company.

Q7. Does this only affect off-the-peg clothing from the major brands, or are made-to-measure suits also required to be tested and certified under the new PPE Regulation?

A7. All motorcyclists' clothing that is not exempt (e.g. waterproof clothing with no safety body protective parts) is covered by the PPE Regulation – ready-made or custom-made.

Q8. I have been told that the standards for motorcyclists' clothing haven't been published yet, so I don't need to take any action until they are.

A8. This is incorrect. The PPE Regulation sets out what must be done, by whom and by when. Standards are a separate thing entirely and they provide a means to satisfy the legal obligations of the legislation. If standards for clothing (jackets, trousers, suits) have not yet been published, then it is permitted to test and certify to the draft version of that standard; however, standards for impact protectors, gloves and footwear have been published and are well established. Quite simply, if your products are not already certified, or you haven't commenced testing, then you need to start doing so immediately.

Q9. Where can I get my motorcycle clothing products tested?

A9. A number of test houses across Europe are equipped and have been officially accredited to test and assess your products. A trade association, such as the British Safety Industry Federation (www.bsif.co.uk), should be able to assist you with further information. Another source of information for test houses is via the UKAS website:

<https://www.ukas.com/services/other-services/directory-of-accredited-organisations/>

Q10. Although the deadline has passed, my motorcycle clothing range is still undergoing testing. This process is taking several months to complete, because the test houses are so busy.

- (a) In the meantime, can I carry on selling my products without the CE mark,
- (b) If I am permitted to carry on trading, for how long will this permission last,
- (c) what evidence will the authorities wish to see that confirms my company is having its products assessed?

A10. The response to (a) and (b) is within the jurisdiction of Trading Standards; whether they are prepared to permit a company to sell PPE in breach of the Regulation, and if so for how long, or whether prohibition or forfeiture orders will be applied, will be considered on a case by case basis and relating to when products have been placed on the market for the first time. As for part (c), such evidence might involve sight of copies of an application for type examination made to a Notified Body, confirmations of payments for testing, sight of the draft technical documentation and regular updates on progress of the work programme, to ensure the company is truly committed to the swiftest possible resolution. It is therefore, advisable to contact your local trading standards department asap to discuss any of the above issues falling within this scenario. For products that were already placed on the market prior to the end of the one year changeover period for the new Regulation (21st April 2019), and compliant to the PPE Directive, these products can continue to be sold. Any EC type-examination certificates and approval decisions issued under the Directive shall remain valid until 21 April 2023 unless they expire before that date.

Q11. How can the consumer check that apparel for motorcyclists has been correctly tested and certified?

A11. The CE mark is required to appear on the product. In garments, fitted impact protectors must feature this, as well as the garment itself. An instruction booklet is also required to be supplied with the products, which should include details of the certification body and the standard involved in the testing of the product. Finally, a copy of the manufacturer's Declaration of Conformity must either be provided with the product, or the instruction booklet should include a link to a web page where it can be accessed. The Declaration of Conformity is required to provide the manufacturer's details, the product name, the standards to which it was tested, details of the certification body, and the certificate number.

Q12. Won't Brexit prevent all this from being necessary?

A12. No. The EU PPE Regulation was already enshrined in UK law with effect from 21st April 2018 – before the conclusion of the Brexit process. At the time of writing, there is still no conclusive outcome, but should the United Kingdom leave the European Union, then there will still be a system for testing and certifying motorcyclists' clothing across all 27 Member States plus the UK, which will involve products carrying the CE mark, the UKCA mark, or both. If a No Deal Brexit occurs you will need to be prepared for importing goods into the UK and EU markets, as a supplier to the EU you may become a third country importer. Please keep up to date with information and guidance provided by the Government via their website:

www.Gov.uk and contact your local Trading Standards department for more detailed advice.



www.bsif.co.uk