STATUTORY INSTRUMENTS

2018 No. 574

The Silvertown Tunnel Order 2018

PART 6

MISCELLANEOUS AND GENERAL

Defence to proceedings in respect of statutory nuisance

63.—(1) Where proceedings are brought under section 82(1) (summary proceedings by person aggrieved by statutory nuisance) of the Environmental Protection Act 1990 **M1** in relation to a nuisance falling within paragraph (g) of section 79(1) (noise emitted from premises so as to be prejudicial to health or a nuisance) of that Act no order is to be made, and no fine may be imposed, under section 82(2) of that Act if—

    (a) the defendant shows that the nuisance—

        (i) relates to premises used by TfL for the purposes of or in connection with the construction or maintenance of the authorised development and that the nuisance is attributable to the carrying out of the authorised development in accordance with a notice served under section 60 (control of noise on construction site), or a consent given under section 61 (prior consent for work on construction site) of the Control of Pollution Act 1974 **M2**;

        (ii) is a consequence of the construction or maintenance of the authorised development and that it cannot reasonably be avoided; or

    (b) the defendant shows that the nuisance is a consequence of the use of the authorised development and that it cannot reasonably be avoided.

(2) Section 61(9) of the Control of Pollution Act 1974 does not apply where the consent relates to the use of premises by TfL for the purposes of or in connection with the construction or maintenance of the authorised development.

Marginal Citations
M1 1990 c. 43; there are amendments that are not relevant to this Order.
M2 1974 c. 40. Sections 61(9) and 65(8) were amended by section 162 of, and paragraph 15 of Schedule 3 to, the Environmental Protection Act 1990 (c. 25). There are other amendments to the 1974 Act which are not relevant to this Order.