

**Civil Wrongs (Liability of the State) (Amendment – Claims Arising from
Activity of Security Forces in Judea and Samaria and the Gaza Strip), 5761 –
2001**

Purpose

The purpose of this Law is to regulate the handling of claims against the State for acts performed by security forces in Judea and Samaria and the Gaza Strip against terror, hostile acts, and insurrection. To achieve this purpose, the Law establishes directives for the hearing of such claims; the Law also clarifies the term “wartime action” in section 5 of the Civil Wrongs (Liability of the State) Law 5712-1952,¹ (hereafter – the principal law).

Amendment to section 1

1. In section 1 of the principal law, before the words “other terms” shall come:

“wartime action” – including any action of combating terror, hostile actions, or insurrection, and also an action as stated that is intended to prevent terror and hostile acts and insurrection committed in circumstances of danger to life or limb.”

Addition of section 5A

“Claims arising from activity of security forces in the region

5A. A claim against the State or against an agent of the State for damages arising from an act performed in the region by the Israel Defense Forces (hereafter - claim) shall be heard in accordance with the provisions of this section:

(1) In this section –

"region" – each of the following: Judea, Samaria, and the Gaza Strip;

"Israel Defense Forces" – including other security forces of the State that acted or act in the region;

"the Council," "the Agreement" – as defined in the Law Extending the Validity of the Emergency Regulations (Judea and Samaria and the Gaza Strip - Adjudication of Crimes and Legal Assistance), 5728-1967;²

"act" – including an omission.

(2) (a) The court shall not hear a claim unless the injured person or his guardian or another person on his behalf gave written notice, in the manner that shall be set forth in regulations, of the act that is the subject of the claim.

(b) The notice shall be given within 60 days from the time of the act; however, if, as a result of the medical condition of the claimant or his guardian, or for other justifiable reasons he was unable to give the notice within the said period, the

¹ *Sefer HaChukkim*, 5712 (1952), p. 339.

² *Sefer HaChukkim* 5728 (1968), p. 20; 5738 (1978), p. 48; 5796 (1996), p. 34.

notice shall be given within 30 days from the day in which the impediment was removed.

(c) Where the injured person died and did not give notice while alive and the time for giving notice pursuant to subsection (b) has not passed, the notice shall be given by his dependents or by his estate or by another person on their behalf within 60 days from the day of his death.

(d) Notwithstanding the aforesaid in this section, the court may, for special reasons that shall be recorded, hear a claim regarding an act as to which notice was not delivered in a timely manner.

(3) The court shall not hear a claim filed more than two years from the day of the act that is the subject of the claim; however, the court may extend this period for an additional period that shall not exceed one year if it is convinced that the plaintiff did not have a reasonable opportunity to file his claim earlier. Where the plaintiff is a minor on the day of the act, the said period of extension shall not exceed three years.

(4) The provisions of section 38 and 41 of the Torts Ordinance [New Version]³ shall not apply to the hearing of the claim; however, the court may rule that the provisions of these sections shall apply if it found that the circumstances of the matter so justify and for special reasons that it shall record.

(5) If it is proven to the court that the State has been denied a fair opportunity to defend the claim because the Palestinian Council does not comply with the provisions concerning legal assistance in accordance with the Agreement, it may, after giving the parties an opportunity to state their arguments on this matter, deny the claim.

(6) The Minister of Defense is responsible for implementation of this section, and may, upon consultation with the Minister of Justice, and with the approval of the Constitution, Law, and Justice Committee of the Knesset, enact regulations relating to its implementation.”

Transitional provisions

4. (a) (1) The provisions of subsection 5A(2) of the principal law shall commence on the day of the commencement of the Regulations enacted pursuant thereto;

(2) The provisions of subsection 5A(2) of the principal law shall not apply to a claim whose cause of action is an act that occurred prior to the commencement of this Law;

(b) Notwithstanding the provisions of subsection 5A(3) of the principal law, a claim whose cause of action is an act that occurred prior to the commencement of this law and the period for the filing of suit has not yet expired, the times referred to in subsection (3) shall be counted from the date of the commencement of this law, provided that the period in which the suit must be filed would not be extended were it not for the provisions of subsection (3);

(c) Notwithstanding the provisions of subsection 5A(4) of the principal law, its provisions shall not apply to a claim in which the hearing of evidence began prior to the commencement of the law.

³ Laws of the State of Israel, New Version 10, p. 268.