



Department  
for Transport

From the Secretary of State  
**The Rt Hon Mark Harper MP**

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Convener of the Delegated Powers and  
Law Reform Committee  
The Scottish Parliament  
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Dear Stuart,

Thank you for your letter of 28 February requesting further information in relation to **Clause 50 (1) – Power to change or clarify existing traffic legislation** of the Automated Vehicles Bill. Please allow me to address your concerns.

With regard to paragraph 123 of the Delegated Powers Memorandum, this was not intended to suggest that the Scottish Parliament or Senedd would be able to formally scrutinise the regulations. The purpose of this paragraph is to explain that the debate on the regulations in UK Parliament under the affirmative procedure would provide a greater opportunity for general public scrutiny of the regulations.

I would like to reaffirm the UK Government's position that the power in Clause 50 does not engage the legislative consent process. As previously communicated to Scottish Government officials, our general position is that the User-in-Charge (UiC) immunity established by Clauses 47 to 52 of the Bill is reserved as relating to the overall reserved policy of the use of Automated Vehicles on GB roads (Sch 5, Head E1 para (d) of the Scotland Act 1998). In some circumstances, the effect of the immunity will be to remove liability for devolved traffic offences. In our view, this impact on Scottish law is incidental, and for giving effect to this reserved purpose. It would not be appropriate to confer the power in Clause 50 to Scottish or Welsh Ministers or to obtain their consent to exert the power.

Lastly, I should clarify that the purpose of the regulation-making power in Section 50 is to change or clarify the application of the UiC immunity where necessary. The power in Clause 50 is limited by Clause 50(1) to making regulations for the purpose of “changing or clarifying whether, how or in what circumstances a relevant enactment applies to the User-in-Charge of a vehicle”. Insofar as the power can be used to amend a devolved enactment, therefore, it can only amend that enactment to clarify whether, how or in what circumstances it applies to a UiC. It cannot be used to amend enactments more broadly, or for any other purpose. In this sense, we do not believe that the power in Clause 50 can be used for devolved purposes. It is fundamentally tied to the concept of the UiC immunity which, as explained, we consider to be reserved.

I trust this information is sufficient to enable a comprehensive response.

Yours sincerely,

**The Rt Hon Mark Harper MP**

**SECRETARY OF STATE FOR TRANSPORT**