




# **EXEMPTION POLICY AND PROCEDURE MANUAL**

Issue 02, Revision 0

15<sup>th</sup> July 2021


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### **Foreword**

An appeal for exemption is a request to the Head of Authority to provide relief from any specified requirements in the Civil Aviation Act of Bhutan 2016, BANRs 2021 and BCARs. The compliance with provisions of BCAA Regulation/Requirements is mandatory. However, in some situations, there may be instances where full compliance is not practicable. In such cases, exemptions may be granted by the Authority upon the written approval of the Minister. Nevertheless, such measures shall be supported by appropriate, robust and documented safety risk assessments or aeronautical studies and imposition of limitations, conditions or mitigation measures, as appropriate both from Authority and operators. Before granting an Exemption, the Head of Authority will consider whether an applicant's proposal provides a level of safety, or risk control, equivalent to that required by the existing rule.


The Exemption Policy and Procedure Manual is developed as per Sections 28(1), 149 and 150 of the Civil Aviation Act of Bhutan 2016. The purpose of this manual is to harmonize the procedure for granting exemptions from any provisions in the Act including rules and regulations, requirements, notifications, circulars, or orders issued thereunder and to ensure that the exemption process is equitable to all those who come forward with the request, while simultaneously ensuring the best interest of the public and aviation safety are protected.

This manual contains various aspects on the policy overview and procedures while seeking exemptions.

This Manual shall supersede any earlier issue.



**Head of Authority  
Bhutan Civil Aviation Authority**

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## **Definitions**

**Act** means Civil Aviation Act of Bhutan 2016.

**Regulation** means Bhutan Air Navigations Regulations 2021.


**Head of Authority** means Director General/Director of Bhutan Civil Aviation Authority.

**Authority** means Bhutan Civil Aviation Authority.

**Requirements** means Bhutan Civil Aviation Requirements

**AIP** means Aeronautical Information Publication



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## **Chapter 1: Policy overview**

### **1.1 General**

The authority upholds the goal of improved aviation safety by encouraging compliance with and through the implementation of Civil Aviation Act of Bhutan 2016 and Bhutan Air Navigation Regulations 2021.

### **1.2 Obligation**

1.2.1 As a contracting State of the International Civil Aviation Organization (ICAO), the Authority has an obligation to oversee safe, secure and efficient operation of aviation activities. Further, as a signatory to the Chicago Convention on International Civil Aviation, Bhutan has agreed to the application of Article 12 and 28 of the Convention which states in part:

“Each contracting State undertakes to adopt measures to ensure that every aircraft flying over or maneuvering within its territory and that every aircraft carrying its nationality mark, wherever such aircraft may be, shall comply with regulations relating to the flight and maneuver of aircraft there in force. Each contracting State undertakes to ensure the prosecution of all persons violating the regulations applicable.”


“Provide, in its territory, airports, radio services, meteorological services and other air navigation facilities to facilitate international air navigation, in accordance with the standards and practices recommended or established from time to time, pursuant to [the] Convention;”

1.2.2 Accordingly, the Authority supervises and administers the enforcement mandate inherent in the international agreement. The Act allows the Authority to oversee, implement safety standards and the implementation process through routine surveillance audits, inspection and corrective measures.

1.2.3 However, there may be situations wherein it may not be possible to comply with the regulations because of exceptional circumstances, physical constraints, non-availability of specified equipment etc. Therefore, section 28(1),149 and 150 of the Act provides for the issuance of exemptions and the Authority needs to establish a policy and procedures for issuance.

### **1.3 Policy objectives**

1.3.1 The Authority aims to create an environment of continuous compliance with the Act that all Operators/Service Providers/persons shall abide by. However, on some occasions and situations, there may be instances where full compliance by the operator/service provider/person is not practicable. There will be occasions when the requirements, as applied

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to individual situations, may appear excessive and to go beyond the intention of the legislation. This policy and procedure set out the Authority's approach to all those seeking exemption from obligations under the Act.

- 1.3.2 The purpose of exemptions is to relieve regulated entities from any unintended consequences of the legislation, while at the same time ensuring that the integrity of the law is maintained. Awareness of the need to strike this balance will guide the Authority in its consideration of exemption applications. The Authority shall approve the exemption upon the approval of the Minister if it forms the view that they are relevant and necessary in the circumstances of a particular case. Applications for exemptions will be assessed on a case-by-case basis. However, in all cases, the Authority will adhere to its guiding principles which aim to ensure that the Authority achieves an equitable and effective regulatory environment with an efficient use of resources.

#### **1.4 Lawfulness**


The Authority recognizes that compliance with the Act and regulations are an effective approach to aviation safety. Voluntary compliance is based on the idea that aviation stakeholders have a shared interest, commitment, and responsibility to aviation safety, and that they will operate on the basis of common goal, shared responsibility, and respect for others.

#### **1.5 Authority empowered to grant exemptions**


- 1.5.1 As per the Act, the Minister is empowered to grant or approve or exempt any operator, person, airport, facility or service from any provision of Act or regulations, where the Head of Authority and Minister are satisfied that the exemption is in the public interest and is not likely to affect aviation safety after thorough risk assessment of the proposed exemption.
- 1.5.2 The application for seeking such exemptions shall be supported by appropriate, robust and documented safety risk assessments or aeronautical studies including realistic mitigation measures. The Authority may impose limitations and conditions as in appendixes with the exemption approval letter.

#### **1.6 Fairness and firmness**

- 1.6.1 Exemptions shall only be issued where the Authority is satisfied and the exemption shall not compromise the integrity of the regulation. In assessing applications and issuing exemptions, the Authority will maintain efficiency, fairness, integrity, transparency in a firm manner. Concern about potential political consequences shall not be taken into consideration when determining the appropriate exemption action.
- 1.6.2 The Authority promotes and applies a policy of fairness and firmness by:

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- (a) Encouraging open communication with defaulters;
- (b) Providing oral counselling for minor violations where there is no threat to aviation safety;
- (c) Ensuring that repeated violations and those who wilfully disregard aviation safety are dealt in accordance with the law.

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## **Chapter 2: Inevitable factors and expectations**

### **2.1 Factors to be considered in the Authority's assessment of applications**


2.1.1 Decisions regarding the issuing of exemptions will be based upon the facts and circumstances of each application. Factors that may be considered by the Head of Authority or his delegate may by notice and upon approval by Minister to issue an exemption as per section 149 of the Act and shall include:

- (a) The nature of the exemption, including the impact it will have on aviation safety;
- (b) Whether granting the exemption would be consistent with the intent and provisions of the Act;
- (c) The risk profile shall be considered case-by-case based on risk and evidence-based justification submitted by the applicant including any proposed mitigating actions or conditions to maintain an appropriate level of safety;
- (d) The level of regulatory burden to which the applicant is being subjected;
- (e) consultation with stakeholders, if necessary;
- (f) no adverse effects on aviation safety;
- (g) after a technical evaluation, whether the applicant's proposal would provide a level of safety equivalent to that established by the Regulation;
- (h) if the applicant seeks to operate under the exemption outside of Bhutan's airspace, whether a grant of the exemption would contravene the applicable ICAO SARPs and ASAs; and
- (i) a recommendation following a technical review by the concerned sections in the Authority, as to whether the request should be granted or denied, and whether any conditions or limitations should be part of the exemption.

2.1.2 If the Head of Authority grants an exemption, the exemption may be made or given subject to conditions as deemed necessary in the interests of aviation safety.

### **2.2 Operator/Service provider/Person shall:**

- 2.2.1 Understand and comply with the obligations under this Manual.
- 2.2.2 Make applications in good faith.

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2.2.3 Submit complete written applications along with the safety risk assessment and mitigation measures to the Authority at the earliest.

2.2.4 Immediately notify the Authority in writing if any changes occur to their activities that are directly or indirectly related to the activities for which a previous exemption was granted or where the Authority is currently considering an application submitted by the applicant.

### **2.3 When exemption granted is effective**

2.3.1 When the Authority grants an exemption, the exemption shall be effective from the date of issue. However, the operator/service provider/person shall publish the exemption(s) in the aeronautical information publication for information to the end user, if deemed necessary.

2.3.2 The exemption stops being in force if:

- (a) it is expressed to have effect for a limited period and that period ends; or
- (b) it is revoked/cancelled/suspended by the Authority through a written notice given to the applicant; or
- (c) the applicant submits a written notice to the Authority that they no longer require the exemptions.


2.3.3 The Authority shall revoke/cancel/suspend an exemption if it poses a risk to aviation safety.

### **2.4 Processing period**

An application for an exemption shall be submitted at least thirty (30) days prior to when the exemption is required.

### **2.5 Terms, conditions and limitations**

The Authority shall in the interests of the Aviation Safety impose or specify terms and conditions and limitations to be complied with while granting an exemption from the specific requirements, such terms and conditions are set out in Appendix III.


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## **2.6 Review of application for exemption**

- 2.6.1 Where the Authority is satisfied that the application complies with the procedure stated in chapter 3 & 4, it may commence a review of the application.
- 2.6.2 Notwithstanding the provisions of chapters 3 and 4, the Authority may deny application and return to the applicant for re-submission.
- 2.6.3 the Authority may grant an exemption to the applicant, if it is satisfied that;
- (a) the exemption requirements are fully met; and
  - (b) granting the exemption will not jeopardize aviation safety.

## **2.7 Refusal of exemption**

Inform the applicant in writing of the outcome of the application, including an explanation of the decision why it was unsuccessful as per the prescribed form in the Appendix V.

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## **Chapter 3: General exemption and its procedure**

### **3.1 General exemption**


- 3.1.1 All operator/service providers/persons are expected to comply with all provisions of the Act, including its regulations made thereunder. However, there may be situations wherein it may not be possible to comply with the regulations because of exceptional circumstances, physical constraints, non-availability of specified equipment etc. which may warrant exemptions from the Act and regulations.
- 3.1.2 In general, the exemptions are granted to Aerodrome Operations in exceptional circumstances involving insurmountable geographical or other physical problems. However, in practice exemptions are more frequently granted for Personnel Licensing, Flight Operation, Air Navigation Service and Airworthiness areas. In all cases, before granting exemption, it shall be ascertained that an equivalent level of safety is maintained. The exemption, if granted, may contain conditions/limitations for the operator/service provider/person to follow while operating under the exemption.

### **3.2 General exemption procedure**

- 3.2.1 A person/organization seeking exemption shall submit an application for exemption to the Head of Authority as per Appendix I.
- 3.2.2 The applicant should provide adequate information for the consideration of the granting of exemptions with supporting documents. Failure to provide adequate information may delay processing/refusal of the application.
- 3.2.3 The application for seeking exemption will be assessed using the assessment form for granting/rejection of exemption as per Appendix II.
- 3.2.4 Applications for an exemption should be submitted at least 30 days in advance of the proposed effective date, to obtain timely review.

### **3.3 Substance of the request for exemption**

- 3.3.1 The application for exemption shall clearly state:
- (a) The reasons for seeking exemption;
  - (b) Safety risk assessments, Analysis, aeronautical studies, etc. as appropriate which may deem fit, along with the mitigation measures and corrective action plans, and indication as to when compliance can be expected.

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### 3.3.1 Applications must contain the following:


- (a) A citation of the specific requirement from which the applicant seeks relief;
- (b) Description of the type of operations to be conducted under the proposed exemption;
- (c) The proposed duration of the exemption;
- (d) An explanation of how the exemption would be in the public interest, that is, benefit the public as a whole;
- (e) The category under which exemption sought (temporary/permanent) and justifiable reasons why the applicant needs the exemption. The reasons provided should be detailed and self-explanatory;
- (f) A detailed description of the alternative means by which the applicant will ensure a level of safety equivalent to that established by the Regulation in question;
- (g) A review and discussion of any known safety concerns with the requirement, including information about any relevant accidents or incidents of which the applicant is aware;
- (h) If the applicant seeks to operate under the proposed exemption outside of Bhutan airspace, the application must also indicate whether the exemption would contravene any provision of the ICAO SARPs and ASAs. The action plan for rectification and review of temporary exemption, including the mitigation measures adopted for ensuring the safety during the exemption period after carrying out a safety risk assessment.

3.3.2 If a permanent exemption is sought, the applicant has to indicate the mitigation measures adopted to reduce the risk arising due to non-compliance after carrying out a safety risk assessment.

3.3.3 Undertaking by the applicant that they shall review the conditions or mitigation measures and any other resultant non-compliance in particular when any significant changes in the activity are proposed.

3.3.4 The applicant should provide adequate information in the prescribed form (appendix I) for consideration for granting exemptions with supporting documents. Failure to provide adequate information may delay processing/refusal of the application.



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### **3.4 Initial Review by the concerned section and legal section**


- 3.4.1 The concerned section and the legal section will review the application for accuracy and compliance with the requirements of 3.3.2.
- 3.4.2 If the application appears to satisfy the provisions of 3.3.2 and the concerned section and the legal section determines that a review of its merits is justified, the concerned section and the legal section will publish a detailed summary of the application.
- 3.4.3 If the filing requirements of 3.3.2 have not been met, the concerned section and the legal section will notify the applicant and take no further action until the applicant Complies with the requirements of 3.3.2.
- 3.4.4 The review of the application shall be carried out using the assessment form of granting/refusal of exemption (Appendix II).

### **3.5 Evaluation of the request by Head of Authority**

- 3.5.1 After initial review, if the filing requirements have been satisfied, the Head of Authority shall conduct an evaluation of the application to include:
- (a) A determination of whether an exemption would be in the public interest;
  - (b) A determination, after a technical evaluation, of whether the applicant's proposal would provide a level of safety equivalent to that established by the Regulation. If it appears to the Head of Authority that a technical evaluation of the request would impose a significant burden on the Authority's technical resources, the Head of Authority may deny the exemption on that basis;
  - (c) A determination, if the applicant seeks to operate under the exemption outside of Bhutan airspace, of whether a grant of the exemption would contravene the applicable ICAO SARPs and ASAs;
  - (d) A recommendation, based on the preceding elements, of whether the request should be granted or denied, and of any conditions or limitations that should be part of the exemption.

### **3.6 Notification of determination**

- 3.6.1 The Head of Authority shall notify the applicant by letter to grant or deny the request of exemption as per Appendix IV and V. The summary shall specify the duration of the exemption and any conditions or limitations to the exemption as per Appendix III.


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3.6.2 If the exemption affects a significant population of the aviation community of Bhutan, the Head of Authority shall notify the applicant to publish the summary in the AIP.

### **3.7 Extension of the exemption**

3.7.1 If the applicant requires an extension of the exemption, they shall submit a written application stating the reasons why the extension is required.

3.7.2 If the Head of Authority determines that the request merits extension of the exemption, after the technical evaluation, he/she shall notify the applicant in writing, specifying the duration of the exemption, and listing any additional conditions/limitations that may pertain to the applicant that are not addressed in the previous exemption.

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## **Chapter 4: Exemptions for Aerodrome**

### **4.1 Classification of exemptions for Aerodrome**

4.1.1 Exemptions for non-compliance shall be:

- (a) **Temporary Exemption:** A situation in which non-compliance is expected to be removed and interoperability is the predominant aspect of the requirement, such as mandatory signs, availability of runway strip etc.
- (b) **Permanent Exemption:** A situation in which non-compliance cannot be removed within a foreseeable time frame and interoperability is not the predominant aspect of the requirement, such as the infringement of high ground into an obstacle limitation surface etc.


### **4.2 Procedure for seeking exemptions on Aerodrome**

4.2.1 The aerodrome certificate holder shall submit a separate application for each non-compliance in the prescribed form for seeking exemption (Appendix I).

4.2.2 The application for exemption shall be supported with the reasons for non-compliance, safety risk assessment reports, means of mitigation and realistic plan indicating as to when compliance can be expected.

4.2.3 An application for an exemption includes:

- (a) The applicant's name and address. Name of aerodrome where exemption is being sought. (Aerodrome certificate number to be quoted if already issued);
- (b) The relevant provisions of the rules and regulations for which the exemption is sought;
- (c) In case of exemption for non-compliance with the rules and regulations, standards and procedures, then a safety risk assessment report prepared in accordance with rules and regulation must be attached to the application;
- (d) Whether the exemption will affect a particular kind of operation, the details thereof;
- (e) The category under which exemption sought (temporary/permanent) and justifiable reasons why the applicant needs the exemption. The reasons provided should be detailed and self-explanatory;

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- (f) The period for which the exemption is required;
- (g) The action plan for rectification and review of non-compliance for temporary exemption, including the mitigation measures adopted for ensuring the safety during the exemption period;
- (h) In case permanent exemption is sought, the applicant has to indicate the mitigation measures adopted to reduce the risk arising due to non-compliance after carrying out a safety risk assessment;
- (i) Undertaking by the certificate holder that they shall review the conditions or mitigation measures and any other resultant non-compliance in particular when any significant changes in the activity or aerodrome development is proposed.

4.2.4 The Head of Authority after examining the technical evaluation may exempt an aerodrome operator from complying with specific provisions of the rules and regulations and may impose conditions for such exemption to ensure the safety and regularity of aircraft operation.

4.2.5 Upon approval of the exemption, the same shall be included in the Aerodrome Manual and AIP.

4.2.6 On removal of the exemption, the certificate holder shall notify the same to the Head of Authority and the same shall be deleted from the Aerodrome Manual and AIP.


4.2.7 The frequency for review of exemption granted shall be based on the duration of exemption.

### **4.3 Non-Compliance**

Non-compliances are primarily related to the following aspects at the aerodrome for which some examples are given below:

4.3.1 Facilities and equipment:

- (a) Visual and non-visual aids.
- (b) Obstacles on the strip and the obstacle limitation surfaces i.e., approach, departure and transitional surfaces.

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(c) Strip areas - dimensions and quality.


4.3.2 Inadequate runway strip width, inadequate taxiway width and lack of fillets:

- (a) Runway end safety areas;
- (b) Inadequate runway;
- (c) Taxiway separation distances;
- (d) Landing systems;
- (e) Rescue and fire-fighting;
- (f) Meteorological equipment.

4.3.3 Documentations.

- (a) inadequate content in Aerodrome Manual;
- (b) Safety Management System;
- (c) Airport Emergency Planning Manual;
- (d) ARFFs Service Manual;
- (e) Apron Operation Manual;
- (f) Maintenance Manual;
- (g) Wildlife Management Manual;
- (h) Training Manual.

4.3.4 Inadequate qualified and skilled key technical personnel.

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## **Appendixes**

### **Appendix I: Application for seeking exemption**

#### **1. DETAILS OF APPLICANT**

1.1 Name of Operator/Service provider/person:

1.2 License/Certificate/Approval number:

1.3 Contact information:

#### **2. DETAILS OF EXEMPTION SOUGHT**

2.1 Relevant provisions of rules and regulations for which exemption is sought:

2.2 The category under which exemption sought (Temporary/permanent):


2.3 Reasons why the exemption is needed (The reasons provided should be detailed and self-explanatory):

2.4 Period for which exemption is required:

2.5 If the exemption will affect a particular kind of operation, the details thereof:

2.6 For temporary exemption, the action plan for rectification and review of non-compliance, including the mitigation measures adopted for ensuring the safety during the exemption period. Complete safety assessment report and quality monitoring plan shall be enclosed:

2.7 For permanent exemption, the mitigation measures adopted to ensure safety of aircraft

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operation. Complete safety assessment report and quality monitoring plan shall be enclosed:  
I hereby declare that the above-mentioned information is correct in every respect and no relevant information has been withheld. I shall undertake the responsibility of timely reviewing the conditions and implementing the mitigation measures. I shall also undertake the responsibility to any other resultant non-compliance in particular when any significant changes in the aerodrome activity and development are proposed.

SIGNATURE OF APPLICANT

DATE: .....

NAME: .....


(In capital letters)

POSITION: .....

(With official seal)

Note:

- i) It is an offence to make any false representation with the intent to deceive for the purpose of obtaining exemption.
- ii) Application not completed in all respects and not accompanied with relevant enclosures is likely to be rejected.

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**Appendix II: Assessment form of granting/refusal of exemption**

**1.DETAILS OF APPLICANT**

1.1 Name of Applicant/Organization:

1.2 License/Certificate/Approval Number:

**2.DETAILS OF EXEMPTION SOUGHT**

2.1 Relevant provisions of the rules and regulations for which exemption is sought:

Satisfactory     Not Satisfactory

2.2 Reasons why the exemption is needed.  Justified  Not Justified

2.3 Nature of exemption applied for:         Temporary     Permanent

2.4 If the exemption will affect a particular kind of operation, the details there of:

.....  
.....  
.....

2.5 For temporary exemption, the action plan for rectification and review of non-compliance, including the mitigation measures adopted for ensuring the safety during the exemption period.

Satisfactory         Not Satisfactory

2.6 For permanent exemption, the mitigation measures adopted to ensure safety of aircraft operation. Complete safety assessment report shall be enclosed:

Satisfactory  Not Satisfactory


2.7 What factors were considered by the applicant in the determination of Public Interest?

- a) .....
- b) .....
- c) .....
- d) .....

If required additional page(s) may be included.

Are conditions related to Public Interest required?  Satisfactory  Not Satisfactory



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2.8 What factors were considered by the applicant to ensure an equivalent level of Safety?  
Identify criteria and formulate as conditions of the exemption:

- a. ....
- b. ....
- c. ....
- d. ....

If required additional page(s) may be included.

Are conditions related to Public Interest required?  Satisfactory  Not Satisfactory


2.9 The justified period of exemptions.....Days/Months

**3. RECOMMENDATIONS:**

**4. NAME (S) OF THE BCAA TEAM MEMBER(S) ASSESSING THE EXEMPTION SUBMITTED:**

S/N	Name of the official(s)	Section	Signature
1			
2			
3			


Date of assessment:

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### Appendix III: Format for grant of exemption

#### Grant of Exemption

Date of granting exemption	
Operator/Service provider/person whom the exemption is granted to	
Title/Area of exemption	
Section	
Provision of rules and regulations	
Summary of the exemption	
Reasons for granting	
Conditions and limitations	
Mitigation measures	
Period of exemption	Start Date: End Date:
<b>Issuing Authority</b>	
BCAA	HoA

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#### **Appendix IV: Format for letter of grant of exemption**

{File reference}

Date:

{Applicant's name}

{Applicant's address}

**Subject: Grant of exemption**

Dear {Sir/Madam},


This has reference to your application dated {dd/mm/yy} seeking an exemption for {purpose}. Your application has been approved with/without conditions and limitations.

The exemption will be subject to regular routine surveillance by this Authority under the requirements expressed in the concerned technical section surveillance program.

If you have any queries regarding this approval/grant, please contact this Authority.

Yours Sincerely,

Director  
BCAA

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### **Appendix V: Format for letter of refusal of exemption**

{File reference}

Date:

{Applicant's name}

{Applicant's address}

**Subject: Refusal of Application for seeking exemption**

Dear {Sir/Madam},

This has reference to your application dated {dd/mm/yy} seeking an exemption for {purpose}. Your application has been assessed in accordance with the requirements specified in the Exemption Policy and Procedure Manual and has been refused due to the following reason(s):

{Provide the reasons as per concerned technical section}


a. ....

b. ....

If you have any queries relating to this matter, please contact this Authority.

Yours Sincerely,

Director  
BCAA

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**Appendix VI: Format for letter of grant of extension of exemption**

{File reference}                      Date:

{Applicant's name}  
{Applicant's address}

**Subject: Grant for extension of exemption**

Dear {Sir/Madam},

This has reference to your application dated {dd/mm/yy} seeking an extension of the exemption (with reference). Your application has been assessed in accordance with the requirements specified in the Exemption Policy and Procedure Manual and has been granted with the following conditions and limitations:

{Provide the conditions as per concerned technical section}

a. ....

b. ....

The exemption will be subject to regular routine surveillance by this Authority under the requirements expressed in the concerned technical section surveillance program.

If you have any queries regarding this approval/grant, please contact this Authority.

Yours Sincerely,

Director  
BCAA