Temporary Exemption Notice

- in lieu of a Licence for a House in Multiple Occupation

-

Housing Act 2004 Section 62

To:

Of:

Take notice that the *(the council)* In relation to :

, which is a House in Multiple Occupation (HMO) within the area for which it is the local housing authority; and has determined that the best course of action in relation to this Premises is to issue a Temporary Exemption Notice in relation to the requirements of this HMO to be licensed because :

- A management order is not in force in relation to the HMO <and>
- An application for a Temporary Exemption Notice in relation to the property has been made by[1] a / the manager / Owner / person in control of the HMO notifying the Council that it is intended to take certain steps to ensure that the property will no longer be required to be licensed as :
  - The property will shortly be sold for redevelopment <with vacant possession>
  - The property will shortly no longer be multi-occupied
  - The structure of the property will shortly be changed such that it no longer meets the requirements to be licensed
  - The occupants have all been issued with the correct notices seeking possession
- The Residential Property Tribunal has made the decision that < on ……date > <as proposed by the council ><in the following terms:> < and has stated that> a Temporary Exemption Notice should be issued>

This Temporary Exemption Notice comes into force upon the date it is issued and is valid <Until ><for >……[2]>.

Dated…….. Signed……..
(The person authorised for this purpose)

** Immediately upon the expiry of this Notice (or a subsequent Temporary Exemption Notice), the above property must either be in such a state of occupation that a license is no longer required, or else a license must be applied for forthwith; by a suitable person to be the manager of the property.

1 The applicant should be the person who would apply for a license – if circumstances were such that a license was to be applied for
2 maximum period for operation is 3 months from the date of coming into effect with a further extension of no more than another 3 months in exceptional circumstances (upon individual application) – **Statutory Maximum of 6 months in total**

Notes

Appeal
A person whose application for a Temporary Exemption Notice is refused has the right of appeal against the decision to the Residential Property Tribunal (RPT) within 28 days of the service of the Order. *Sec 62(7) H Act 2004*

An appeal against the decision to refuse to issue or extend a Temporary Exemption Notice (TEN) may (amongst other things) relate to one or more the following reasons:
1) That one or more other persons, as an owner or owners of the premises, ought to
   i) Be offered the chance of managing the property; or
   ii) Be served with a Management Order
2) That the Council has unreasonably refused to accept the statements / evidence offered as to the imminent change in licensable state of the property.

(other notices, served upon the same property on or about the same time period may be taken into consideration by the RPT, as may reports received and evidence offered by other agencies / authorities who have an interest in the property or the occupants of the property or in the area in which the property exists)

Schedule 6 pt3 H Act 2004

Operative times and Effect
A Temporary Exemption Notice comes into effect when it is made for a period of up to 3 months, An extension to a TEN for an absolute maximum of another 3 months comes into effect on the date of expiry of the Primary TEN (Statutory maximum period for Exemption from Licensing of 6 months)
If an Extended TEN expires , and the property is still in a state which requires it to be licensed, a licence MUST be applied for immediately – failure to do so without a valid reason may result in prosecution for the management of a licensable House in Multiple Occupation without a valid licence, which could result in a fine of up to £20,000

Sec 62 (3 & 4) H Act 2004

Duties and Powers of the Local Authority
The Local authority has a duty to make an Interim Management Order :
   i) When a property which requires a license under part 2 or part 3 Housing Act 2004 does not have such a license and/ or there is no-one who may hold that license and no prospect of such a license holder becoming available in the foreseeable future
   ii) When a Temporary Exemption Notice expires or cannot be renewed / extended or is removed by either the Local Authority or the RPT and there is no-one who may hold that license and no prospect of such a license holder becoming available in the foreseeable future

Sec. 102(1)(a&b) Housing Act 2004

The Local Authority has the power to apply to the RPT for a Management Order if
   i) The making of a Management order is, in the opinion of the Local Authority, necessary for the protection of the health, safety or welfare of the occupiers or visitors to the property or others engaged in lawful activities in the vicinity of the property
   ii) The situation is such that the "Categories of Circumstances" prescribed by the appropriate national authority are satisfied by the property, it's owner or person in control, it's status or use or the area in which the property exists (as applicable)

The local authority must revoke a Management Order if they are satisfied that there is no longer a state of affairs that makes such an order necessary or in the case of an Interim Management Order, 12 months have passed since it came into force.

Sec. 102(2)(a&b) Housing Act 2004

Appeal times
The RPT may allow an appeal outside of the appeal times stated above if it is satisfied that there is good reason for the failure to appeal before the end of that period (and for any delay since then in applying for permission to appeal out of time) *Schedule 6 pt3 H Act 2004*

Withdrawal of appeal
The withdrawal of an appeal has the same effect as a decision by the RPT to confirm a decision made by the Council. *Schedule 1 pt3 H Act 2004*

Residential Property Tribunal – powers
The RPT may by order, Confirm, Reverse a decision in relation to a TEN or an application to extend a TEN and, when an appeal concerns other persons who should have received such notice , may to allow responsibility to be taken/a license to be held by any other such owner or responsible person or persons who is/are mentioned in the appeal

Schedule 6 pt3 para 30 H Act 2004

If an RPT revokes a TEN, and the property requires a license under part 2 or 3 of the Act, The RPT must direct one of the following actions:
   (a) Direct the Local Authority to issue a TEN that comes into force on such a date as the tribunal directs
   (b) Direct the Local Authority to grant a license to such a person and on such terms as they may direct
   (c) Direct the Local Authority to serve an Interim Management Order in respect of the property or part of it as the RPT may direct (regardless of the requirements of sec 102(9))

   The revocation of a such a Management Order at a later date by the RPT does not affect the validity of anything previously done in the pursuance of that order.

Sec. 62(9) H. Act 2004

E & OE – users of this notice are advised to check with their own legal advisors regarding suitability and/or accuracy as no specific warranty is offered by the vendor