

Regulation of Automated Road Vehicles in Britain: The Automated and Electric Vehicles Act 2018

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The Automated and Electric Vehicles Act 2018 (the AEV Act 2018) describes itself as "An Act to make provision about automated vehicles and electric vehicles". It is an Act in three parts: Part 1...



AUTOMATED VEHICLES AND ALGORITHMIC BIAS

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There are known knowns. These are things we know that we know. There are known unknowns. That is to say, there are things that we know we don't know. But there are also unknowns...

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German and British approaches to road traffic regulation: General

Germany: custodian liable unless inevitable accident

Britain: victim must prove fault; rejects “counsel of perfection”

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Germany: unsuccessful argument for full fault approach

Britain: some judicial decisions tending to stricter liability

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The Automated and Electric Vehicles Act 2018

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AEV Act 2018

“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”

(House of Commons Library paper on AEV Act 2018)

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AEV Act 2018

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,

the insurer is liable for that damage.

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AEV Act 2018. The Insurer:

Can **claim against any other person liable** to the victim,
under section 5

Has defences including **contributory negligence**, under section 3

Can **exclude or limit cover in limited circumstances** relating to
non-installation or modification of **software** (under section 4)

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AEV Act 2018. AVs defined as:

“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.”

“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;”

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AEV Act 2018: Commencement

21 April 2021: Part 1 of the AEV Act 2018 brought into force

28 April 2021: CCAV announces that the government:

“**expects** that vehicles fitted with **ALKS** for use on GB roads will be **automated vehicles** under the Automated & Electric Vehicles Act 2018”

“**However**, rather than list all vehicles fitted with ALKS by default, individual models **will be listed after they have received whole vehicle type approval (WVTA)**. This will **enable the Secretary of State to review evidence that may have come to light** before the formal decision as to whether to list the vehicle model is made.”

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AEV Act 2018. Summary:

Arguably takes British law further towards the **nearly strict tradition** of German road traffic liability law

Is **in force** (as of 21 April 2021), **but**

Awaits the Secretary of State's section 1 list of AVs.

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Professors Lohsse & Ernst (2010)

“legislation dealing with the specific problems of a particular time has always been thought to be the proper means of responding to the needs of the Industrial Revolution” (Sebastian Lohsse)

“Our present law is the legacy not just of European legal history in the twentieth century, but also of Western legal history as a whole” (Wolfgang Ernst)

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Thank you for listening



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