

Abstract of Laws

General guidance on
private hire vehicle law
for London's licensed
private hire vehicle operators

Foreword

Until recently, the private hire trade was not regulated in London. The Private Hire Vehicles (London) Act 1998 provides the legal power for the licensing and regulation of private hire operators, drivers and vehicles. Private hire vehicles (PHVs) include a range of vehicles including minicabs, executive cars, limousines and chauffeur services.

Transport for London (TfL) is responsible for licensing the private hire trade. The purpose of regulation is to give passengers confidence when using a licensed PHV operator that they are dealing with a regulated, professional organisation with honest drivers and safe vehicles.

The PHV operator is the person with whom the passenger books the journey, and it is the operator's responsibility to see that it is carried out safely and efficiently. A responsible operator will know his or her drivers and their cars. He or she has a legal responsibility to keep records of the drivers' licences, insurance, car details and will know when it is due for MOT tests. The operator must also keep proper records of journey bookings, who undertook them and any quoted fare.

Only a licensed PHV operator can accept a booking and dispatch a private hire vehicle to a customer. A PHV operator can only accept bookings and dispatch private hire vehicles from the operating premises mentioned in his PHV operator's licence.

PHV drivers can only carry out PHV bookings through licensed PHV operators. PHV drivers who pick up passengers that have not been booked through their PHV operators are committing the offence of touting for which they may be prosecuted and fined up to £2500 and also have their PHV driver's licence suspended or revoked.

Should a licensed operator, or an individual associated with an operator's licence get convicted for touting then revocation of the operator's licence is likely to follow.

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1. Introduction

This Abstract of the Laws relating to PHV operators is issued as a guide to the laws and as an aide memoire to the relevant legislation available for the regulation of PHV operators.

The Abstract is not an exhaustive or definitive statement of the laws governing the use of PHVs and has itself no force of law. Reference should be made to the text of the statutes, etc. quoted.

The Abstract should be used for general guidance only. The law as expressed is correct on 15 June 2011. All penalties for offences shown are maximum penalties and fines are referred to as being at a certain level on the standard scale of fines introduced by Section 17 of the Criminal Justice Act 1991. The scale is as follows:

Level 1: £200

Level 2: £500

Level 3: £1000

Level 4: £2500

Level 5: £5000

The Courts have the ultimate power to pass a sentence of imprisonment upon anyone who fails to pay a fine. Where in the Private Hire Vehicles (London) Act 1998, it is provided that a person guilty of an offence is liable to a fine of up to the relevant penalty level, in practice this is treated as the maximum fine which may be imposed.

PHV Operators in London are regulated by the direct provisions of the Private Hire Vehicles (London) Act 1998 and the additional Regulations that have originated under it.

2. Legislation

A list of the principal legislation is given below together with the abbreviations used when referring to them in the Abstract.

Every word imparting the singular number shall be taken to include plurality and every word imparting masculine gender shall be taken to include the female gender.

Title	Abbreviation
Private Hire Vehicles (London) Act 1998	1998 Act
Greater London Authority Act 1999	GLA Act 1999
Private Hire Vehicles (London) (Operators' Licences) Regulations 2000	Operators Regulations
Private Hire Vehicles (London) (Transitional and Saving Provisions) Regulations 2003	2003 Regulations
Private Hire Vehicles (London)(Commencement Order No 2) Order 2003	Commencement Order No 2
Private Hire Vehicles (London PHV Driver's Licences) Regulations 2003	Drivers Regulations
Private Hire Vehicles (London) (Operators' Licences) (Amendment) Regulations 2003,	2003 Operators Amendment Regulations
Private Hire Vehicles (London PHV Licences) Regulations 2004	Vehicles Regulations
Equality Act 2010	Equality Act

3. Licensing Authority (s254 GLA Act and Schedule 21)

In this Abstract, the Licensing Authority means Transport for London (TfL) which will exercise the duties imposed by the Private Hire Vehicles (London) Act 1998 as amended by the Greater London Authority Act 1999.

TfL has delegated its licensing functions to officers of its London Taxi and Private Hire directorate (LTPH) under paragraph 24 of TfL's Standing Order No 2.

4. Requirement for a PHV operator's licence (s1, 2 and 29 1998 Act)

Only a person who holds a PHV operator's licence for London may accept bookings for private hire vehicles in London.

An operator is the person who is permitted to make provision for the invitation or acceptance of private hire bookings.

Any person who accepts private hire bookings without a valid PHV operator's licence is guilty of an offence punishable by a fine of up to £2500.

The only exemptions from licensing are those operating licensed London Hackney Carriages and individuals who supply vehicles solely for weddings and funerals.

5. Premises of a PHV operator (s1, 3(2) and (6)(a), 4(3)(a) 1998 Act)

The address from which an operator is licensed to accept PHV bookings is known as the 'operating centre'.

An operator may operate more than one operating centre but the address or addresses an operator intends to use as operating centres must be specified in the licence.

A copy of the PHV operator's licence must be displayed at each operating centre.

6. Application for a PHV operator's licence (s3 and 15(3) 1998 Act, Regulation 3 Operators Regulations)

Any person may apply for a London PHV operator's licence.

A person includes an individual, a company or a partnership.

The requirements for an operator's licence are that an applicant must state the address(es) of the proposed operating centre(s) and that the application must be made in the prescribed form which must include all information required by TfL.

TfL can request any information it reasonably requires to enable it determine an application. Certain specific information which must be filled in an application include:

- i. the address of any premises in London which an operator proposes to use as an operating centre;
- ii. any current convictions recorded against the applicant(s);
- iii. any business activities applicant(s) have carried out prior to the making of the application;
- iv. if an applicant is or has been a director or secretary of a company, the name of the company;

- v. if an applicant is a company, information about individual directors or the secretary of that company;
- vi. if an applicant wishes to act in partnership with any other person, information about that person.

7. Types of operator's licence (Regulation 7(2) and (3) Operators Regulations)

As PHV operators can vary in size from an individual to a large company, an operator may choose either a standard licence or a small operator's licence. A small operator is an operator who operates no more than two private hire vehicles. A standard operator has no limit on the number of cars within his operation.

A small operator cannot change the conditions of his licence (that is, that you operate only two vehicles) during the currency of the licence. A small operator who wishes to expand into a larger operation is required to make a fresh application for a standard PHV operator's licence.

8. Application fees (s20 1998 Act, Regulation 4 Operators Regulations as amended)

An application must be accompanied by the payment of the prescribed application fee. This is to cover the administrative costs of processing an application and inspecting the proposed operating centre(s). The application fee is non-refundable if an application fails or is refused.

9. False or incorrect information (s28 1998 Act)

An applicant (anyone) who knowingly or recklessly makes a statement or provides information about a PHV operator licence application which is false or misleading in any material submitted as part of his application for a PHV operator's licence or the variation of such a licence is guilty of an offence and liable on summary conviction to a fine of up to £5000.

10. Fit and proper criteria (s3(3)(a) 1998 Act)

In order for an individual applicant to be granted a PHV operator's licence, he must be considered to be a fit and proper person to be granted such a licence.

In order for a company or a partnership to be considered 'fit and proper', the Licensing Authority has to be satisfied that the individuals who make up that company or partnership are themselves fit and proper.

LTPH applies a set of administrative rules which the Licensing Authority employs in determining the suitability of an applicant for a PHV operator's licence. An applicant is expected to have complied with other legal requirements which are connected with the running of a business. The following include some of the criteria applied in assessing that an applicant is a fit and proper person to be granted a PHV operator's licence;

- i. **Convictions:** Applicants must declare any convictions subject to the Rehabilitation of Offenders Act 1974;
- ii. **Bankruptcy:** Applicants must declare whether they have had a discharge suspended for failing to co-operate with the Official Receiver;
- iii. **Company Directorship:** Applicants must declare whether they have ever had a Disqualification Order under the company Director's Disqualification Act 1986 made against them which disqualifies them from acting as directors or taking part in the management of a limited company;
- iv. **Health and Safety:** applicants must demonstrate that they are complying with any requirements applicable to their premises, their staff or the public;
- v. **Accounts;** Applicants must be able to provide evidence that they comply with the requirements for audited or certified accounts and where applicable, provide evidence that their business is VAT registered or awaits VAT registration;
- vi. **Insurance:** Applicants must be able to provide evidence that they are complying with any insurance requirements especially employee liability and public liability insurance covers;
- vii. **Right of Abode and right to work;** Applicants must supply proof of their right to live and work in the UK, where applicable;
- viii. **Previous Application:** A previous operator or anyone named in a previous operating licence whose application was refused or licence has been suspended or revoked in London or elsewhere in the country must provide details of the refusal, suspension or revocation in their application.

11. Grant of a PHV operator's licence (s3(3) 1998 Act, Regulation 5 Operators Regulations)

A PHV operator's licence may be granted if the Licensing Authority is satisfied that;

- a) the applicant is a fit and proper person to hold a London PHV operator's licence;
- b) the applicant satisfies any further requirements that may be required by LTPH.

If the Licensing Authority is satisfied that an applicant meets the necessary requirements, it may;

- a) grant a licence for five years in the terms applied for or;
- b) vary the licence in the terms applied for.

If the Licensing Authority is not satisfied that an applicant meets the necessary requirements, it may;

- a) approve the application other than in the terms applied for;

- b) impose additional conditions as he deems proper;
- c) refuse the application

Where the applicant is an individual, any licence granted will be issued in his name. Where an applicant is a registered company (or other body corporate), any licence granted will be issued in the name of the company. Where an applicant is a partnership, any licence granted will be issued in the partnership's name or a name nominated by the firm.

12. Duration of a PHV operator's licence (s3 1998 Act, Regulation 5 Operators Regulations)

A London PHV operator's licence will be valid for five years from the date of the grant.

The Licensing Authority may decide that a PHV operator's licence should be granted for less than five years if it determines that there are circumstances which warrant it to be granted for less than five years.

13. Fees for the grant of a PHV operator's licence (s20 1998 Act, Regulations 6 and 7 Operators Regulations as amended)

A successful applicant is expected to pay a fee within 28 days of service of the notice of decision to grant him a licence. No licence will be issued until the payment of the grant of licence fee.

A pro-rata fee is payable for a licence granted for less than the full term of five years.

14. Bookings for a PH vehicle (s2, 4,5 and 21 1998 Act)

It is a PHV operator with whom the public has direct initial contact in order to obtain the services of a PH vehicle.

Bookings must only be accepted at the operating centres specified in the operator's licence.

A copy of the operator's licence must be displayed at each operating centre specified in an operator's licence.

It is the responsibility of an operator to ensure that a vehicle available to him for carrying out private hire bookings is a London PH vehicle driven by a person holding a London PHV driver's licence.

An operator must keep at each operating centre specified in his licence, a record of particulars of the private hire bookings accepted by him at the operating centre. Such records must be made before the commencement of each journey booked. An operator must also keep at each operating centre, particulars of drivers and vehicles available to him.

Any authorised officer of TfL or a police constable can, on request, inspect any records maintained by an operator.

An operator who fails to display a copy of his licence, keep required records or fail to produce records for inspection is guilty of an offence punishable upon summary conviction to a fine of up to £1000.

An operator can sub-contract to another operator if:

- a) the other operator is also the holder of a London PHV operator's licence ;
- b) or, the sub-contractor is licensed under the Local Government Act 1976 and or the sub-contracted booking is accepted in that region;
- c) or, the other operator accepts the sub-contracted booking in Scotland.

An operator who sub-contracts to an unlicensed operator is guilty of an offence and is liable upon summary conviction to a fine of up to £1000.

Irrespective of any sub-contracting, the contract of booking a PH vehicle remains between the person making the booking and the initial operator.

A PHV operator may also use a London cab driven by a person holding a London cab driver's licence to discharge the bookings they have accepted.

15. Suspension or revocation of a PHV operator's licence (s16 and 17 1998 Act)

An operator's licence may be suspended or revoked for any reasonable cause including that the Licensing Authority is no longer satisfied that the licence holder is fit to hold such a licence or where the licence holder has failed to comply with any condition of the licence or other obligation imposed on him under the 1998 Act.

Where the Licensing Authority has decided to suspend or revoke a PHV operator's licence, notice of that decision will be made to the licence holder and the suspension or the revocation of the licence takes effect 21 days from the date of the service of the notice to the licence holder.

In the interest of public safety, the Licensing Authority may decide to suspend or revoke a PHV operator's licence with immediate effect. Where this is the case, the Licensing Authority will include a statement of this in the decision letter and the reasons for the immediacy of the decision. The suspension or revocation of the licence then takes effect when the notice is served on the licence holder.

A licence holder whose PHV operator's licence has been suspended or revoked may appeal to the Magistrates' Court within the 21 day period against the decision to suspend or revoke the licence.

With the exception of an immediate suspension or revocation of a PHV operator's licence, where a licence holder whose PHV operator's licence has been suspended or revoked exercises his right of appeal, the decision to suspend or revoke the licence

will not be effective until the time for the appeal has lapsed, the appeal has been dismissed or withdrawn.

16. Variation of operator's licences (s18 and 19 1998 Act)

An operator may make an application for a variation of the licence either to remove an existing operating centre or add new operating centres. The variation can only be done using a particular form which is available from LTPH.

TfL may grant a variation to an existing licence to include new operating premises if the Licensing Authority is satisfied that the premises meet the requirements in paragraph 11 above.

There is a right of appeal to the Magistrates' Court where TfL refuses to vary the PHV operator's licence to include new operating premises.

The Licensing Authority may suspend the operation from an operating centre or vary a licence by removing a reference to an operating centre specified in an existing licence where he is no longer satisfied that the operating centre meets any requirements prescribed by LTPH.

Where the Licensing Authority has decided to suspend the use of an operating centre or remove reference to an operating centre from an operator's licence, notice of that decision will be made to the licence holder and the decision will take effect 21 days from the date of the service of the notice to the licence holder. The licence holder may appeal to the magistrates' court within 21 days of receiving the decision notice.

In the interest of public safety, the Licensing Authority may require such a decision to take immediate effect. Where this is the case, the Licensing Authority will include a statement of this in the decision letter and the reasons for the immediacy of the decision. The variation of the licence then takes effect when the notice is served on the licence holder.

A PHV operator cannot accept bookings from an operating centre which has been suspended or one which has been removed from his licence. Where an operator trades from such premises he will be considered to be contravening section 4(1) of the 1998 Act and may be guilty of an offence punishable by a fine of up to £1000.

17. Return of Licences (s22 1998 Act)

A PHV operator must return his PHV operator's licence to LTPH seven days after the expiry, the suspension or the revocation of the licence.

It is an offence punishable upon summary conviction by a fine of up to £1000 if an operator fails to return his expired, suspended or revoked licence within seven days after being requested to do so without reasonable excuse.

18. Fee for the application to vary a licence (s20 1998 Act, Regulation 4 Operator Regulations)

An application to vary a licence must be accompanied by the payment of the prescribed variation fee. The variation application fee is non-refundable if an application fails or is refused.

19. Records kept by PHV operators (s4 1998 Act, Regulations 10-16 Operators Regulations)

There is a duty on PHV operators to keep certain records of their operations. These include:

Bookings

Bookings records must be kept in writing or in a form in which it can be reduced to writing. Computer records are acceptable if they can be printed off a printer on demand.

Bookings records must include the details of any booking accepted by an operator and must include particulars such as date on which booking was made and, if different, the date of the journey, name or other identification of person for whom booking is made or, if more than one person, the name or other identification of one of them, time and place of collection, destination, any fare quoted, name or other identification of driver carrying out the booking, vehicle carrying out booking and where booking was sub-contracted, the name of operator to whom booking was sub-contracted.

Vehicles

PHV operators must also keep at each operating centre specified in their licence, records of private hire vehicles which are available to carry out bookings accepted at that centre. Particulars of vehicle records to be kept include, make, model and colour of vehicle, registration mark, name and address of registered keeper, MOT certificate (where required), copy of insurance certificate, date when vehicle became available and, where applicable, the date when vehicle ceased to be available.

Drivers

Records of drivers used by a PHV operator must also be kept at each operating centre and must contain particulars of surname, forename, address, date of birth, national insurance number, photocopy of driving licence, a photograph of the driver, date when he became available to the operator and, where applicable, the date when he ceased to be available.

Complaints

Operators are also required to keep particulars of complaints made in respect of any private hire booking accepted by them. Particulars of complaints to be kept include

the date of the booking, the name of the driver who carried out the booking, the vehicle registration mark of the vehicle used to discharge the booking, name of the complainant, nature of the complaint and details of any investigation conducted and subsequent action taken as a result.

Lost Property

Finally, operators must keep particulars of any lost property found at the operating centre or in a private hire vehicle used to carry out a booking. The particulars to be recorded include date on which the property is found, place where it was found, description of the item and evidence to show attempts made to return the property. If the property was not claimed, the operator should disclose how it was disposed of. Also, PHV operators must keep records of particulars of property reported lost.

20. Preservation of records (Regulation 16 Operators Regulations)

PHV operators are required to keep records of private hire bookings accepted by the operator for six months from the date of the booking on which the booking was accepted.

PHV operators are also required to keep particulars of drivers and vehicles available to their operation for 12 months from the date on which the vehicle or driver ceased to be available to the operator.

PHV operators are also expected to keep records of complaints and items of lost property for six months from the date they were entered in the respective record.

Where an operator ceases to use an operating centre which is specified in his licence, he must keep bookings records in relation to that operating centre for at least six months and driver and vehicle records for 12 months from the date of the last entry.

21. Advertisements for a PHV service (s31 1998 Act)

The 1998 Act prohibits the use of certain words in advertisements for private hire services.

A PHV operator must not use the words 'taxi', 'taxis', 'cab' or 'cabs' or any word which is closely similar to these as to be likely to be mistaken for it in any advertisement including using such words in links to Internet web addresses.

Any operator who uses these words in an advertisement is guilty of an offence and liable on summary conviction to a fine up to £2500.

The use of the words 'minicab', 'mini-cab', or, mini cab (whether singular or in the plural) does not constitute an offence.

22. Register of Licences (s23 1998 Act)

The name and address of the licence holder, together with the number and the date of the grant and expiry date has to be maintained by the Licensing Authority in a register which is made available for free public inspection at LTPH.

The register has to be available at LTPH for inspection by members of the public during office hours free of charge. There is no statutory requirement as to the form the register should take and computer records can be used provided that there is some mechanism by which the register can be inspected. Accordingly, LTPH has made extracts of the register available on its website.

23. Bookings by and for disabled people accompanied by assistance dogs (s170 Equality Act)

It is an offence for a private hire operator to fail or refuse to take a booking for a private hire vehicle:

- If the booking is requested by or behalf of a disabled person, or a person who wishes to be accompanied by a disabled person, and
- the reason for the failure is that the disabled person is accompanied by his assistance dog.

It is also an offence for an operator to make any additional charge as a result of the need to carry an assistance dog.

Assistance dog is defined in the Equality Act s173(1) as a dog which:

- has been trained to guide a blind person;
- has been trained to assist a deaf person;
- has been trained by a prescribed charity to assist a disabled person who has a disability which:
 - consists of epilepsy; or
 - otherwise affects his mobility, manual dexterity, physical co-ordination or ability to lift, carry or otherwise move everyday objects.

