

G34. Can I use new non-conformity marked lifting equipment in the UK?

For new lifting equipment, the simple answer is no - it cannot legally be used unless it complies with the relevant supply legislation and carries the appropriate conformity marking.

For legacy equipment that predates the supply legislation, the answer is yes, provided it can be demonstrated to be safe and suitable for continued use under PUWER and LOLER.

PUWER Regulation 10 requires employers (duty holders) to ensure that any work equipment provided for use in the workplace complies with the relevant product supply legislation.

Where the equipment falls within the scope of the Supply of Machinery (Safety) Regulations 2008 (SOM(S)R), the duty holder must verify that it meets all applicable Essential Health and Safety Requirements (EHSRs). The simplest way of achieving this requirement is to accept the conformity mark (CE or UKCA) on the product and the Declaration of Conformity (DoC) that accompanies it.

Equipment missing the conformity mark raises concern with its original design, construction and safety. However, the pathway to compliance can vary depending on the when, where and who originally placed the equipment on the market (sold) or put into service (for own use).

See practical examples below:

1. **Aged equipment that pre-dates the supply legislation** - Lifting equipment manufactured and supplied before the introduction of the Supply of Machinery (Safety) Regulations (SOM(S)R) falls outside the scope of that legislation. It will therefore not carry a conformity mark or have a Declaration of Conformity (DoC). This does not automatically make it unsafe or non-compliant, but the employer must verify that it remains safe for continued use under:
 - PUWER Regulations 4 to 6 - covering suitability, maintenance, and inspection; and
 - LOLER Regulations 4 and 9 - covering strength and stability, suitability for its intended purpose, and thorough examination.

There is no legal requirement to upgrade such equipment to modern standards, provided it achieves an equivalent level of safety, is maintained appropriately, and continues to be used safely in accordance with PUWER and LOLER.

2. **Non-conformity marked equipment imported or purchased second hand** - New or post 1993 Lifting equipment that does not bear appropriate conformity mark (CE or UKCA) cannot legally be used in the UK. The initial action should be to temporarily remove the item from service and refer back to the immediate supplier and/or original equipment manufacturer (OEM) for verification of compliance with relevant supply legislation.

If the original equipment manufacturer (OEM) is unknown, the item should be referred to a competent design authority for evaluation to work out a safe and compliant method for returning the item to service.

Alternatively, the duty holder may act as the **responsible-person**, meaning they take on the legal obligations of the manufacturer and assume full legal responsibility for compliance. This includes compiling a technical file, conducting a conformity assessment, affixing the conformity mark, issuing a DoC and instructions for use.

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