

## **IN THE EXEMPTION APPLICATION OF:-**

**NORTH EAST CARRIERS**

**Applicant**

and

**NATIONAL BARGAINING COUNCIL FOR THE  
ROAD FREIGHT AND LOGISTICS INDUSTRY (Council)**

**Respondent**

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### **DECISION**

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1. The Applicant applied for exemption to exceed the limitation of overtime.
  
2. The matter appeared on the Agenda of the Exemptions Body meeting held on the 15<sup>th</sup> August 2011.
  
3. The following were present:-
  - 3.1 Mr Y. Nagdee - Chairperson of the Exemptions Body
  - 3.2 Ms R. Manning - Member of the Exemptions Body
  - 3.3 Mr T. Short - Member of RFEA
  - 3.4 Mr J. Gys - MTWU
  - 3.5 Mr E. Kock - Senior Agent of NBCRFLI
  - 3.6 Ms T. Stroh - NBCRFLI
  - 3.7 Mr P. Mndaweni - Committee Secretary of NBCFRLI

4. Apologies were received from:

- 4.1 Mr G. Wessels - Member of the Exemptions Body  
4.2 Ms M. Brown–Engelbrecht - Member of RFEA

5. **APPLICANT'S SUBMISSIONS**

The Applicant submitted, inter alia, as follows:

***"We request exemption from "Limitation of Overtime, Section 8(9) in which (a) the main agreement limit employees to work more than 6 hours overtime on every day except Saturdays; and (b) 30 hours overtime in any week from Monday to Saturday. We request overtime to be extended to 8 hours overtime on any day except Saturdays and 40 hours in any week from Monday to Saturday.***

***Consultations have taken place with the shop stewards to this effect. Attached the signatures of drivers who supports this exemption application.***

***APPLICANT'S PAST RECORD:***

***North East Carriers complies with the Provisions of Council's Collective Agreement and Exemption Certificates and has for many years.***

***SPECIAL CIRCUMSTANCES:***

***This application is essential due to the Service Level Agreement reached with the customer.***

***ANY PRECEDENT THAT MIGHT BE SET:***

***No.***

**UNFAIR COMPETITION:**

*No unfair competition as all companies is allowed to apply for exemption.*

**COLLECTIVE BARGAINING:**

*This exemption application has been consulted with the shop stewards, who have agreed to same.*

**POTENTIAL FOR LABOUR UNREST:**

*No.*

**INCREASED EMPLOYMENT:**

*No.*

**EXPLOITATION:**

*No.*

**JOB PRESERVATION:**

*No.*

**SOUND CONDITIONS OF EMPLOYMENTS:**

*Yes, employees will now be able to earn better remuneration.*

**POSSIBLE BENEFITS:**

*Employees will receive a better remuneration.*

**HEALTH AND SAFETY:**

*No.*

**INFRINGEMENT OF BASIC RIGHTS:**

*No.*

**PERIOD EXEMPTION FOR:**

***For the period of the existence of the National Bargaining Council for the Road Freight and Logistics Industry” Main Agreement.***

**RELIEF SOUGHT:**

***We request exemption from “Limitation of Overtime, Section 8(9) in which (a) the main agreement limit employees to work more than 6 hours overtime on every day except Saturdays; and (b) 30 hours overtime in any week from Monday to Saturday. We request overtime to be extended to 8 hours overtime on any day except Saturdays and 40 hours in any week from Monday to Saturday.***

**6. COUNCIL’S SUBMISSIONS**

- 6.1 The Council carried out an investigation and established that on occasion the Applicant exceed the rest periods.
- 6.2 It is acknowledged that the working of overtime is an operational requirement in respect of Applicant’s business.

**7. ANALYSIS**

- 7.1 The submissions made by the Applicant were carefully considered. It is clear that exceeding the overtime limitation is an operational requirement. The Applicant has the support of its employees.
- 7.2 Having regard to the above, the Exemptions Body is satisfied that the Applicant has met the criteria for the granting of the application. However

the application is granted subject to the Applicant complying with the required rest periods. Council is to monitor such compliance.

8. **DECISION**

The application is granted for a period from 1<sup>st</sup> September 2011 to the 28<sup>th</sup> February 2012.

DATED THE 29 DAY OF August 2011 AT BRAAMFONTEIN,  
JOHANNESBURG.



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**MR. Y. NAGDEE**

Chairperson of the  
Exemption Body



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**MS R. MANNING**

Member of the  
Exemption Body