



Press Summary

12 August 2026

Augustine (Appellant) v Data Cars Limited (Respondent)

[2026] UKSC 30

On appeal from: [2025] EWCA Civ 658

Justices: Lord Lloyd-Jones, Lord Hamblen, Lord Leggatt, Lord Richards and Lady Simler

Background to the Appeal

This appeal concerns the scope of the protection from unlawful discrimination afforded to part-time workers under the Part Time Workers (Prevention of Less Favourable Treatment) Regulations 2000 (“the 2000 Regulations”).

Regulation 5(1) of the 2000 Regulations gives a part-time worker the right not to be treated less favourably than the employer treats a comparable full-time worker. By regulation 5(2), this right applies “only if (a) the treatment is on the ground that the worker is a part-time worker; and (b) the treatment is not justified on objective grounds.”

The 2000 Regulations were made under section 19 of the Employment Relations Act 1999 (“the 1999 Act”) to implement Directive 97/81/EC of 15 December 1997 (“the Part-time Work Directive”), which, alongside directive 98/23/EC, required member states of the European Union to give effect to the framework agreement on part-time work concluded on 6 June 1997 (“the Framework Agreement”). Clause 4.1 of the Framework Agreement provides that “part-time workers shall not be treated in a less favourable manner than comparable full-time workers solely because they work part time unless different treatment is justified on objective grounds”.

The question is whether the right applies only where the part-time worker establishes that part-time status was the sole ground or reason for the less favourable treatment in question, rather than simply an effective cause of it.

The appellant, Warren Augustine, was a private hire driver who worked for the respondent, a small business called Data Cars Limited, as an employee in 2016. He worked fewer hours per week than typical full-time drivers. All drivers were charged a weekly “circuit fee” at a fixed rate to access the respondent’s booking system. Mr Augustine claimed that the application of

the fixed circuit fee was less favourable treatment of him as a part-time driver contrary to regulation 5 because it had the effect that he paid a higher fee per hour to drive than a comparable full-time driver.

The employment tribunal considered that this treatment was not on the ground that Mr Augustine was a part-time worker. It found that he had been charged a circuit fee because it was necessary to enable the respondent to earn revenue from its business, not because he worked fewer hours than some of his colleague. Even if there was less favourable treatment on the ground of part-time worker status, the tribunal considered that the claim would fail because the circuit fee was not charged on the “sole ground” that he was a part-time worker.

Both the Employment Appeal Tribunal and the majority in the Court of Appeal disagreed that Mr Augustine’s part-time status was not, at least, a reason for the less favourable treatment. Plainly it was. Both would also have concluded that it was an error to ask whether part-time status was the sole ground for the treatment but considered themselves bound to follow a decision to the contrary by the Inner House of the Court of Session in Scotland in *McMenemy v Capita Business Services Ltd* [2007] CSIH 25; [2007] IRLR 400 (“*McMenemy*”). The appellant now appeals to the Supreme Court.

Judgment

The Supreme Court unanimously allows the appeal. Lady Simler gives the Judgment of the Court.

Reasons for the Judgment

By the time the 2000 Regulations were introduced, the meaning of the test imposed by the phrase “on the ground that” (and “on the grounds of”) in anti-discrimination legislation was clear and authoritatively established: if the prohibited ground had a significant or substantial influence on or was an effective cause of the impugned treatment or outcome, direct discrimination would be made out [38]-[39]. The prohibited ground did not have to be the main, still less the only, ground or reason for the treatment [44].

Decisions of the European Court of Justice (“the CJEU”) on which the parties relied concerning the interpretation and application of the Part-time Work Directive and clause 4.1 do not suggest an approach which attempts to isolate a sole cause for the differential treatment. Nor do they engage with the argument that part-time status must be the sole cause of the less favourable treatment alleged [45]-[54]. As for domestic decisions referred to by the parties, the decision in *McMenemy* and that of the Employment Appeal Tribunal in *Sharma v Manchester City Council* [2008] ICR 623 (“*Sharma*”) show the two conflicting approaches [55].

There are two possibilities as to the meaning of the words “solely because” in clause 4.1 of the Framework Agreement. The first is that they were intended to rule out cases involving multiple causes for differential treatment. The second is that they were simply making clear that for the right to protection to arise there must be adverse treatment on the ground of part-time status, excluding claims based on treatment which is effectively caused by independent reasons, part-time status merely being a background factor or happenstance [62].

On the one hand, these are strong words, not used in other directives addressing unlawful discrimination in employment. However, the point has less force than it might otherwise have because the Framework Agreement is a negotiated instrument, not the product of an ordinary legislative process [63]-[64].

The extent of protection afforded to part-time workers is nevertheless carefully calibrated and its broad protective purpose cannot be taken too far [65].

On the other hand, the court was not shown any CJEU judgment addressing the meaning and effect of the words “solely because” [66]-[67]. Nor does the Part Time Work Convention 1994 (International Labour Organisation (“ILO”) Convention No 175) and the accompanying ILO Recommendation 182 provide much assistance [68]-[70].

Even if the test for causation in clause 4.1 of the Framework Agreement is the narrow test contended for by the respondent, it is common ground that the Secretary of State could, in the 2000 Regulations, have relaxed the test [72]. There was nothing to prevent the United Kingdom from providing protection which goes beyond those minimum standards [74]. Moreover, section 19(1) of the 1999 Act is a broad enabling power not limited to implementing the terms of the Part-time Work Directive [75].

In these circumstances, it is striking that the Secretary of State did not adopt the “solely because” language, instead adopting language from pre-existing legislation which had been the subject of authoritative judicial treatment. The obvious implication is that this was deliberate and that the “effective cause” jurisprudence was to be followed [76]. The words “solely because” do not appear in regulation 5(2)(a) and the word “only” in regulation 5(2) does not qualify the necessary causal link between the treatment and the status. Nor does the use of a singular “ground” support any particular causation test [79]-[81]. It reflects that regulation 5(2)(a) is directed at a single protected ground [82]. To require that the claimant’s status as a part-time worker be an effective, even if not the sole, cause of the less favourable treatment is consistent with the language of regulation 5(2) and its protective purpose. To hold otherwise is inconsistent with the standard approach to questions of causation in discrimination cases and risks uncertainty and unreasonable outcomes [85]. The existence of other causes of the treatment may be relevant to whether the treatment is justified or to the amount of compensation awarded. But it does not mean that the right under regulation 5(1) does not arise [86].

References in square brackets are to paragraphs in the judgment.

NOTE: This summary is provided to assist in understanding the Court’s decision. It does not form part of the reasons for the decision. The full judgment of the Court is the only authoritative document. Judgments are public documents and are available at: [Decided cases - The Supreme Court](#)