



## Automated Gate Safety Existing Vs new compliance comparison

Which legislation applies and where do duties lie?

**New gates:**

- ✓ When a gate is new The Supply of Machinery (Safety) Regulations 2008 (SMSR) applies.
- ✓ The Health and Safety at Work Act 1974 applies.
- ✓ The duty for compliance is with the manufacturer or person supplying equipment under their own branding.
- ✓ The supplier as above compiles a technical file for the gate and applies the CE mark.
- ✓ The supplier as above produces a Declaration of Conformity to show the gate meets SMSR.

**Existing Gates:**

- ✓ Where an existing gate is already in use, The Provision and Use of Work Equipment Regulations 1998 (PUWER.) applies.
- ✓ The Health and Safety at Work Act 1974 applies
- ✓ Occupiers Liability Act 1957 & 1984 applies
- ✓ The duty for compliance is with the person responsible for the use of the gate\*. The responsible person may contract someone else to ensure the duties are met but the accountability remains with that responsible person.
- ✓ The responsible person makes an assessment of the gate against The Provision and Use of Work Equipment Regulations 1998 (PUWER.)
- ✓ The responsible person ensures ongoing inspection, maintenance and record keeping.

\*Typically the responsible person will be: an employer; facilities manager; site owner; or other person responsible for the provision and use of the equipment. (Principally the owner)

## What if an existing gate does not have a CE mark?

The following options are available:

Complete a retrospective assessment under The Supply of Machinery (Safety) Regulations 2008, CE mark and produce a Declaration of Conformity

- a. Acceptable but not technically correct under the Supply of Machinery (Safety) Regulations 2008
- b. The preferred option if the information is available to complete the technical file
- c. May not be possible for the majority of existing gates if there is insufficient data/information to produce a technical file

Complete an assessment under The Provision and Use of Work Equipment Regulations 1998 (PUWER.)

- a. A requirement for all work equipment
- b. Can be completed to assess the safety of a gate in its working environment.
- c. A Declaration of Conformity showing compliance with SMSR can't be issued for this type of assessment

In both cases the gate is assessed against the same criteria:

Regulations 11-19 & 22-29 under The Provision and Use of Work Equipment Regulations 1998 (PUWER.) duplicate the Essential Health and Safety requirements of The Supply of Machinery (Safety) Regulations 2008. This overview is a general guide and competent advice should be sought regarding full compliance.