

Abstract of Laws

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

Foreword

Until recently, the private hire trade was not regulated in London. The Private Hire Vehicles (London) Act 1998 provides the legal power for 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 this regulation is to give passengers confidence when using a licensed PHV operator that they are dealing with a regulated, professional organisation with safe, 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 driver's licences, insurance, car details and will know when it is due for MOT tests. The operator will also keep proper records of journey bookings, who undertook them and any quoted fare.

PHV drivers are not allowed to pick people up on the street or at stations or airports and can only carry out PHV bookings through licensed PHV operators. PHV drivers who approach or pick up passengers that have not been booked through their PHV operators are either illegally plying for hire or touting for which they may be prosecuted and their PHV driver's licence suspended or revoked.

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1. Introduction

This Abstract of the laws relating to PHV drivers is issued as a guide to the laws and to assist in knowing the relevant legislation available for the regulation of PHV drivers.

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 1 January 2013. 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 drivers 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.

In addition to the Private Hire Vehicles (London) Act 1998 and the Regulations relating to PHV drivers and vehicles, PHV drivers are also subject in common with other road users to the general laws and regulations affecting drivers of mechanically propelled vehicles. Other general laws with particular application are noted where appropriate in abridged form.

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) (Transition 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
Disability Discrimination Act 1995 (Private Hire Vehicles) (Carriage of Guide Dogs etc) (England and Wales Regulations) 2003	Display of Exemption Certificate Regulations
Private Hire Vehicles (London) Transitional Provisions) Regulations 2004	2004 Regulations
Private Hire Vehicles (London PHV Licences) Regulations 2004	Vehicles Regulations
Equality Act 2010	Equality Act

3. Licensing Authority (S254 GLA 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 in its London Taxi and Private Hire directorate (LTPH) under paragraph 24 of TfL's Standing Order No 2.

4. Application for a private hire driver's licence and fee payable (s13(2), s15 1998 Act)

An applicant for a PHV driver's licence must: complete an application form (provided by TfL on demand), pay a fee, agree to an Enhanced Disclosure and Barring Service search of his conviction history (if any), and supply a medical certificate of fitness in the prescribed form.

The necessary forms for these purposes may be obtained from LTPH, Palestra, 197 Blackfriars Road, London SE1 8NJ. A fee may be payable on submission of applications (details of current fees are available from LTPH).

For a PHV driver's licence to be granted, applicants must be at least 21 years of age, must have had an ordinary driving licence for at least 3 years and must be fit and proper to hold a PHV driver's licence. By ordinary driving licence, it means that all licensed drivers must hold a full DVLA, Northern Ireland or European Economic Area (EEA) states' driving licence.

The requirement of 'fit and proper' will include the consideration of the applicant's convictions as well as his medical fitness.

In addition to the production of a medical report, an applicant may also be required to submit to examination by a registered medical practitioner selected by LTPH as to his physical fitness. The Licensing Authority may also require an applicant to furnish such further information as the Licensing Authority considers necessary for dealing with the application.

An applicant must provide proof that he possesses an appropriate knowledge of London or parts of London (as may be relevant) and general topographical skills.

An applicant will also be required to supply photographs for use on his PHV driver's licence.

5. Grounds for refusal and appeal options (s13 1998 Act, Regulation 3(2) Drivers Regulations)

TfL may refuse to grant a PHV driver's licence if the applicant fails to satisfy TfL that:

- he is at least 21 years of age;
- he has held a full driving licence for at least 3 years, and;
- he is of good character and is fit to act as a PHV driver.

The criterion for good character is determined mainly on the applicant's conviction history (which is regarded as relevant to the application by the Licensing Authority) derived from the Enhanced Disclosure and Barring Service report and other such reports (including police observations and entries made in his DVLA-issued driving

licence). The Licensing Authority may also consider other information he obtains regarding an applicant's character if this is relevant.

Fitness includes medical fitness and in this respect TfL will have regard to the requirements as to physical fitness that he would be required to be met in order to hold a Group 2 licence (the higher medical standard applicable for drivers of passenger-carrying vehicles) or other such standard as may be prescribed.

An applicant may appeal to the Magistrates Court against the refusal to grant him a licence or against any condition to which such a licence is subject. Any such appeal has to be made within 21 days of the receipt of the decision letter in which the refusal to grant a PHV driver's licence is made known to him.

6. Duration of a PHV driver's licence (Drivers' Regulations 5 and s13(5)(c) 1998 Act)

The maximum period for which a PHV driver's licence may be in force is three years and this is the period for which it is normally granted and during which it will remain in force unless sooner revoked or suspended. TfL could however grant a licence which is of duration less than the three years in certain circumstances.

A fee is payable on the issue of the licence. Details of the current fees are available on application to LTPH.

7. Expiry of existing licence

To continue working as a PHV driver, a licence holder must make a new application for a PHV driver's licence before an existing licence expires. For details of how to make an application, please see Section 4 above.

8. False statements (s27(3) and s28 1998 Act)

In the application for a PHV driver's licence, anyone who knowingly or recklessly makes a statement or supplies information which is misleading is guilty of an offence punishable upon summary conviction to a fine not exceeding level 5.

Also, anyone who makes any statement which he knows to be false when giving information to an authorised officer of TfL or a constable acting within the provisions of the PHV legislation is guilty of an offence punishable upon summary conviction to a fine not exceeding level 5.

9. Production of documents (s21 1998 Act)

An Authorised Officer or constable can at any time require a PHV driver to produce his licence for inspection. Where the person is not able to produce the licence forthwith, then it should be produced at a police station where the request was made by a constable, or at a place specified by the Authorised Officer. In both situations, such documents have to be produced within six days of the request. Failure to comply with the request is an offence punishable upon summary conviction to a fine not exceeding level 3.

10. PHV driver's licences and badges (s10, 12 and 14 1998 Act)

It is an offence to drive a PHV vehicle which is being used as a PHV vehicle without a PHV driver's licence and badge. Anyone who does so commits an offence punishable upon summary conviction to a fine not exceeding level 4.

Any licence holder who uses a PHV vehicle without a disc showing it to be a licensed vehicle (unless granted an exemption by the Licensing Authority) is also guilty of an offence punishable upon summary conviction to a fine not exceeding level 3.

It is a requirement that when the driver is driving a PHV which is being used as a PHV, he must wear the PHV driver's badge issued so that it is plainly and distinctly visible (unless granted an exemption by the Licensing Authority). Failure to comply with this requirement is punishable upon summary conviction to a fine not exceeding level 3.

11. Suspension and revocation, and appeal options (s13(6), s16, 17, 22, 25 and 26 1998 Act)

A PHV driver's licence may be suspended or revoked by the Licensing Authority if the licence holder:

- has been convicted of an offence of indecency, violence or dishonesty;
- where the Licensing Authority is no longer satisfied that the licence holder is fit to hold a PHV driver's licence, or;
- where the licence holder failed to comply with any condition of the licence or other obligations imposed on him by the 1998 Act.

In the event of suspension or revocation of a PHV driver's licence, the Licensing Authority is required to give notice of the decision to the licence holder which sets out the grounds for the decision.

The suspension or revocation of the licence takes effect only at the end of the period of 21 days beginning with the day on which the suspension/revocation notice is served on the licence holder unless an appeal is lodged, see below.

In the interest of public safety, the Licensing Authority may decide to suspend or revoke a 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 driver'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 driver's licence, where a licence holder whose PHV driver'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 been determined or withdrawn.

Upon suspension or revocation of a PHV driver's licence, the licence holder is required to return the licence to the Licensing Authority within the period of 7 days after the suspension or revocation takes effect.

Failure by a licence holder to return a licence or disc upon suspension or revocation is punishable upon summary conviction to a fine up to penalty level 3 and in addition, daily costs of up to £10.

12. 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 of the licence has to be maintained by the Licensing Authority in a register which is made available for free public inspection at LTPH.

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. An extract of the register is available on the TfL website.

13. Fares and meters (s12 and 23 1998 Act)

There is no power in any legislation to set the fares charged by PHV operators and it is entirely a matter for negotiation between the hirer and the operator as to the fare that will be charged.

Therefore, fares are agreed by the relevant operator for which the PHV driver is employed.

There is an absolute prohibition on any licensed PHV vehicle being fixed with a meter and the owner of a vehicle so fitted is liable upon summary conviction in the magistrates' court to a fine not exceeding level 3.

A meter is defined as a device for calculating the fare to be charged in respect of any journey by reference to the distance travelled or time elapsed since the start of the journey (or a combination of both).

14. Bilking by hirers (other relevant legislation)

The following summarises other relevant legislation which might be relevant where a PHV driver encounters a problem in their daily activities. PHV drivers should however not view the inclusion of these provisions in the Abstract of the Laws as an encouragement to take the law into their own hands.

It should also be stressed that where a passenger refuses to pay the agreed fare for the journey, the appropriate course of action is to make a call and await the arrival of the police as it is not permissible for a PHV driver to lock a passenger in a PHV against

their will. Anyone who behaves in this manner may be committing the offence of false imprisonment.

False imprisonment is an offence at common law punishable by fine and imprisonment at the discretion of the court. False imprisonment consists in the unlawful and intentional or reckless restraint of a victim's freedom of movement from a particular place.

Note also that wrongful arrest may render the person arresting liable for a civil claim.

Where a person dishonestly obtains services (for example, hiring a PHV) by deception, he is guilty of an offence punishable by 2 years imprisonment and unlimited amount of fine or upon summary conviction, to 6 months imprisonment or a fine of up to £1000 (under s3 and 5 of the Theft Act 1978).

A person who knows that payment on the spot for a service done is required of him but dishonestly makes off without payment, intending never to pay, is guilty of an offence punishable by 2 years imprisonment and unlimited amount of fine or upon summary conviction, to 6 months imprisonment or a fine of up to £1000 (under s3 of the Theft Act 1978).

Any person who without lawful excuse destroys or damages property belonging to another intending to do so or being reckless as to the likely consequences of his actions commits an offence punishable by an unlimited amount of fine and imprisonment of up to 10 years (Criminal Damage Act 1971).

There is power for the court to award appropriate compensation to any individual in cases where they have had their property destroyed or where a passenger makes off without paying the required fare.

15. Provisions to ensure that a PHV driver must carry assistance dogs (s170, 171 and 173 Equality Act 2010; Regulation 2 Display of Exemption Certificate Regulations 2003 (as amended))

PHV drivers must allow assistance dogs to be carried in their vehicle and it is an offence under s170 of the Equality Act to refuse to carry out a booking that was accepted by the operator where:

- the booking was made by or behalf of a disabled person, or a person who wishes a disabled person to accompany him; and
- the reason for the failure/refusal is that the disabled person is accompanied by his 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.

It is however possible for a PHV driver to apply to TfL for a certificate of exemption from this requirement under the Equality Act s171 but this is based on medical grounds.

If such a certificate is granted, it must be displayed in accordance with Regulation 2 of the Display of Exemption Certificate Regulations 2003.

Religion does not constitute an exemption under s171 of the Equality Act to refuse to carry an assistance dog under a booking accepted by a PHV operator.

16. Touting (Criminal Justice and Public Order Act 1994 s167))

Touting is regarded as a serious offence by the Licensing Authority and by virtue of the Criminal Justice and Public Order Act 1994 (Section 167), touting is indeed a criminal offence. Since December 2003, touting has been a recordable offence which means an offender can be fingerprinted and his DNA sample taken.

The Licensing Authority will normally consider revoking any existing PHV driver's licence where it has evidence that the driver has been convicted of or cautioned for a touting offence.

17. Vehicle licensing – related provisions

The following provisions are applicable to drivers who own their vehicles, vehicle owners and operators of PHV businesses.

1. The Licensing Authority will issue two discs for a vehicle that is licensed as a PHV in order that the vehicle is identified as a PHV. Failure to display a disc is an offence punishable on summary conviction by a fine of up to level 2. The disc consists of a central panel on a coloured surround. Both parts must be displayed.

2. Type

There are no purpose-built or purpose-designed PHVs; they can come in all shapes and sizes and there is no normal or average vehicle. However, a vehicle must be constructed or adapted to seat no more than 9 passengers (including the driver).

To be licensed as a PHV vehicle, the vehicle:

- has to be suitable in type, size and design for use as a PHV;
- must satisfy TfL that it is safe and comfortable and in a suitable mechanical condition for use as a PHV;

- must meet any further requirements which TfL considers fit (including vehicle type, provision of test certificates, vehicle licence, availability of luggage space, steering wheel must be on the right hand or off-side of the vehicle); and
- must not be of a design and appearance which might lead any person to believe that the vehicle is a London cab.

3. Testing (s9 1998 Act)

Before being issued a vehicle licence, TfL will conduct a test of a vehicle to ascertain its suitability as a PHV. Also TfL has a power to inspect and test vehicles that are licensed as PHVs.

Any constable or Authorised Officer of TfL can inspect and test a London PHV. If following an inspection or test, a constable or an Authorised Officer is not satisfied as to the fitness of the vehicle, the constable or Authorised Officer can serve notice on the owner requiring such vehicle to be presented for further inspection and testing. It is also possible to suspend the vehicle's licence in these circumstances.

4. Transfer of Private Hire Vehicles (s8(4) 1998 Act)

If ownership of a London PHV changes, the previous owner must notify TfL of this change together with the name and address of the new owner within 14 days. A person who fails to notify TfL as stipulated above is guilty of an offence and liable on summary conviction to a fine up to level 3. It is also necessary to comply with the DVLA provisions regarding the transfer of ownership of vehicles.

5. Suspension and Revocation of Vehicle Licence (s9 and 16 1998 Act)

As with a PHV driver's licence, TfL can suspend or revoke a London PHV licence for "any reasonable cause" including but not limited to the Licensing Authority being no longer satisfied that the vehicle is fit for use as a PHV and where the owner has failed to comply with any condition of the licence or any other obligation imposed on him.

A PHV owner can appeal the decision of the Licensing Authority to refuse, suspend or revoke a PHV vehicle licence in the Magistrates' Court.

A suspension or revocation of a vehicle licence can be with immediate effect where TfL believes it is in the interest of public safety to do so.

