
**READ THESE REQUIREMENTS BEFORE APPLYING FOR EXEMPTION
AS PER CLAUSE 18 OF THE NATIONAL MAIN COLLECTIVE AGREEMENT**

18. EXEMPTIONS

18.1 General exemption from any provisions of this Agreement

- 18.1.1 An application for the exemption of the provisions contained in this Agreement by a party shall be heard by the Council's Exemption Committee. An application for the exemption of the provisions contained in this Agreement by a non-party shall be heard by an Independent Exemption Committee consisting of 2 (two) Commissioners accredited in accordance with the provisions of section 128 of the Act.
- 18.1.2 The Exemption Committee shall consist of 3 (three) persons, 1 (one) each appointed from each of the parties to this Agreement and a Council Employee.
- 18.1.3 An application for exemption shall be in writing and made to the CEO of the Council in the form as set forth in **Annexure D** hereto.
- 18.1.4 All applications for exemption shall be supported by such supporting documentation as may be indicated or required by the Exemption Committee, from time to time, in order to properly assess the application for exemption.
- 18.1.5 The Exemptions Committee shall decide on an application for exemption within 30 (thirty) days of receipt by the CEO of the Council.
- 18.1.6 The person or entity moving for the application for exemption ("*the Applicant*") may request the Exemption Committee that the application for exemption be amplified by means of oral argument on the date upon which the Exemption Committee considers the application, failing which the Exemption Committee will consider the application for exemption on the basis of the written application and supporting documents, submitted.
- 18.1.7 All applications shall comply with the following, being: -
- 18.1.7.1 it shall be fully motivated;
- 18.1.7.2 be accompanied by the required supporting documentation;

- 18.1.7.3 applications that adversely affect any rights and obligations of Employees, will not be considered unless the Employees or their representatives have been properly consulted and their views fully recorded in the application;
- 18.1.7.4 a presentation reflecting the objectives and strategies to be adopted by the Applicant during the exemption period, to rectify the non-compliance with this Agreement and indicating a time frame for such objectives and strategies to be achieved;
- 18.1.7.5 the time period for which exemption is required.
- 18.1.8 In considering an application for exemption, the Exemption Committee shall, amongst others, consider, but shall not be limited to, the following criteria: -
 - 18.1.8.1 the Applicant's past record of compliance with the provisions of this Agreement and previous exemption granted;
 - 18.1.8.2 any special circumstances that may exist;
 - 18.1.8.3 any precedent that might be set as a result of the granting of the exemption;
 - 18.1.8.4 the interest of the sector with specific reference to: -
 - 18.1.8.4.1 unfair competition;
 - 18.1.8.4.2 collective bargaining;
 - 18.1.8.4.3 the dilution of the scope and jurisdiction of the Council.
 - 18.1.8.5 the interest of Employees with specific reference to: -
 - 18.1.8.5.1 exploitation;
 - 18.1.8.5.2 job preservation.
 - 18.1.8.6 the interest of the Applicant with specific regard to: -
 - 18.1.8.6.1 financial stability;
 - 18.1.8.6.2 operational requirements.

18.2 Exemption from Pension Fund

- 18.2.1 Should an application for exemption be moved for, for exemption from the HSBI Pension Fund, the following information and/or documentation, in addition to those set forth in clause 18.1 above shall be provided by the Applicant, being: -
 - 18.2.1.1 written confirmation that Employees are members of the *alternative* pension fund;
 - 18.2.1.2 written confirmation that the *alternative* fund is a registered pension fund in terms of the Pension Fund Act ("*PFA*");

- 18.2.1.3 a pension exemption application form duly completed by the broker of the *alternative* pension fund;
- 18.2.1.4 the extent of monthly contribution of each member towards the *alternative* pension fund and proof that the contribution of both the Employer and Employee are made.

18.3 Appeals

- 18.3.1 In accordance with the provisions of the Act, the Council hereby establishes an independent body, to be known as the Exemptions Appeal Body to consider appeals from both a party or non-party against a refusal of a party or non-party`s application for exemption from the provisions of this Agreement and the withdrawal of such exemption by the Council.
- 18.3.2 An Applicant may lodge an appeal with the Council against the Exemption Committee`s refusal for an application for exemption from the provisions of this Agreement or the withdrawal of such an exemption by the Council.
- 18.3.3 The Exemptions Committee shall hear, decide and inform the applicant and the Council as soon as possible and not later than 30 days after the appeal has been lodged against the decision of the exemptions body.
- 18.3.4 Any appeal shall be in writing and shall contain the following: -
 - 18.3.4.1 grounds of appeal;
 - 18.3.4.2 all supporting documentation which will be used in support of the appeal;
 - 18.3.4.3 any other relevant information or documentation that may assist the Exemption Appeal Board to arrive at a conclusion.
- 18.3.5 Any appeal may be amplified by oral argument.
- 18.3.6 The criteria for the consideration of an appeal will be the criteria as set forth in clause 18.1.8 above.
- 18.3.7 The Exemption Appeal Body`s finding on appeal shall be in writing and shall be made available to the Applicant.
- 18.3.8 The Exemption Appeal Body shall consist of at least 1 (one) Commissioner accredited in accordance with the provisions of section 128 of the Act, from the panel approved by the Council from time to time.

18.4 The granting of exemption or withdrawal thereof

- 18.4.1 When exemption is granted by the Exemption Committee or, on appeal by the Exemption Appeal Board, such exemption shall expressly specify: -
 - 18.4.1.1 any conditions subject to which the exemption is granted;

- 18.4.1.2 the period during which the exemption is to operate;
- 18.4.1.3 the circumstances, if any, in which the exemption may be withdrawn.
- 18.4.2 The CEO shall furnish the Applicant, should exemption be granted in favour of such Applicant, with a letter of exemption recording the: -
 - 18.4.2.1 full name of the person/s in whose favour exemption is granted;
 - 18.4.2.2 provisions of this Agreement from which exemption are granted;
 - 18.4.2.3 conditions subject to which exemption is granted;
 - 18.4.2.4 period during which exemption is to operate;
 - 18.4.2.5 circumstances in which it may be withdrawn, if any.
- 18.4.3 Should circumstances dictate and permit, the Council may withdraw the exemption granted, the CEO of the Council shall notify the Applicant thereof, by furnishing it with at least 7 (seven) days' notice.
- 18.4.4 The Applicant may appeal the resolution by the Council to withdraw the exemption granted in accordance with the provisions of clause 18.4.3 above.

APPLICATION FOR EXEMPTION

ANNEXURE 'D'

SAL REF NO _____

AGENT _____

1. DETAILS OF THE APPLICANT:

(Please tick the box with an X where applicable)

1.1 As the applicant are you:

- The employer
- EOHCB Member
- Non EOHCB Member
- Rent-a-Chair / Working Employer (no staff)
- The employee
- Union Member
- Non Union Member

Name & Surname of Applicant: _____

ID / Passport Number _____ Date of Birth: _____

Designation: _____

Salon Name: _____ Salon Code _____

Physical Address: _____

Postal Address: _____ Code: _____

Tel. No. work: _____ Cell. _____

Fax No: _____ e-mail address _____

Employee's name/s:

<u>Union</u> <u>Y/N</u>	<u>Surname</u>	<u>Initials</u>	<u>Id/Passport No</u>	<u>Date of</u> <u>Birth</u>	<u>e-mail</u>	<u>Cell</u> <u>Phone</u>	<u>Address</u>

PLEASE ATTACHED A MOTIVATION LETTER SIGNED BY EACH AND EVERY EMPLOYEE
(see example below)

“I,, ID number Hereby declare that I understand the consequences of the application of Exemption of I agree to abide by the outcome.
 Signature: Date:
 Full Name and Surname:”

2. NATURE OF EXEMPTION:

Pay lesser basic salary:

<u>PRESCRIBED SALARY:</u>	<u>R</u>
<u>CURRENT SALARY:</u>	<u>R</u>
<u>PROPOSED SALARY:</u>	
<u>PERIOD OF EXEMPTION</u>	

Pay lesser commission

<u>PRESCRIBED COMMISSION:</u>	
<u>CURRENT COMMISSION:</u>	
<u>PROPOSED COMMISSION:</u>	
<u>PERIOD OF EXEMPTION</u>	

Pay basic plus commission

<u>BASIC</u>	
<u>% COMMISSION</u>	
<u>PERIOD OF EXEMPTION</u>	

Pay commission only

<u>% COMMISSION</u>	
<u>PERIOD OF EXEMPTION</u>	

Give a brief description of salary structure and financial support documentation:

Sick Pay Fund Membership:

Payslip attached:	<input type="checkbox"/> YES	<input type="checkbox"/> NO
Letter from Salon Owner attached:	<input type="checkbox"/> YES	<input type="checkbox"/> NO
Please include proof on payslip of SPF payments according to Collective Agreement; and a Letter from Salon Owner that they are paying Sick Leave as per the Agreement		

Sick Benefit Fund Membership:

Payslip attached: YES NO

Alternative Medical Aid: YES NO

Please include proof of Medical Aid and payslip where payment are made in terms of SBF contributions according to Collective Agreement

Pension Fund Membership:

Alternative Pension Fund: YES NO

Please include proof of Alternative Fund and payslip where payment is made in terms of Pension Fund contributions according to Collective Agreement and comparison between the HBSI Fund and Alternative Fund

ATTACH THE COMPLETED PENSION FUND BROKER APPLICATION FORM

Hours of Work:

<u>PRESCRIBED HOURS</u>	
<u>CURRENT HOURS</u>	
<u>PROPOSED HOURS</u>	
<u>PERIOD OF EXEMPTION</u>	
<u>MOTIVATION FOR HOURS</u>	

Other:

Describe _____

EXEMPTION PERIOD: _____

The Applicant's past record of compliance with the provisions of this Agreement and previous exemption granted:

Any special circumstances that may exist:

Any precedent that might be set as a result of the granting of the exemption:

The interest of the sector with specific reference to:-

Unfair competition

Collective bargaining.

The interest of Employees with specific reference to:-

Exploitation

Job preservation

The interest of the Applicant with specific regard to:-

Financial stability

Operational requirements

3. DID CONSULTATION TAKE PLACE BETWEEN EMPLOYER AND EMPLOYEE/S:

YES NO

Briefly state the outcome of that consultation: _____

Do you require an Interpreter: YES NO

If YES, please indicate preferred language: _____

Signatures: Employer: _____

Full Name and Surname: _____

Employee: _____

Full Name and Surname: _____

Date of Consultation: _____

4. WERE EOHCB & UASA INVOLVED IN CONSULTATIONS (if party members):

YES NO

Briefly state the outcome of that consultation: _____

Signatures: UASA Official: _____

Full Name and Surname: _____

EOHCB Official: _____

Full Name and Surname: _____

Date of Consultation: _____

5. MOTIVATION FOR EXEMPTION:

**6. I have herewith attached the required following documents together with my application:
(Please tick where appropriate)**

- Copy of the business Financial Statement for the past three months if application is for salary;
- I have indicated in my application the period on which exemption is applied for;
- Copy of the alternative Medical Aid
- Copy of the proof that SPF/SBF payments are upheld by employer according to Collective Agreement

**PLEASE INDICATE WHETHER YOU WANT TO APPEAR IN PERSON BEFORE THE
EXEMPTIONS COMMITTEE YES NO**

**PLEASE NOTE THAT THE STATUS QUO AS PER NATIONAL MAIN AGREEMENT APPLIES
UNTIL EXEMPTION IS APPROVED OR DENIED.**

**I, Hereby agree that by signing below, I understand that
if all the required documents are not attached that the Exemption will not be heard.**

Signature: _____ Date: _____

**Full Name and Surname: _____
(APPLICANT 1)**

Signature: _____ Date: _____

**Full Name and Surname: _____
(RESPONDENT 1)**

Signature: _____ Date: _____

**Full Name and Surname: _____
(APPLICANT 2)**

Signature: _____ Date: _____

**Full Name and Surname: _____
(RESPONDENT 2)**

Signature: _____

Date: _____

Full Name and Surname: _____
(APPLICANT 3)

Signature: _____

Date: _____

Full Name and Surname: _____
(RESPONDENT 3)

Signature: _____

Date: _____

Full Name and Surname: _____
(APPLICANT 4)

Signature: _____

Date: _____

Full Name and Surname: _____
(RESPONDENT 4)

N.B: NOTE THAT IN THE EVENT THAT THE APPLICANT IS NOT SATISFIED WITH THE DECISION OF THE EXEMPTION COMMITTEE THE APPLICANT IS ENTITLED TO APPEAL AGAINST THE OUTCOME WITHIN 30 DAYS AFTER IT BECAME KNOWN.



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**HAIRDRESSING BEAUTY AND SKINCARE INDUSTRY
PENSION FUND**

BROKER/INTERMEDIARY EXEMPTION APPLICATION FORM

Registration Number / Salon Reference Number	
Name of Company / Salon Name	
Address	
Telephone Number	
E-mail Address	
Facsimile Number	
Contact Person	

In applying for an Exemption please fill in the above and details required below. No exemption application will be considered if this form is not duly completed and Annexure A signed by all employees concerned. Exemption will only be considered if the company has an existing Fund whose benefits are superior to those of the Council's Fund. Retirement Annuities will only be considered if certain specific criteria are met as defined in Board's exemption policy.

Fund Name: _____

FSB Registration Number: _____

No. of Employees Affected: _____

Kindly complete (or arrange for your financial broker/intermediary to complete) the checklist below and attach a copy of the company scheme rules as proof.

Date of Application: _____

Type of Fund: Pension Fund Provident Fund

Full name of Umbrella Fund: _____

FUND APPLYING FOR EXEMPTION	Costs/Fees as percentage of salaries
Gross Employer contributions	
less: Basic administration fee	
less: Asset based administration fee (if any)	
less: Employer participation fee	
less: Intermediary/Distribution fee	
less: Governance/Fund costs	
less: Death and Disability costs	
less: Funeral costs	
less: Any other costs/fees not disclosed above	
Net Employer contributions	
plus: Member contributions	
Total Net Retirement contributions	

(All Administration costs MUST be disclosed, such as asset based fees charged in addition to normal member administration fees, as well as all governance/fund costs, distribution and intermediary fees and employer participation fees). Failure to do so will result in an automatic disqualification.

Investments:

Name/s of the underlying Investment Portfolio/s: _____

Portfolio/s Returns up to date of application:

Portfolio	Month	1 Year	3 years	5 years
Return				
Benchmark				

(A copy of the Fund Fact Sheet of the underlying portfolio/s must be provided)

YES NO

Total Investment Charge of the Portfolio/s, including guarantee rate if applicable: _____

If Stable Growth or Monthly Bonus type of Portfolio/s, percentage of guarantee: _____

Investment Objective of Portfolio/s: _____

BENEFITS	HBSI Pension Fund (HCSBC Members)	FUND APPLYING FOR EXEMPTION
Death Benefits	Share of Fund, plus 3x Annual Pensionable Salary	
Retirement Benefits	Share of Fund	
Disability Benefits	Share of Fund plus 3x Annual Pensionable Salary after 6 months waiting period	
Resignation / Retrenchment / Dismissal Benefits	Share of Fund	
Funeral Benefits	Main member / Spouse R10 000-00 Child 14 to 21 years R10 000-00 Child 6 to 13 years R 5 000-00 Child 1 to 5 years R 2 500-00 Stillborn to 11 months R 2 500-00	

Full Pension Fund documentation of Fund applying for exemption must be attached, including signed quotation, Special Rules, etc. YES NO

Does the Rules allow for resignation benefits to be paid whilst still working in the Industry YES NO

Name of Person
 Completing Form: _____
 Designation of
 Person Completing
 Form: _____

Telephone Number: _____

Signature _____
 On completion, please return to Stephen Delport CEO at exemption@hcsbc.co.za

List of Employees (each Employee to sign a letter of understanding, see example below)

SURNAME	FIRST NAME/S	I.D. NUMBER	BARGAINING COUNCIL NO.	SIGNATURE OF EMPLOYEE

Example of letter to be signed by every Employee:

“I,, ID Number Hereby declare that I understand the consequences of the application of Exemption of the HBSI Pension Fund.

I agree to abide by the outcome.

Signature: Date:

Full Name and Surname:”