Trinity Term
[2025] UKSC 31
On appeal from: [2024] EWCA Civ 802

JUDGMENT

D.E.L.T.A. Merseyside Limited and another (Respondents) *v* Uber Britannia Limited (Appellant)

before

Lord Reed, President
Lord Briggs
Lord Leggatt
Lord Stephens
Lady Simler

JUDGMENT GIVEN ON
29 July 2025

Heard on 2 July 2025

Appellant
Tim Ward KC
Ranjit Bhose KC
(Instructed by Hogan Lovells International LLP (London))

First Respondent
Philip Kolvin KC
Jen Coyne
(Instructed by Aaron & Partners LLP (Chester))

Second Respondent
Gerald Gouriet KC
Michael Feeney
(Instructed by Capital Law Ltd (Cardiff))

LORD BRIGGS (with whom Lord Reed, Lord Leggatt, Lord Stephens and Lady Simler agree):

1. This appeal raises a point of construction of the regulatory regime for the provision of private hire vehicles ("PHVs") outside London and Plymouth laid down in Part II of the Local Government (Miscellaneous Provisions) Act 1976 as amended ("the 1976 Act"). PHVs differ from licensed taxicabs (which may ply for hire) by having to be pre-booked by a customer through a licensed operator. The issue in the appeal is whether the 1976 Act makes it unlawful for an operator to accept a booking for a PHV otherwise than by entering as principal into an immediate contract of hire with the passenger to provide the journey which is the subject of the booking.

2. The appellant, Uber Britannia Ltd ("UBL"), sought and obtained a declaration to that effect from Foster J in the High Court [2023] EWHC 1975 (KB); [2024] 1 WLR 1350, but the Court of Appeal (Lewison, Lewis and Elizabeth Laing LJJ) took the opposite view in judgments handed down on 15 July 2024 [2024] EWCA Civ 802; [2025] 1 WLR 245. UBL now appeals to this court, seeking to restore the substance of the relief which it had obtained from Foster J.

3. The issue arises in this way. Prior to 1976, when the provision of carriage by PHVs to the public was largely unregulated, save that they could not ply for hire, there was a variety of ways in which a PHV could be booked, not all of which involved the person accepting the booking undertaking any contractual liability to provide the journey the subject of the booking. I will call that person the operator, although the origin of that term may lie in the 1976 Act. The operator might, for example, offer to act as the agent of the PHV driver, incurring no personal liability ("the agency model"), or it might offer a service limited to using best endeavours to find an available driver, leaving any contract of hire to be made between the driver and the passenger at the start of the journey ("the intermediary model").

4. PHV services provided within London are regulated by a later, differently worded but similar scheme under the Private Vehicles (London) Act 1998 ("the 1998 Act"). There is a separate regime for Plymouth, but it is of no relevance to this appeal. From the inception of its business as a PHV operator until 2022, the Uber group used a version of the agency model, the London operator being Uber London Ltd and UBL being the operator elsewhere in England and Wales.

5. In late 2021, in *R (United Trade Action Group Ltd) v Transport for London* [2021] EWHC 3290 (Admin); [2022] 1WLR 2043 ("the *TFL* case") (proceedings in which Uber London Ltd was a party), the Divisional Court made a declaration that the 1998 Act had the effect for which UBL contend in these proceedings, making it unlawful for an operator of PHVs in London to accept bookings otherwise than by entering as principal into a

contract of hire to provide the passenger with the journey which is the subject of the booking. In so doing the Divisional Court expressed itself to be following dicta to that effect by Lord Leggatt JSC in *Uber BV v Aslam* [2021] UKSC 5; [2021] ICR 657, para 47.

6. Since the Uber group operated a PHV service both inside and outside London, with effect from mid-March 2022 it changed its business model so that Uber London Ltd conformed with that declaration in London, and UBL conformed with it outside London. I will call that "the hire contract model".

7. But other operators of PHVs outside London continued to use models which involved accepting bookings otherwise than under the hire contract model. For example the respondents D.E.L.T.A. Merseyside Ltd ("D.E.L.T.A.") and Veezu Holdings Ltd ("Veezu") both accept bookings which either involve no immediate hire contract at all, that being left to be made between the driver and the passenger, or which engage the operator in the making of a hire contract only as agent for the driver, ie the intermediary and agency models already referred to above.

8. UBL brought these proceedings, in effect, to compel all PHV operators outside London, licensed under the 1976 Act, to adopt the hire contract model when accepting bookings, taking the position that, despite modest differences in the statutory language, both the 1998 Act and the 1976 Act impose the same prohibition. The claim was originally made against Sefton Metropolitan Borough Council ("Sefton"), one of the many local licensing authorities under the 1976 Act. Sefton took a neutral stance but four additional parties were joined as interveners to enable an adversarial hearing, of which the respondents, D.E.L.T.A. and Veezu, have stayed the course all the way to the hearing in this court. As operators of PHVs which use models other than the hire contract model when accepting bookings, and wish to continue to do so, they have a commercial interest in vigorously opposing UBL's claim, which they have done.

9. It might have been tempting for the parties' counsel to argue their cases by reference to a minute parallel comparison between the 1998 and 1976 Acts, starting with the prohibition, identified by the Divisional Court, in the 1998 Act and asking whether differences between the statutory language in the two Acts justified a different conclusion about the 1976 Act. But counsel, Mr Tim Ward KC for UBL, Mr Philip Kolvin KC for D.E.L.T.A. and Mr Gerald Gouriet KC for Veezu, sensibly and rightly eschewed any such approach, it being common ground that Part II of the 1976 Act falls to be construed on its own, as a whole, against its relevant contextual background.

10. Counsel were plainly right to adopt this approach, for at least the following reasons. First, it corresponds to what is now the very well-settled approach which must be taken to statutory construction. Secondly, the 1976 Act is much the earlier of the two,

so that the 1998 Act cannot be taken as some kind of prototype which the 1976 Act might be thought to have been designed to follow. Thirdly, the decision of the Divisional Court on the 1998 Act is not binding on this court (nor was it on the Court of Appeal) even if the two Acts had been identically worded, which they are not. Nothing which follows is intended to express any view about the correctness or otherwise of the decision of the Divisional Court in the *TFL* case, one way or the other.

11. I shall begin with a summary outline of Part II of the 1976 Act, so as to be able to set the key provisions into the context of this Part, read as a whole. It provides what Mr Kolvin aptly calls a scheme of regulation by licensing, imposing what is often called a triple lock: that is, licensing of the vehicle as a PHV, licensing of the driver as a PHV driver and licensing of the PHV operator as such. The 1976 Act is not imposed upon local authorities. Rather, by section 45, district councils may resolve that the provisions of Part II come into force in their area on a day stated in the resolution. In fact, all local licensing authorities outside London, apart from Plymouth, have done so.

12. Section 46 provides, in summary, (i) that no person may use (as proprietor), or permit to be used, a PHV in the relevant controlled area unless the PHV has a licence; (ii) that no person may drive a PHV in a controlled area without being licensed to do so and (iii) that no person may operate a PHV in a controlled area without having an operator's licence. Any contravention, ie any unlicensed use, driving or operation of a PHV in the controlled area is an offence. The 1976 Act then contains detailed provisions for the obtaining of each type of licence, on which nothing turns for present purposes. Sections 55 and 56 (together with sections beginning with section 55A in between) deal with licensing and conduct of operators. They are the most important provisions for the purposes of this appeal, to which I shall return. Section 59 lays down qualification requirements for drivers.

13. In tandem with making the unlicensed use, driving and operation of a PHV an offence, sections 60 to 62 provide in succession for vehicle, driver and operator licences, and power for the licensing authority to suspend, revoke or refuse to renew the licence. In relation to operators' licences, the grounds for so doing include the commission of an offence under, or failure to comply with, the provisions of Part II, conduct rendering the operator unfit to hold an operator's licence, material change in the operator's circumstances since the licence was granted and "any other reasonable cause". The licensing authority may also grant licences on terms: see section 55(3) in relation to operators' licences. These may include, for example, a requirement for the operator to maintain a complaints process.

14. The concepts of using and driving a PHV need no elaboration, but the concept of "operating" and "operator" are the subject of precise statutory definition which is narrower than what the word "operate" would ordinarily connote: see *Milton Keynes Council v Skyline Taxis and Private Hire Ltd* [2017] EWHC 2794 (Admin); [2018] PTSR

894, para 8, and the authorities cited there by Hickinbottom LJ. Under the definition given by section 80:

> "'operate' means in the course of business to make provision for the invitation or acceptance of bookings for a private hire vehicle".

Thus, whatever else an operator may choose to do (such as own and use a fleet of PHVs), the activity for which he must have an operator's licence and comply with the statutory obligations of an operator are, and are only, the making provision in the course of business for the invitation and acceptance of bookings for PHVs. That definition of "operate" plays an important part in construing sections 55 to 56, to which I now return.

15. Section 55 requires a licensing authority to grant a licence "to operate private hire vehicles" to any applicant provided they are satisfied that the applicant is a fit and proper person to hold an operator's licence and (if an individual) not subject to disqualification from operating a PHV on immigration grounds. Section 55(2) provides that the operator's licence is to be for five years or such shorter period as the district council think appropriate. As already noted, section 55(3) enables the council to grant an operator's licence to which are attached such conditions as they consider reasonably necessary. Subsection (4) gives an applicant aggrieved by a refusal to grant an operator's licence, or by the imposition of terms, a right of appeal to a magistrates' court.

16. Section 55 uses on several occasions the phrase "operate a private hire vehicle" which, if read on its own, might suggest a wider field of licensed conduct than just making provision for the invitation or acceptance of bookings. But it is clear (and not in dispute) that the concept of operating a PHV, as used in the 1976 Act, is restricted to the booking activity.

17. Section 56 lies at the heart of the present dispute. It is worth setting out in full:

> "**Operators of private hire vehicles.**
>
> (1) For the purposes of this Part of this Act every contract for the hire of a private hire vehicle licensed under this Part of this Act shall be deemed to be made with the operator who accepted the booking for that vehicle whether or not he himself provided the vehicle.

> (2) Every person to whom a licence in force under section 55 of this Act has been granted by a district council shall keep a record in such form as the council may, by condition attached to the grant of the licence, prescribe and shall enter therein, before the commencement of each journey, such particulars of every booking of a private hire vehicle invited or accepted by him, whether by accepting the same from the hirer or by undertaking it at the request of another operator, as the district council may by condition prescribe and shall produce such record on request to any authorised officer of the council or to any constable for inspection.
>
> (3) Every person to whom a licence in force under section 55 of this Act has been granted by a district council shall keep such records as the council may, by conditions attached to the grant of the licence, prescribe of the particulars of any private hire vehicle operated by him and shall produce the same on request to any authorised officer of the council or to any constable for inspection.
>
> (4) A person to whom a licence in force under section 55 of this Act has been granted by a district council shall produce the licence on request to any authorised officer of the council or any constable for inspection.
>
> (5) If any person without reasonable excuse contravenes the provisions of this section, he shall be guilty of an offence."

18. A few preliminary points may usefully be made at this stage about section 56, leaving for later treatment the important deeming provision in subsection (1). The first is that the record keeping obligations imposed by subsections (2) and (3), and the requirement to produce the operator's licence on request in subsection (4), are the only express statutory requirements imposed upon a licensed operator, as operator. Of course, operators who happen to be proprietors of one or more PHVs are subject to further statutory obligations, such as to have their PHVs licensed and to use only licensed drivers, but those are not obligations imposed upon them as operators. Furthermore, further obligations may be imposed by licensing authorities upon operators by attaching conditions to operators' licences under section 55(3), but this appeal is not about them. UBL's case is that the prohibition on accepting bookings otherwise than by using the hire contract model is imposed by the 1976 Act itself.

19. Secondly, section 56(3) again uses the phrase "private hire vehicle operated by him" rather like section 55. But it must be governed by the definition of "operate", so as to mean every PHV for the use of which the operator makes provision for the invitation or acceptance of bookings. A similar observation applies to the phrase "operate any vehicle" in section 46(1)(d) and (e).

20. Thirdly, section 56(2) expressly contemplates, as part of the 1976 Act as originally enacted, that an operator may as part of its booking function encapsulated within the definition of "operate" act in effect as a sub-operator, by accepting a booking which another operator has accepted direct from an intending hirer, so as to incur the record-keeping obligation in relation to that booking.

21. The scope for sub-operation of that kind is greatly enlarged by section 55A, introduced into the 1976 Act by the Deregulation Act 2015. The original recognition of what I will call sub-operating in section 56 was (or was perceived to be) limited to arrangements between operators licensed in the same controlled licensing area. But section 55A permitted it between operators in different areas governed by the 1976 Act, and between those areas and both London and Scotland, subject to the criminal sanction specified in section 55B, where the driver or the vehicle which carries out the hire is unlicensed.

22. Section 55A uses, both in its heading and its text, the description of what I have labelled sub-operating as "sub-contracting". Furthermore, section 55A(2) speaks of "whether or not sub-contracting is permitted by the contract between the person licensed under section 55 who accepted the booking and the person who made the booking". UBL submits that this shows that accepting a booking is statutorily recognised as an essentially contractual process, and that its minimum content is that the operator undertakes primary liability, as principal, to provide the journey the subject matter of the booking. And by referring to "the contract" in the passage quoted above, the 1976 Act assumes, so it is submitted, that there will always be such a contract by means of the compliant acceptance of the booking by the first operator.

23. I will return to the general force and effect of this submission in due course, but it is to be noted at the outset that "sub-contract" is not used in section 55A in its ordinary legal meaning, since section 55A(4) assumes that a compliant "sub-contract" may in fact be made between the same legal person on both sides, albeit licensed as a PHV operator both in a controlled district under the 1976 Act and in London.

24. The foregoing analysis of the 1976 Act is provided for two purposes. First it shows what is not to be found, in terms of any attempt in the Act itself to regulate how a licensed operator may deal with persons seeking bookings, apart from keeping records of them. Leaving aside section 56(1), the 1976 Act is, quite simply, silent about that, although of

course local licence conditions may do so if appropriate. Secondly it provides what may be termed "Act as a whole" context for construing section 56(1) which is the only provision which may, at least arguably, do so.

25. The remaining relevant context, as already noted, is that when the 1976 Act was passed, there already existed on the ground a PHV industry in which bookings were accepted using a range of different models, three of which I have already summarised and labelled as agency, intermediary and hire contract. For what it is worth, that varied pattern appears to have continued since 1976, at least outside London, without anyone suggesting before these proceedings that two of them (agency and intermediary) had been rendered unlawful by the 1976 Act.

26. Section 56(1) is clearly and expressly a deeming provision. It manifestly does not impose a regulatory requirement upon the operator to accept bookings only by entering as principal into a contract of hire with the applicant, so as to undertake liability to provide the journey as soon as a booking is made. Had it been Parliament's wish to do so, it could so easily have provided in terms that a booking for a PHV may only be accepted by an operator by entering as principal into a contract of hire for the provision of a vehicle for the requested journey.

27. On the contrary, section 56(1) achieves the objective of fixing the operator with the liability to fulfil the hire by a deeming provision to that effect, triggered if and when a hire contract is actually made, regardless of how, when and between whom. It is therefore effective for that purpose in any of the following situations, all of which may be supposed to have been widespread in the PHV industry when the Act was passed:

(i) The operator uses the agency model, makes an immediate contract of hire with the applicant, but without personal liability at common law. Then section 56(1) deems the operator to be liable.

(ii) The operator uses the intermediary model, undertaking only to use best endeavours to provide a PHV at the requested time and place, and the hire contract is then made between driver and passenger (who may not have been the applicant for the booking, which may have been the owner of the hotel, pub, hospital or sports hall from which the passenger needed transport). Again, section 56(1) makes the operator liable on that hire contract, once made.

(iii) The operator passes the booking to a sub-operator, which either makes a direct contract of hire, or uses its own agency or intermediary model. Again, section 56(1) makes the first operator directly liable on the hire contract (if any) that ensues from the sub-operator's booking activity.

28. The one scenario where the deeming provision in section 56(1) has no role to fulfil is where the first operator actually does accept the booking by making a contract of hire with the applicant, as principal rather than as agent. Then the first operator is liable to fulfil the hire contract at common law, and the assumed statutory purpose of making the first operator liable for the fulfilment of the hire needs no statutory backing at all. And it would make no difference to the first operator's common law liability to fulfil the hire that it had sub-contracted the hire to be performed by a second operator. Yet that is precisely the hire contract model which UBL submit is actually mandated by the 1976 Act as the only permissible way for the operator to accept the booking. Put shortly, UBL's construction would render section 56(1) completely otiose.

29. It might have been suggested that the opening words of section 56(1) "For the purposes of this Part of this Act" meant that the deeming provision only has effect for some regulatory purpose, rather than by actually making the operator liable for the performance of the hire. Had that submission been made, then it might have been necessary to apply the principles about the construction of deeming provisions laid down by this court in *Fowler v Revenue and Customs Comrs* [2020] UKSC 22; [2020] 1 WLR 2227, para 27. But counsel were united in submitting that section 56(1) created what they called a real-world liability on the operator, wherever the deeming provision applied, giving rise to contractual remedies.

30. In my judgment therefore, section 56(1) only makes sense on the basis that it was assumed that the then existing range of models for the acceptance of bookings for PHVs was permitted and expected to continue, so that the deeming provision served as a catch-all way of ensuring operator liability for the performance of hires resulting from its acceptance of bookings.

31. The sub-contracting argument sought to be constructed upon section 55A is that it assumes that the first operator will always have entered as principal into a contract of hire by accepting a booking. But it comes nowhere near supporting UBL's case, for the following reasons:

(i) Sub-contracting is not used in section 55A in its normal legal sense: see above.

(ii) Section 55A was added by way of de-regulation, and cannot be used as a basis of belatedly discovering an implied restriction or prohibition in the 1976 Act in its original form. It is (subject to the criminal sanction in section 55B) essentially permissive, not restrictive in its form and effect.

(iii) The supposed prohibition is said to apply to every acceptance of a booking, whether or not sub-operating or sub-contracting is involved, but section 55A only therefore covers a very small part of the relevant ground.

(iv) The phrase "the contract" in section 55A(2) need not necessarily point to a contract of hire. It may well be that an operator which uses the intermediary model makes some form of contract with the applicant for the booking, such as to use best endeavours to deliver a PHV to the requested place at the requested time. Subsection (2) is simply designed to ensure that section 55A operates regardless of the private arrangements between the applicant and the first operator, so as to ensure that its deregulatory effect is not undermined. In a case where those arrangements did prohibit sub-operating (or sub-contracting), an infringement might nonetheless give rise to civil liability for breach of contract, but not to a criminal offence.

32. It might be wondered, if the respondents concede that section 56(1) creates a real operator liability, why the present dispute makes any practical difference for PHV operators, or for their customers or for the drivers of the PHVs. The answer is that section 56(1) does not respond to a situation where an operator uses the intermediary model, then fails to deliver a PHV to the pre-booked location, on time or at all, so that no hire contract ever follows from the acceptance of the booking. At the heart of UBL's case (and Foster J's judgment) is the proposition that its construction of the 1976 Act better serves its public protection purpose than that of the Court of Appeal. The example of a solitary woman making a booking and being left alone on a dark night when the operator failed to deliver a PHV demonstrates that this point is by no means without substance.

33. If there was a finely balanced issue about a real ambiguity between two competing constructions, then the submission that one clearly better served the purpose of the legislative scheme than the other may carry real weight. But there is, in my judgment, no such competition, and it is by no means clear that the hire contract model for which UBL contends as the only permitted way of an operator accepting a booking better serves the interests of passengers, drivers or operators overall, let alone any more general public safety purpose, although it might do in particular situations, such as that just described. Quite apart from anything else, such a restriction upon what would otherwise be the freedom of operators, drivers and passengers to choose how and when (and between whom) to contract for the hire of a PHV, would require cogent justification and clear expression in the statutory language, and all the more so if sought to be interpreted as a restriction imposed merely by implication, in a statutory scheme that seeks to regulate by licensing, rather than by the imposition of restraints or requirements as to how contracts are to be made for the provision of the regulated services.

34. For that is what UBL seeks to do. It submits that the definition of "operate", read with the definition of PHV, connotes by implication that the acceptance of a booking

means, and means only, the acceptance of a contractual obligation to fulfil the booking. Nothing else would, it is said, be compatible with the licensing regime. In my view that is little better than pure assertion. It is clear that, at common law, PHV operators (including UBL before March 2022) have for a very long time been accepting bookings otherwise than on the basis of an immediate (or any) liability for the fulfilment of the journey. Prior to 1976, the use of that model imposed no liability to fulfil the hire upon the operator at all. Since then it has, by reason of section 56(1) in cases where they did not use the hire contract model.

35. Faced with the apparent lack of need for section 56(1) on its construction of the meaning of acceptance of booking, UBL submitted that it was just for the avoidance of doubt. I have sought to illustrate why section 56(1) performs a real and useful purpose, way beyond the avoidance of doubt, where operators continue to use the agency or intermediary models, and why it would be simply otiose if UBL's construction were correct.

36. In my judgment the short answer to UBL's appeal may be summarised thus:

(i) There is nothing expressly provided in the 1976 Act which can be interpreted as imposing, or even supporting, the prohibition for which UBL contends.

(ii) "Accepting a booking" does not, in context, mean only by contracting as principal to perform the hire.

(iii) There is nothing in the Act or in its purposes from which such a prohibition could be implied, and the Act plainly seeks to achieve public safety by other means through licensing.

(iv) The only provision in the Act which does impose contractual consequences, section 56(1), is wholly inimical to UBL's construction, and would be otiose if UBL were correct.

37. For those reasons, which do not differ in substance from those of the Court of Appeal, I would dismiss this appeal.