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STATUTORY INSTRUMENTS

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**2021 No. 907**

**The London Luton Airport Passenger  
Transit System Order 2021**

**PART 2**

**OPERATION OF THE PASSENGER TRANSIT SYSTEM**

**Defence to proceedings in respect of statutory nuisance**

**3.—**(1) Where proceedings are brought under section 82(1) (summary proceedings by persons aggrieved by statutory nuisances) of the Environmental Protection Act 1990<sup>(1)</sup> 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 may be made, and no fine may be imposed, under section 82(2)<sup>(2)</sup> of that Act if the defendant shows that the nuisance is a consequence of the operation or maintenance of the passenger transit system and that it cannot reasonably be avoided.

(2) Nothing in this article is to be construed as excluding a defence of statutory authority otherwise available under or by virtue of any enactment.

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<sup>(1)</sup> 1990 c. 43. Section 82(1) was amended by paragraph 6 of Schedule 17 to the Environment Act 1995 (c. 25).

<sup>(2)</sup> Section 82(2) was amended by section 5(2) of the Noise and Statutory Nuisance Act 1993 (c. 40) and paragraph 6 of Schedule 17 to the Environment Act 1995.