



Automated and Electric Vehicles Act

Introduction

The Automated and Electric Vehicles Bill was announced in the Queen's Speech 2017 and aims to support innovation in self-driving technology in the UK. The Bill replaces what was formerly the Vehicle Technology and Aviation Bill, which failed to pass before the General Election.

The Bill was introduced as part of the government's industrial strategy to promote the development and deployment of both automated and electric vehicles, in line with policies on climate change. The legislation is split into two parts: one which extends existing compulsory third party insurance framework to cover the use of automated vehicles; and a second which deals with electric and hydrogen powered vehicles charging infrastructure.

The Bill received Royal Assent on 19 July 2018. It is therefore now an Act of Parliament.

Core aims of the Bill

- Liability - specifying who is liable for damages following accidents caused by automated vehicles.
- Charging points - improving the network of charging points for electric vehicles.

Key changes to legislation on insurance

- Automated vehicles will need to be registered by the Department for Transport for use in public places.
- Insurers and owners are both liable for the consequences of an accident caused by the actions of an automated vehicle at a time when it is not under the immediate physical control of a human being. If insured at the time of an accident, the insurer is liable, if uninsured it is the registered owner.
- Neither insurers nor owners are liable for damage if a person in charge of the automated vehicle at the time of an accident inappropriately used the automated mode.
- Compensation for accidents will go through the motor insurance settlement framework instead of through the product liability framework.
- Liability can be limited if the third party who was injured did not install 'safety critical' software or latest updates. points for electric vehicles.

Act contents

The legislation contains two parts: Part 1, which covers automated vehicles and liability of insurers, and Part 2, which covers electric vehicles and charging. Part 1 of the Bill extends compulsory motor vehicle insurance to cover the use of automated vehicles, but also widens this to include damage to the driver where the automated vehicle is driving itself.

Key components of the Act

- **Liability of insurers where accident caused by automated vehicle:** Clause 2 places first instance liability on the insurer for an accident caused by an automated vehicle if the vehicle is insured. This clause also places the same liability on certain types of owners where the vehicle is not insured due to being exempt from compulsory third party insurance under s. 144 of the Road Traffic Act 1988 (such as in the case of vehicles owned by a local authority, a police body, a health authority or NHS trust).

As compared with the compulsory insurance cover for conventional vehicles under section 145 of the Road Traffic Act 1988, the insurer's liability here is widened to include damage (as defined in subsection (3)) to the driver where the automated vehicle is driving itself). Subsection (7) ensures that the liability imposed on the insurer by this clause does not undermine their right of recovery from parties who are responsible for an accident.

- **Contributory negligence:** Clause 3 applies contributory negligence principles to the apportioning of liability in relation to accidents involving automated vehicles.
- **Accident resulted from unauthorised alterations or failure to update software:** Clause 4 ensures that insurers should not have to bear liability to the insured person for accidents caused by the vehicle's software being altered in breach of the insurance policy, or by safety-critical updates not being applied.

This applies subject to various conditions regarding the level of knowledge of the insured person or policyholder about the need for updates or about the insurance policy requirements.

- **Right of insurer to claim against person responsible for accident:** Where clause 3 imposes an initial liability on the insurer or owner of the automated vehicle in respect of the accident, clause 5 provides that the person liable to the injured party in respect of the accident is under the same liability to the insurer or vehicle owner.



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This clause defines when and how the amount of the person's liability is settled and when their right of action accrues. It also sets out arrangements and limits on the amounts they can recover.

- **Application of enactments:** Clause 6 has the purpose of preserving the various forms of liability in measures such as the Fatal Accidents Act 1976, the Damages (Scotland) Act 2011, and all the other Acts to which this clause refers, and ensuring that the new system of liability being created by this Act is joined up with them. Subsection (4) clarifies that the liability being created in clause 2 is liability in tort, as opposed to liability in contract or criminal law.

Background to the Act – Insurance

- The application of 'intelligence' to cars is gathering pace and there is a strong push by manufacturers to develop automated vehicles which will drive themselves.
- Currently, insurance law is **driver-centric**: all (human) drivers have to have insurance in order to provide compensation for third parties for personal injury or property damage due to a driving related incident.
- The government's view is that such principles need to be **extended to cover automated vehicles when the car is the driver and the 'driver' is sometimes a passenger**.
- The intention behind the legislation is to emphasise that if there is an insurance 'event' (accident) the compensation route for the individual remains **within the motor insurance settlement framework**, rather than through a product liability framework against a manufacturer.
- The government believes that answering the insurance questions sooner rather than later will encourage manufacturers to develop transport technology in the United Kingdom with the confidence that they can **exploit market opportunities**.

Parliamentary process

The Automated and Electric Vehicles Bill was presented to parliament by the government on 18 October 2017. At its second reading in the Commons on 23 October:

- **Minister of State for Transport Legislation John Hayes MP** said the new law will ensure that consumers can buy insurance in the same way as they do now, and that they will continue to have quick and fair access to compensation. Insurers will pay out to victims and where they can, recover costs from the liable party using common and product law.
- Hayes emphasised the collaborative approach the government has taken in creating this legislation. He said that while the focus is on insurance (because the government was told by the insurance industry that it was essential to establish absolute clarity about the framework for the development of a series of insurance products), the government also does not want to be too prescriptive as this could limit innovation.
- The Bill had cross party support. However Labour said that they would be tabling amendments in Committee stage, focusing on the use of delegated powers in the Bill to force the government to consult widely on developing a definition of "automated vehicles".

Next steps

- The Bill received Royal Assent on 19 July 2018.
- Commencement date is subject to appointment by the Department for Business, Energy and Industrial Strategy. Potential for Secondary Legislation, DfT to draw up regulations on AVs..

Contact

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