



## **Automated Vehicles Bill – a briefing from the Association of Personal Injury Lawyers (APIL) – House of Lords Second Reading - November 2023**

### **Support for injured people**

It is essential that, as new technology emerges, the law keeps up to ensure that people who are injured when that technology goes wrong can receive appropriate compensation. The Government recognised this when it introduced strict liability in the Automated and Electric Vehicles Act 2018 to make it easier for people who are injured by automated vehicles to claim compensation. This means that someone who is injured by an automated vehicle when it is driving itself will be able to make a claim for compensation against the driver's insurance, and not have to pursue a claim for compensation against the manufacturer of the vehicle, which can be costly and complex. The Act states that this provision will apply to any automated vehicle listed by the Secretary of State as approved for use on British roads.

This provision provides a welcome solution for the future, because it deals with a level of automation where the car can safely drive itself without human monitoring. But it does not provide a solution for today. There are already cars on the road with aspects of automation which fall outside the remit of the 2018 Act. The Automated Vehicles Bill now provides an opportunity to ensure all vehicles with automated features are covered by the strict liability regime, including those with automated features, but which still require a human monitoring the vehicle in automation mode.

### **An opportunity to go further**

The Government is now using the Automated Vehicles Bill to change the way automated vehicles are authorised for use on British roads. This provides a new opportunity for the Government go further than it did before in the 2018 Act, and ensure the strict liability regime applies to vehicles already on the road which have partial automation.

Instead of a requirement for the Secretary of State to maintain a list of authorised vehicles, the Bill will introduce a new automated vehicle authorisation process. This authorisation will identify the feature, or features, which satisfy a new 'self-driving test', which is set out in the Bill.

If any of these features are engaged, and something goes wrong causing someone to be injured, that injured person will have the protection of the strict liability provision in the 2018 Act.

The Bill does not provide a list of automated features, but says that a vehicle travels autonomously if it is being controlled not by an individual but by the equipment of the vehicle, and neither the vehicle nor its surroundings are being monitored by an individual with a view to immediate intervention in the driving of the vehicles.

To ensure all people injured by automated technology in vehicles can be supported by the strict liability regime, these automated features which are authorised must include technology being used in vehicles already on the road which have partial automation, such as autopilot or traffic adaptive cruise control, but which still require someone in the car monitoring the vehicle

For example, if a car can reach the speed limit by itself and then maintain this speed, but then fails to brake when there is a hazard in front and crashes into another car, it will not be covered by the 2018 Act because the feature does not make the car 'self-driving'. The only recourse currently for those injured because of the defect with the software would be to pursue a complex and costly claim against the manufacturer of the vehicle under the Consumer Protection Act 1987.

The complexity of a claim against the manufacturer was recognised by transport minister John Hayes when MPs debated the Automated and Electric Vehicles Bill at second reading in 2017. The minister referred to these claims as “time-consuming and expensive, undermining the quick and easy access to compensation that is a cornerstone of our insurance system. Not tackling this problem risks jeopardising consumer protection and undermining the automotive industry’s competitiveness”<sup>1</sup>.

The Government tackled this problem for automated vehicles in the future. It must now ensure the Automated Vehicles Bill tackles the problem for vehicles with partial automation that exist today.

---

<sup>1</sup> <https://hansard.parliament.uk/commons/2017-10-23/debates/BDAB60DC-D67C-44CF-B0CB-9FBE8DAE3F30/AutomatedAndElectricVehiclesBill#>

**About APIL**

The Association of Personal Injury Lawyers (APIL) is a not-for-profit organisation which has campaigned for the rights of victims of negligence for more than 30 years. Our vision is of a society without needless injury but, when people are injured, a society which offers the justice they need to rebuild their lives.

**For more information, please contact:**

Sam Ellis

Public Affairs Manager, APIL

Tel: 0115 943 5426 E-mail: [sam.ellis@apil.org.uk](mailto:sam.ellis@apil.org.uk)