

## **APPLICATION FOR A TEMPORARY EXEMPTION NOTICE SECTION 62: PART 2: HOUSING ACTING 2004**

The London Borough of Barnet (the Council) can serve a Temporary Exemption Notice (TEN) when the person having control of or managing a property which requires a licence, but does not have one, informs the Council that he/she intends to take particular steps to ensure that the property is no longer required to be licensed. Where a TEN is served, the property will not require a licence during the period for which the notice is in force.

If the Council receives a further notification, a second TEN can be given for 3 months after the date the first TEN ceases to be in force. The Council must consider that there are exceptional circumstances to justify a second notice.

In order to apply for a TEN, please complete the attached form.

If you require more space to answer the questions, please use additional sheets of paper and attach them securely to the form.

Please note that a separate application form is required for every property for which a TEN is being requested.

The Council cannot serve more than two TENs with respect to each property.

Should you have any queries about this, please contact the HMO Licensing Team at [hmos@barnet.gov.uk](mailto:hmos@barnet.gov.uk) or telephone 020 8359 5335.

### **Section 238 - Housing Act 2004: False or misleading information**

A person commits an offence if: -

- he/she supplies any information to the Council in connection with any of their functions under Parts 1-4 of the Housing Act 2004,
- the information is false or misleading, and
- he/she knows that it is false or misleading or is reckless as to whether it is false or misleading

a person commits an offence if: -

- he/she supplies information to another person which is false or misleading,
- he/she knows that it is false or misleading or is reckless as to whether it is false or misleading and

- he/she knows that the information is to be used for the purpose of supplying information to the Council in connection with any of their functions under Parts 1-4 of the Housing Act 2004

Please note therefore that it is a criminal offence to knowingly supply information, which is false or misleading or which is reckless as to whether it is false or misleading for the purposes of obtaining a Temporary Exemption Notice.

A person who commits an offence is liable on summary conviction, to a fine not exceeding level 5 on the standard scale (currently £5,000). "False or misleading" means false or misleading in any material respect.

## Definitions

The meaning of 'person having control' and 'person managing' are given in Section 263 of the Housing Act 2004 <https://www.legislation.gov.uk/ukpga/2004/34/contents>

(1) In this Act "person having control", in relation to premises, means (unless the context otherwise requires) the person who receives the rack-rent of the premises (whether on his own account or as agent or trustee of another person), or who would so receive it if the premises were let at a rack-rent.

(2) In subsection (1) "rack-rent" means a rent which is not less than two-thirds of the full net annual value of the premises.

(3) In this Act "person managing" means, in relation to premises, the person who, being an owner or lessee of the premises—

(a) receives (whether directly or through an agent or trustee) rents or other payments from—

(i) in the case of a house in multiple occupation, persons who are in occupation as tenants or licensees of parts of the premises; and

(ii) in the case of a house to which Part 3 applies (see section 79(2)), persons who are in occupation as tenants or licensees of parts of the premises, or of the whole of the premises; or

(b) would so receive those rents or other payments but for having entered into an arrangement (whether in pursuance of a court order or otherwise) with another person who is not an owner or lessee of the premises by virtue of which that other person receives the rents or other payments;

and includes, where those rents or other payments are received through another person as agent or trustee, that other person.

(4) In its application to Part 1, subsection (3) has effect with the omission of paragraph (a)(ii).

(5) References in this Act to any person involved in the management of a house in multiple occupation or a house to which Part 3 applies (see section 79(2)) include references to the person managing it.

### **Temporary Exemptions Notices and Section 21 Notices under the Housing Act 1988 (as amended)**

Section 75 of the Housing Act 2004 says that no Section 21 notice may be given in relation to a shorthold tenancy of a part of an unlicensed HMO so long as it remains such an HMO.

However, where a Temporary Exemption Notice (TEN) has been served, this does not apply as in such circumstances the HMO is not regarded to be unlicensed and a Section 21 notice may therefore be served.



**PART 1: DETAILS OF THE APPLICANT**

**Name:**

.....

**Are you the:**

The person having control or person managing the HMO making this application:

*(please specify)*

.....

Address (address of registered office for a limited company):.....

.....

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..... Post Code: .....

Telephone Number: ..... Mobile: .....

Email address: .....

**Address of property to which this application applies:**

Address:.....

.....

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..... Post Code: .....

**PART 2: REASONING FOR THE ISSUE OF A TEMPORARY EXEMPTION NOTICE**

Please provide reasons for the issuing of a Temporary Exemption Notice in respect of the property. Provide any evidence that may support your reasoning and state what course of action you will be taking to ensure that the property is no longer required to be licensed.

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*(please continue on a separate sheet if necessary)*

### **PART 3: REFUSAL TO SERVE A TEMPORARY EXEMPTION NOTICE**

If the Local Authority decides **not** to serve a Temporary Exemption Notice in response to a notification they must inform the applicant of:

- the decision;
- the reasons for it and the date on which the decision was made;
- the right to appeal against the decision; and
- the period within which an appeal may be made

The person concerned may appeal to the First tier Tribunal (Property Chamber) against the decision within the period of 28 days beginning with the date on which the decision was made.

### **PART 4: DECLARATION**

I / we declare that the information contained in this application is correct to the best of my / our knowledge.

I / We understand that I / we commit an offence if I / we supply any information to a local housing authority in connection with any of their functions under any of Parts 1 to 4 of the Housing Act 2004 that is false or misleading and which I / we know is false or misleading or I am / we are reckless as to whether it is false or misleading.

Signed:..... Print Name:.....  
Date:.....

Signed:..... Print Name:.....  
Date:.....

Signed:..... Print Name:.....  
Date:.....

Signed:..... Print Name:.....  
Date:.....

In the case of Partnerships or Trustees, all partners or trustees must sign the form. In the case of a limited company, the form must be signed by a director, the company secretary or other authorised officer.

