



Automated and Electric Vehicles Act 2018

2018 CHAPTER 18

PART 1

AUTOMATED VEHICLES: LIABILITY OF INSURERS ETC

1 Listing of automated vehicles by the Secretary of State

- (1) The Secretary of State must prepare, and keep up to date, a list of all motor vehicles that—
 - (a) are in the Secretary of State’s opinion designed or adapted to be capable, in at least some circumstances or situations, of safely driving themselves, and
 - (b) may lawfully be used when driving themselves, in at least some circumstances or situations, on roads or other public places in Great Britain.
- (2) The list may identify vehicles—
 - (a) by type,
 - (b) by reference to information recorded in a registration document issued under regulations made under section 22 of the Vehicle Excise and Registration Act 1994, or
 - (c) in some other way.
- (3) The Secretary of State must publish the list when it is first prepared and each time it is revised.
- (4) In this Part “automated vehicle” means a vehicle listed under this section.

2 Liability of insurers etc where accident caused by automated vehicle

- (1) Where—
 - (a) an accident is caused by an automated vehicle when driving itself on a road or other public place in Great Britain,
 - (b) the vehicle is insured at the time of the accident, and
 - (c) an insured person or any other person suffers damage as a result of the accident,

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the insurer is liable for that damage.

- (2) Where—
- (a) an accident is caused by an automated vehicle when driving itself on a road or other public place in Great Britain,
 - (b) the vehicle is not insured at the time of the accident,
 - (c) section 143 of the Road Traffic Act 1988 (users of motor vehicles to be insured or secured against third-party risks) does not apply to the vehicle at that time—
 - (i) because of section 144(2) of that Act (exemption for public bodies etc), or
 - (ii) because the vehicle is in the public service of the Crown, and
 - (d) a person suffers damage as a result of the accident,
- the owner of the vehicle is liable for that damage.
- (3) In this Part “damage” means death or personal injury, and any damage to property other than—
- (a) the automated vehicle,
 - (b) goods carried for hire or reward in or on that vehicle or in or on any trailer (whether or not coupled) drawn by it, or
 - (c) property in the custody, or under the control, of—
 - (i) the insured person (where subsection (1) applies), or
 - (ii) the person in charge of the automated vehicle at the time of the accident (where subsection (2) applies).
- (4) In respect of damage to property caused by, or arising out of, any one accident involving an automated vehicle, the amount of the liability under this section of the insurer or owner of the vehicle is limited to the amount for the time being specified in section 145(4)(b) of the Road Traffic Act 1988 (limit on compulsory insurance for property damage).
- (5) This section has effect subject to section 3.
- (6) Except as provided by section 4, liability under this section may not be limited or excluded by a term of an insurance policy or in any other way.
- (7) The imposition by this section of liability on the insurer or vehicle owner does not affect any other person’s liability in respect of the accident.

3 Contributory negligence etc

- (1) Where—
- (a) an insurer or vehicle owner is liable under section 2 to a person (“the injured party”) in respect of an accident, and
 - (b) the accident, or the damage resulting from it, was to any extent caused by the injured party,
- the amount of the liability is subject to whatever reduction under the Law Reform (Contributory Negligence) Act 1945 would apply to a claim in respect of the accident brought by the injured party against a person other than the insurer or vehicle owner.
- (2) The insurer or owner of an automated vehicle is not liable under section 2 to the person in charge of the vehicle where the accident that it caused was wholly due to the person’s

negligence in allowing the vehicle to begin driving itself when it was not appropriate to do so.

4 Accident resulting from unauthorised software alterations or failure to update software

- (1) An insurance policy in respect of an automated vehicle may exclude or limit the insurer's liability under section 2(1) for damage suffered by an insured person arising from an accident occurring as a direct result of—
 - (a) software alterations made by the insured person, or with the insured person's knowledge, that are prohibited under the policy, or
 - (b) a failure to install safety-critical software updates that the insured person knows, or ought reasonably to know, are safety-critical.
- (2) But as regards liability for damage suffered by an insured person who is not the holder of the policy, subsection (1)(a) applies only in relation to software alterations which, at the time of the accident, the person knows are prohibited under the policy.
- (3) Subsection (4) applies where an amount is paid by an insurer under section 2(1) in respect of damage suffered, as a result of an accident, by someone who is not insured under the policy in question.
- (4) If the accident occurred as a direct result of—
 - (a) software alterations made by an insured person, or with an insured person's knowledge, that were prohibited under the policy, or
 - (b) a failure to install safety-critical software updates that an insured person knew, or ought reasonably to have known, were safety-critical,the amount paid by the insurer is recoverable from that person to the extent provided for by the policy.
- (5) But as regards recovery from an insured person who is not the holder of the policy, subsection (4)(a) applies only in relation to software alterations which, at the time of the accident, the person knew were prohibited under the policy.
- (6) For the purposes of this section—
 - (a) “software alterations” and “software updates”, in relation to an automated vehicle, mean (respectively) alterations and updates to the vehicle's software;
 - (b) software updates are “safety-critical” if it would be unsafe to use the vehicle in question without the updates being installed.

5 Right of insurer etc to claim against person responsible for accident

- (1) Where—
 - (a) section 2 imposes on an insurer, or the owner of a vehicle, liability to a person who has suffered damage as a result of an accident (“the injured party”), and
 - (b) the amount of the insurer's or vehicle owner's liability to the injured party in respect of the accident (including any liability not imposed by section 2) is settled,any other person liable to the injured party in respect of the accident is under the same liability to the insurer or vehicle owner.
- (2) For the purposes of this section, the amount of the insurer's or vehicle owner's liability is settled when it is established—

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- (a) by a judgment or decree,
 - (b) by an award in arbitral proceedings or by an arbitration, or
 - (c) by an enforceable agreement.
- (3) If the amount recovered under this section by the insurer or vehicle owner exceeds the amount which that person has agreed or been ordered to pay to the injured party (ignoring so much of either amount as represents interest), the insurer or vehicle owner is liable to the injured party for the difference.
- (4) Nothing in this section allows the insurer or vehicle owner and the injured party, between them, to recover from any person more than the amount of that person's liability to the injured party.
- (5) For the purposes of—
- (a) section 10A of the Limitation Act 1980 (special time limit for actions by insurers etc in respect of automated vehicles), or
 - (b) section 18ZC of the Prescription and Limitation (Scotland) Act 1973 (actions under this section),
- the right of action that an insurer or vehicle owner has by virtue of this section accrues at the time of the settlement referred to in subsection (1)(b).

6 Application of enactments

- (1) Any damage for which a person is liable under section 2 is treated as if it had been caused—
- (a) for the purposes of the Fatal Accidents Act 1976, by that person's wrongful act, neglect or default;
 - (b) for the purposes of sections 3 to 6 of the [Damages \(Scotland\) Act 2011 \(asp 7\)](#) (rights of relatives of a deceased), by that person's act or omission;
 - (c) for the purposes of Part 2 of the Administration of Justice Act 1982 (damages for personal injuries, etc Scotland), by an act or omission giving rise to liability in that person to pay damages.
- (2) Section 1 of the Congenital Disabilities (Civil Liability) Act 1976 ("the 1976 Act") has effect for the purposes of section 2 of this Act—
- (a) as if a person were answerable to a child in respect of an accident caused by an automated vehicle when driving itself if the person—
 - (i) is or has been liable under section 2 in respect of any effect of the accident on a parent of the child, or
 - (ii) would be so liable if the accident caused a parent of the child to suffer damage;
 - (b) as if the provisions of this Part relating to liability under section 2 applied in relation to liability by virtue of paragraph (a) above under section 1 of the 1976 Act;
 - (c) as if subsection (6) of section 1 of the 1976 Act (exclusion of liability) were omitted.
- (3) For the purposes of section 3(1), the Law Reform (Contributory Negligence) Act 1945 and section 5 of the Fatal Accidents Act 1976 (contributory negligence) have effect as if the behaviour of the automated vehicle were the fault of the person made liable for the damage by section 2 of this Act.

- (4) Liability under section 2 is treated as liability in tort or, in Scotland, delict for the purposes of any enactment conferring jurisdiction on a court with respect to any matter.
- (5) An insurer or vehicle owner who has a right of action against a person by virtue of section 5 does not have a right to recover contribution from that person under the Civil Liability (Contribution) Act 1978 or under section 3 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1940.

7 Report by Secretary of State on operation of this Part

- (1) The Secretary of State must prepare a report assessing—
 - (a) the impact and effectiveness of section 1;
 - (b) the extent to which the provisions of this Part ensure that appropriate insurance or other arrangements are made in respect of vehicles that are capable of safely driving themselves.
- (2) The report must be laid before Parliament no later than two years after the first publication of the list under section 1.

8 Interpretation

- (1) For the purposes of this Part—
 - (a) a vehicle is “driving itself” if it is operating in a mode in which it is not being controlled, and does not need to be monitored, by an individual;
 - (b) a vehicle is “insured” if there is in force in relation to the use of the vehicle on a road or other public place in Great Britain a policy of insurance that satisfies the conditions in section 145 of the Road Traffic Act 1988.
- (2) In this Part—
 - “automated vehicle” has the meaning given by section 1(4);
 - “damage” has the meaning given by section 2(3);
 - “insured person”, in relation to an insured vehicle, means any person whose use of the vehicle is covered by the policy in question;
 - “insurer”, in relation to an insured vehicle, means the insurer under that policy;
 - “road” has the same meaning as in the Road Traffic Act 1988 (see section 192(1) of that Act).
- (3) In this Part—
 - (a) a reference to an accident includes a reference to two or more causally related accidents;
 - (b) a reference to an accident caused by an automated vehicle includes a reference to an accident that is partly caused by an automated vehicle.