After receiving Royal Assent on 19 July 2018, the Automated and Electric Vehicles Bill 2017-2019 has now become the Automated and Electric Vehicles Act 2018. The key takeaways from the Act include (i) an extension of the current compulsory motor vehicle insurance regime to capture the use of automated vehicles and (ii) requirements in relation to the installation of charging points for electric vehicles.

Automated vehicles

The key provision arising from the Automated and Electric Vehicles Act 2018 (the “Act”) is that insurers will be liable in respect of damage to people or property where an accident is caused by an automated vehicle, driving as an automated vehicle, where the vehicle is insured at the time. This liability is capped at £1.2m, and the liability of the insurers will be reduced to the extent that the accident is caused by the injured party. In the event that the vehicle is being driven automatically, but in a situation when it is inappropriate to do so, the liability will fall on the individual.

Wannabe engineers and those who frequently ignore the update messages from their IT devices could also find themselves liable under the regime. Where alterations have been made to the automated vehicles’ software which were prohibited by the policy or in the event that the insured individual fails to install safety-critical software updates, which they knew, or ought reasonably to have known, were safety critical, the insurance company will have an action against the individual in respect of any money paid out.

The Act also provides that the Secretary of State must then prepare a report for Parliament on the impact and effectiveness of the regime and the extent to which the legislation has ensured that there is appropriate insurance in place for automated vehicles.

Electric vehicles

After announcing in 2017 that nearly all cars and vans sold should be zero emission vehicles by 2050 and that the sale of new conventional petrol and diesel cars and vans would end by 2040, the Government’s aim with this Act is to significantly increase the number of electric vehicles on the road and the availability of associated charging infrastructure.

The key provision in the Act is that allowing the Secretary of State to pass further regulations governing the payment, access, performance, maintenance and availability, and means of connection to public charging or refueling points. This may be used to ensure that operators provide a uniform method for accessing such charging points, with the Act providing scope to legislate specifically on the method of payment and type of connection components.

The Secretary of State will also have the power to pass regulations requiring large fuel retailers and service operators to provide public charging points.

The other powers under the Act go to the public provision of information about charging stations and their services and requirements as to smart functionality of charging point (eg receiving, processing, transmitting and reacting to data).

The Act also provides the Secretary of State with the power to provide enforcement powers, including imposing financial penalties. During the initial consultations on the bill, it was suggested that penalties could include warnings and, if necessary, civil penalty notices. It was also suggested that where equipment is found to be absent, in contradiction of the statutory instrument, such notices be scaled in line with the cost of purchasing such equipment. Ultimately, while the penalties have yet to be stipulated, legislating for the power to put them in place may be an indication of how seriously the Government is taking the step of putting in place the necessary infrastructure to support their stated aims within the given timeframe.

Overall this is high-level legislation that seeks to set out the minimum regulatory provisions that would enable the development of autonomous and electric vehicles. Further measures from the UK Government are anticipated, although given the long time period over which this legislation was managed, it remains to be seen how quickly secondary legislation will materialise.

Going forward

In March 2018 the Law Commission began a three-year project with a view to proposing a legal framework to deal with autonomous, road-based vehicles. The first year of the project is aimed at undertaking an audit of the current law and a scoping exercise to identify key issues. The Commission intends to publish a scoping paper before the end of 2018.

1 Section 2(4) Automated and Electric Vehicles Act 2018
2 “New Legislative powers for ULEV infrastructure”, Impact Assessment, 20 December 2016, Department of Transport
Key contacts

Vanessa Havard-Williams
Partner
London
Tel: +44 20 7456 4280
vanessa.havard-williams@linklaters.com

Bernd Meyring
Partner
Brussels
Tel: +32 2 505 03 32
bernd.meyring@linklaters.com

Richard Gu
Senior Consultant
Shanghai
Tel: +86 21 2891 1839
richard.gu@linklaters.com

Pierre Tourres
Partner
Paris
Tel: +33 1 56 43 59 22
pierre.tourres@linklaters.com

Ruth Knox
Managing Associate
London
Tel: +44 20 7456 4413
ruth.knox@linklaters.com

James Marlow
Associate
London
Tel: +44 20 7456 5967
james.marlow@linklaters.com

Abu Dhabi | Amsterdam | Antwerp | Bangkok | Beijing | Berlin | Brisbane  | Brussels | Cape Town  | Delhi  | Dubai
Düsseldorf | Frankfurt | Hamburg | Hanoi  | Ho Chi Minh City | Hong Kong | Jakarta  | Jeddah  | Johannesburg  | Lisbon

* Office of integrated alliance partner Allens
** Office of formally associated firm Widyawan & Partners
*** Office of collaborative alliance partner Webber Wentzel

linklaters.com

Linklaters LLP is a limited liability partnership registered in England and Wales with registered number OC326345. It is a law firm authorised and regulated by the Solicitors Regulation Authority. The term partner in relation to Linklaters LLP is used to refer to a member of the LLP or an employee or consultant of Linklaters LLP or any of its affiliated firms or entities with equivalent standing and qualifications. A list of the names of the members of Linklaters LLP and of the non-members who are designated as partners and their professional qualifications is open to inspection at its registered office, One Silk Street, London EC2Y 8HQ, England or on www.linklaters.com and such persons are either solicitors, registered foreign lawyers or European lawyers. Please refer to www.linklaters.com/regulation for important information on our regulatory position.