

Experience with the Norwegian Act on shared micromobility on public ground

TØI Report 1945/2023 • Authors: Inga Margrete Ydersbond, Nils Fearnley, Vibeke Nenseth, Erling Johan Hjelmeng, Torkel Bjørnskau, Espen Johnsson • Oslo 2023 • 139 pages

The 2021 Norwegian Act on shared micromobility on public ground (hereafter: the Act) has been successful in providing safe and accessible public spaces. The Act provides the legal basis for municipal regulations of what in essence are shared e-scooters, with provisions for, i.a., market access restrictions, fleet caps, and places and times where shared e-scooters can be used and parked.

Municipalities with local regulations report that they have regained control over their public ground. Even municipalities that have not passed local regulations find that e-scooter companies are more willing to cooperate, as they know regulations may be passed if they don't. Consequently, the Act has succeeded in achieving its main purposes. We have identified opportunities for improvements of the Act, which include a legal basis for ground rent and that municipalities be given more guidance on how to avoid violation of EEA law.

The Institute of Transport Economics (TØI) and Professor Erling Hjelmeng have, on behalf of the Norwegian Ministry of Transport and Communications, collected experience with the 2021 Norwegian Act on shared micromobility (hereafter: the Act). The broad gathering of data and experiences include:

- In-depth interviews with six municipalities with local regulations, one of which is a cooperation between four municipalities (Bergen, Bodø, Grenland-area municipalities (Bamble, Porsgrunn, Siljan and Skien), Kristiansand, Lillehammer and Oslo)
- In-depth interviews with four municipalities without local regulations based in the Act as of August 2022 (Bærum, Drammen, Stavanger and Tromsø)
- A web survey to all the country's municipalities
- In-depth interviews with four e-scooter rental companies (Voi, Byspark, Bolt, and Ryde)
- In-depth interviews with two government agencies (the Norwegian Public Roads Administration and the Norwegian Competition Authority)
- In-depth interviews with four interest organisations (The Norwegian Association of the Blind and Partially Sighted, the Pedestrian Association, the Norwegian Association of Disabled, and the Norwegian Cyclists' Association)



- Focus group interview with four public transport administrations (Ruter representing Greater Oslo, Kolumbus representing Greater Stavanger, Skysst representing Greater Bergen, and AKT representing Agder county)
- Web survey among citizens of the cities of Bergen, Drammen and Oslo
- Injury data from emergency wards (intensive care units)
- Trip data from e-scooter rental companies
- Document studies

In addition, we have assessed the Act in relation to other legislation, with a particular focus on EEA law.

After two and a half seasons of unresolved legal situation regarding Norwegian municipalities' legal basis to regulate the market for shared e-scooters, the Act was passed by the Norwegian parliament on the 18th of June 2021. The Act enables municipalities to regulate shared e-scooters and e-bikes through local regulations, which specify such things as: places where vehicles can be deployed, zones with restrictions relating to parking, speed, usage, etc., times when services shall be closed, as well as certain standards for the vehicles and their batteries.

The Act's § 1 formulates its objective: 'The objective of the Act is to ensure that rental of small electric vehicles on public land contributes to accessible and safe public spaces, efficient administration, climate-friendly solutions and a good environment and local environment.'¹

This report documents experiences with the Act with particular emphasis on:

- The extent to which it has contributed to the achievement of its objectives
- Whether the scope of the Act and its content correspond to the needs and expectations of stakeholders
- Recommendations on improvements to the Act

These points are elaborated in the following.

The Act has helped to achieve its own objectives

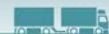
Accessible and safe public spaces

Our informants unanimously agree that the Act has contributed to improving safety and accessibility of public spaces. However, the interest groups that represent pedestrians, i.e., the Pedestrian Association, the Norwegian Association of Disabled, and the Norwegian Association of the Blind and Partially Sighted, emphasise that this purpose has not been fully achieved. Pedestrians still often find that improperly parked e-scooters are an obstacle, and experience insecurity when sharing pedestrian areas with e-scooters.

Efficient administration

Among our informants, there is general ambiguity as to what «effective administration» implies and thus also the extent to which the Act contributes to this. In our municipal web survey, we find the lowest support for a statement that 'the Act contributes to effective administration'. Our legal assessment has problematised 'effective administration' as an objective of the Act. Easing of public administration is not necessarily a legal consideration

¹ Own translation. 'Small electric vehicle' has since the Act was passed been redefined into a new vehicle class 'small electric motor vehicle.' The vehicle class includes e-scooters, hoverboards, and the like with requirements such as maximum weight of 70 kg and a maximum speed obtained by means of the motor of 20 km/h. In addition to small electric vehicles, the Act also include e-bikes.



from an EEA legal point of view. However, other factors, such as the efficient functioning of the public administration by ensuring that the regulations' provisions, e.g. on data sharing and digital geofencing, are observed by the rental companies because they risk sanctions, compliance with digital regulation takes place automatically, and because the municipalities have sanctions that ensure that their conditions are followed, may be legal considerations.

Climate-friendly solutions and a good environment and local environment

The objective of climate-friendly solutions is achieved through local regulation requirements that all service vehicles must be zero-emission vehicles from 2023 and that e-scooters are produced, transported, and recycled in the most climate-friendly ways possible.

The purpose of improving the environment and local environment is at least partly achieved through the local regulations requiring e-scooters to meet environmental standards, that all service vehicles are zero-emission vehicles by 2023, and that there are fewer incorrectly parked e-scooters.

The scope, content and structure of the Act are largely consistent with the needs and expectations of stakeholders

The scope of the Act is appropriate

The Act applies to both municipal and other public land but does not cover privately owned land. Furthermore, the Act covers the rental of small electric vehicles (from June 2022 these have been reclassified into 'small electric motor vehicles') and e-bikes.

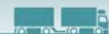
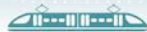
In principle and from a transport professional's point of view, it may be problematic to distinguish between public and privately owned land, but in practice, according to our data and informants, this has not proved to be a significant problem in most places, but is experienced as impractical.

Regarding inclusion of 'small electric vehicles' and e-bikes in the Act, this is generally perceived as unproblematic by our informants. This issue has generally received very little attention. A small number of local regulations apply only to e-scooters or only to 'small electric vehicles' and not to e-bikes. However, when 'small electric vehicles' were reclassified into 'small electric motor vehicle', e-bikes and e-scooters are no longer subject to the same legislation. Among other things, there is now a drink-drive limit, age limit and requirement for liability insurance for e-scooters, which do not apply to e-bikes. This, together with unclear definitions which makes it difficult to distinguish between traditional city (e-)bike schemes and the object of the Act, may necessitate clearer definitions in the future.

Regulations and permit schemes are appropriate instruments

§ 3 of the Act provides for general regulation and sets out a non-exhaustive list of what the regulations may provide provisions for. Pursuant to the Act's § 4, municipalities may introduce a permit scheme through which they can regulate market access, fleet caps, etc.

It is appropriate to provide municipalities with the opportunity to regulate e-scooter rental through regulations and/or permit schemes. All our informants agree that Norway need the Act with these instruments. This has helped to gain control of the shared e-scooter market – to the benefit of both local authorities, e-scooter companies, users, and the general public. Furthermore, all informants explain that these instruments have contributed well-functioning



dialogue and cooperation between municipalities and rental companies – which was not always the case prior to the Act. If problems arise, municipalities without local regulations can now convincingly ‘threaten’ with the issuing of regulations unless e-scooter companies cooperate.

Several of our informants want more uniform e-scooter regulation at the national level. Our legal assessment points in the same direction: what can be regulated centrally should also be regulated centrally. Such a move will make it easier for both rental companies and everyone else. Exactly what such increased central regulation may entail must be investigated further. Most aspects are, in fact, probably best regulated locally, as is done today.

Payment should include ground rent

Section 5 of the Act provides for the possibility of charging fees to cover municipalities' costs related to administering rental activities, but the Act does not provide a basis for municipalities to use price as a zoning tool or take ground rent.

Our analysis of EEA legislation finds that the current practice of using fees to cover municipalities' expenses is legal. We also find that ground rent will be a legal instrument.

Just about all informants with views on ground rent are positive to the idea. A majority of the municipalities that have issued regulations want to use ground rent. The same was clearly expressed in our municipal web-survey. The Norwegian Competition Authority agrees with this and considers ground rent to be the best solution for regulating shared e-scooters as it will promote competition and innovation. Several e-scooter companies are in principle open to ground rent, provided that the total financial burden imposed on them is not too heavy.

These factors suggest a revision of the Act, which includes ground rent as a *possible* instrument in local regulations. Ground rent can be combined with a fee to cover municipalities' costs.

Sanctions are perceived as appropriate

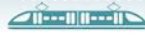
The Act's § 6 specifies removal and impounding of vehicles as sanctions should an e-scooter company breach the local regulation or conditions of its permit scheme.

The municipalities consider removal and impounding of small electric vehicles to be appropriate responses if an e-scooter company violates the regulations or conditions in the permit. At the same time, a minority share of the municipalities in our municipal web-survey stated that removal and impounding are *not* appropriate sanctions. Our hypothesis is that these sanctions are perceived as bureaucratic and impractical, cf. the City of Oslo, which has requested much less bureaucratic periodic penalty payments for non-compliance.

The Act and how it relates to other legislation: municipalities' leeway within EEA law should be clarified and supervised

As regards the Act on the implementation of the services directive, the Act does not in itself contain restrictions. On the other hand, local regulations restricting rental activities, as well as local permit schemes, will represent restrictions in accordance with the EEA service directive and the freedom of establishment. This means that they must be justified according to mandatory requirements and be proportionate. Further, requirements that do not relate to local conditions (typically technical/physical requirements for the vehicles) should be regulated centrally.

A main challenge is that the Act does not set a clear framework for the municipalities' competence. This potentially creates EEA legal issues at the municipal level, in that the municipality,



for example, does not adhere to the principle of proportionality or imposes requirements that cannot be justified on the basis of mandatory requirements. Furthermore, uncertainty relating to legal basis may arise, e.g., if a municipality formulates solutions based on unauthorised considerations. With respect to EEA law, a clear and delimited regulatory space would be the best guarantor of a robust solution. We therefore recommend that guidelines are provided for the formulation of local regulations and permit schemes.

When it comes to how the Act relates to road traffic legislation, we do not find legal challenges. We note, however, that what is regulated in the Act is also influenced by other legislation (such as drink-drive regulations).

Demand for broader, or more clarified, objectives

The Act's § 1 sets out its objectives, as cited above. Our evidence suggests that the expectations from the Act are broader than what is included in § 1. A majority of our informants, especially municipalities, public transport administrations and e-scooter companies, would like to see additional objectives included in the Act. At the same time, they express uncertainty as to whether this is possible under EEA law.

Transport policy related goals in particular are in demand, such as the integration of shared e-scooters with the local public transport system, e-scooters' role in the transition to a more environmentally friendly transport mix, or safeguarding of e-scooter users' interests.

As per now, it is unclear whether several of these desired objectives can be interpreted as being covered by the Act's § 1 objectives of, which states, among other things, that shared e-scooters should contribute to 'climate-friendly solutions.' A clear majority of our informants therefore ask for greater clarity on what the law provides for on these points.

In general, the objective has a broad interpretation (for example, the consideration of a good local environment), which entails a risk that municipalities may issue regulations that conflict with the EEA-Agreement and in particular the Services Directive.

Recommendations for further improvement of the Act

Our recommendations are summarized in the following points:

1. Consideration should be given to introducing ground rent as a possible instrument
2. Regarding the objective of 'safe and accessible public spaces,' one may want to emphasise '*... for all*' to reflect that everyone, regardless of functional ability and situational challenges, should experience public spaces as safe and accessible
3. Municipalities should receive more guidance and clear guidelines – through clarifications of the Act, in preparatory work or in the form of central guidelines or recommendations – on how to avoid ending up in breach of EEA law. Some municipalities are also asking for guidance on how various provisions, such as the calculation of fees and criteria for violations, should be prepared, formulated and enforced.
4. It should be clarified whether the purpose of the Act, that shared e-scooters shall contribute to climate-friendly solutions and a good environment and local environment, includes transport policy goals and transport system consideration. If this is not the case, many of our informants would welcome such an opportunity.
5. Consideration should be given to whether some aspects e-scooter rental can be regulated at the national level.
6. Municipalities must consider whether the overall regulatory and financial burden on e-scooter companies is justified, i.e., necessary to achieve the goals.



7. For all members of the population, particularly vulnerable groups, to be guaranteed safe and accessible walking environments, it is important to continue to search for good solutions especially related to dangerous driving, improper parking, and littering so that their needs are met substantially better than what is the case today.