



COMPETITION AUTHORITY OF KENYA PORTAL EXEMPTION APPLICATION INSTRUCTIONS

A. INTRODUCTION

1. SCOPE

1.1 This Manual is applicable as a guide in the online filing Exemption Application with respect to restrictive trade practices, intellectual property rights and professional rules by stakeholders through the portal.

2. PURPOSE

2.1 The main purpose of this Manual is to guide the Authority's stakeholders in filing of Exemption Application with respect to restrictive trade practices, intellectual property rights and professional rules using the portal in its regulation of market conduct as provided for in Part III of the Competition Act, No. 12 of 2010, (the Act) (*Part D on exemption for certain restrictive practices*).

2.2 By rendering public, the guidelines and instructions to be followed in the online filing of Exemption Applications restrictive trade practices, intellectual property rights and professional rules, the Authority expects to create awareness and provide a reference point on how the online filing of Exemption Application is to be carried out.

2.3 The main objectives of the instructions are to:

2.3.1 Provide a step-by-step guidance on how to file Exemption Applications online;

2.3.2 Equip stakeholders with a reference point when filing Exemption Applications;

2.3.3 Provide valuable records on the portal thus reducing the risk of deviation from common practice;

2.3.4 Enable the stakeholder filing Exemption applications to track case progress through the system; and

2.3.5 Lower printing, archiving and transportation costs.

3. TERMS, DEFINITIONS AND ABBREVIATIONS

3.1 **Competition Authority of Kenya** – Abbr.: CAK, also referred hereinafter as ‘the Authority/CAK’ is the government agency mandated to regulate market structure and conduct in the Kenyan economy and protect consumers against unfair and misleading market conduct.

3.2 **Public Portal** – refers to the CAK’s developed online platform for submitting; complaints, cases and filings. The portal access link is: <https://competition.cak.go.ke:444/>. This address may change from time to time and shall be duly updated in the Authority’s website.

3.3 **Authority’s Website** – refers to the address: www.cak.go.ke

3.4 **CMS** – refers the Case Management System, a system developed by the Authority to provide a platform for receiving cases from the Public Portal once they are submitted by the filing parties.

3.5 **RTP**– Restrictive Trade Practices are agreements between undertakings, decisions by associations of undertakings, decisions by undertakings or concerted practices by undertakings which have as their object or effect the prevention, distortion or lessening of competition in trade in any goods or services in Kenya, or a part of Kenya (*defined under part A and B of Part III of the Act*).

4. DECLARATION

4.1 The Authority has developed these instructions without any prejudice and applicants should, therefore, ensure that they acquaint themselves with the portal as they prepare their submissions.

5. FILING INSTRUCTIONS

5.1 The Exemption application process starts with the applicant creating an account through the Public Portal.

- 5.1.1 To create an account, open your browser and key in the portal address (<https://competition.cak.go.ke:444/>). The portal address can also be accessed through the Authority's main website.
- 5.1.2 Click on register and enter the respective details as directed by the platform. The applicant can choose to use an individual email addresses or a single corporate email address.
- 5.1.3 Once registered, log on to the system and click on the Menu button.
- 5.1.4 Click Exemption Application on the selection panel.

5.2 Filling the Exemption Application Form

- 5.2.1 The form has instructions on what should be filled based on the nature of the information needed. The user should read these instructions before proceeding to apply for an Exemption.
- 5.2.2 The user should ensure that all fields in the Exemption application form are populated. NB: None should be left blank.
- 5.2.2 The user should ensure that the information and attachments intended to be submitted to the Authority is verified and is in order.
- 5.2.3 The user should download the Declaration Schedule exemption application form, provided as a hyperlink on the exemption application form, fill it and upload it (in PDF format). Any other relevant attachments including, but not limited to Agreements subject to the Exemption application and the [confidentiality claim form](#) should be attached once they have filled in all the other sections before clicking on 'Submit'
- 5.2.4 Upon submission, the Public Portal will auto generate a response confirming receipt of the Application by the Authority.
- 5.2.5 The Public Portal will also enable the user to track the progress of the case from the homepage on log on.
- 5.2.6 Further to these instructions is **annexure 1** with a pictorial step by step guide on how to apply for an Exemption.

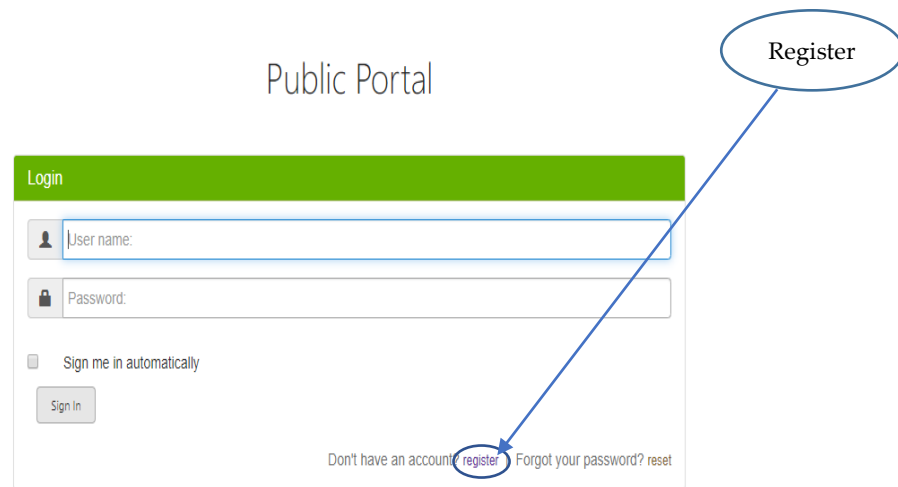
6 USEFUL TIPS

- 6.1 Ensure that you attach any documentation that will support and justify the grant of your exemption application.
- 6.2 Do not share the password to your Public Portal account or the reference number with other person/parties unrelated to the Exemption Application.
- 6.2 Only attach relevant documents once the form is fully filled and ready for submission.
- 6.3 Check the Public Portal dashboard for status of your filed Exemption.
- 6.4 All the documents to be uploaded should be legible and should have a clear descriptive file name. *For instance; Agreement, Company Profile, market shares among others.*

ANNEX I

STEP BY STEP PROCESS FOR AN EXEMPTION APPLICATION

1. Ensure your computer has a stable Internet connection.
2. Visit <https://competition.cak.go.ke:444/> .
3. On the landing page, click on “register” and fill in the details to open an account.



4. Create an account by providing all the details including a username, email address and choosing a password.
5. Enter your username and password to log in.
6. On the dashboard, click on “menu”- then from the drop down select “Exemption Application”



7. Read all the instructions on the preface carefully before you embark on filing the form

The screenshot shows the top portion of the 'Exemption Application' form. At the top left is the logo of the Competition Authority of Kenya (CAK) with the tagline 'Promoting effective markets for consumers'. At the top right is a 'Menu' button. Below the header is the title 'Exemption Application'. A light blue notification box contains the text: 'Please note the following regarding attachments: • Allowed extensions are: .pdf Files that violate these specifications will be skipped.' Below this is a green bar with the heading 'About Exemption Application'. The text below reads: 'Any Undertaking or association of undertakings may apply to the Authority to be exempted from: i. Any agreement or category of agreement; ii. Any decision or category of decisions; and iii. Any concerted practice or category of concerted practices. whose public benefits outweigh lessening of competition as outlined in Section 25, 26, 27, 28, 29 and 30 of the Competition Act No. 12 of 2010.' Below this is another green bar with the heading 'Exemption Application'. The form fields are: 'Name of applicant' (text input with 'mose oreko'), 'Exemption Application Title' (text input), 'Phone Number' (text input), 'Type of exemption' (dropdown menu with 'Intellectual Property'), and 'Exemption Duration' (dropdown menu with '--Select--').

8. Fill out the entire form without leaving any tabs blank.

The screenshot shows the main content area of the 'Exemption Application' form. At the top left is the CAK logo and at the top right is a 'Menu' button. Below the header are two dropdown menus: 'Type of exemption' and 'Exemption Duration' (with '--Select--'). Below these is another dropdown menu: 'In respect of this matter, has previous exemption been'. Below this is a note: 'The following information must be included in your description of the agreement or practice for which you seek an exemption:'. The form is divided into two columns of text input fields: i. Name, Address (postal and physical) and Position of person authorized by the applicant to provide additional information*; ii. Name and addresses (postal and physical) of applicant(s); iii. A short description the business of the applicant(s); iv. The names and addresses (postal and physical) of other parties to that practice if any; v. The facts and contentions on which you rely; vi. Description of the goods or services to which the proposed or actual restrictive practice relate; vii. The sections of the Act that you believe may be contravened by the practice; viii. Description of the market(s) in which the goods or services described are supplied or acquire and other affected markets including: significant suppliers and purchasers; substitutes available for the relevant goods or services; any restriction on the supply or acquisition of the relevant goods or services; ix. Detriment to the public resulting or likely to result from the exemption, in particular the likely effect of the agreement on the prices of the goods or services.

9. Download the Declaration Schedule exemption application form, fill in and click on "Browse" to attach as Pdf.

Declaration schedule exemption application

Postal and physical address...

Position...

Declaration*

Download Template: Declaration schedule exemption application

BROWSE...

Attachments

Templates:

- Exemption for certain restrictive practices.pdf
- Exemption in respect of intellectual property rights.pdf
- Exemption in respect of professional rules.pdf

BROWSE...

Other Attachments, i.e. Confidentiality Claim Form, Agreements Subject to the Exemption, Others.

Use Ctrl to select multiple files

BROWSE...

SUBMIT

Submit

Browse

Other Attachments, i.e. Confidentiality Claim Form

10. You can also download the Confidentiality declaration form, fill in and attach as Pdf.

11. Once you submit your Exemption Application you will receive an auto-response message confirming that your application has been received by the Authority.