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## Civil Wrongs (Liability of the State) Law, 5712-1952

### 1. Interpretation

In this law –

“**Ordinance**” shall mean the Civil Wrongs Ordinance, 1944;

“**Act**” – including an omission;

“**Civil Liability**” shall mean liability under the Ordinance for an act performed after the effective date of this law;

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

Other terms shall have the meaning imparted thereto in the Ordinance;

### 2. Civil Liability of the State

With respect to civil liability, the state shall be deemed as any incorporated body, except as provided in this law.

### 3. Acts within the Realm of Lawful Authorization

The state is not civilly liable for an act performed within the realm of lawful authorization, or in good faith while making apparent use of lawful authorization; it is, however, liable for negligent acts.

### 4. Defamation

The state is not civilly liable for defamation.

### 5. Wartime Action

The state is not civilly liable for an act performed through a Wartime Action of the Israel Defense Forces.

### 5A. Claims arising from activity of security forces in the region

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 act in the region;
- (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 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 Civil Wrongs Ordinance [New Version] 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 the court is convinced 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; In this paragraph, "**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; "**the Palestinian Council**", as defined in the aforementioned law;
- (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.

**5B. Claims by an enemy and a person who is active in, or a member of, a terrorist organization**

- (a) Notwithstanding the provisions of any law, the State is not civilly liable for damages caused to the persons set forth in paragraphs (1), (2) or (3), except for an injury sustained in the kinds of claims or to the kinds of claimants set forth in the First Annex -
  - (1) A subject of a state that is an enemy, unless the person is staying lawfully in Israel;
  - (2) A person who is active in, or a member of, a terrorist organization;
  - (3) A person who was injured while acting as an agent or on behalf of a subject of an enemy state, a member of a terrorist organization, or a person active therein.
- (b) In this section –

“**Enemy**” and “**Terrorist Organization**” have the same meaning as in section 91 of Hoq ha-Oneshin [Penal Law], 5737–1977.<sup>1</sup>

“**The State**” includes an authority, body, or person acting on its behalf.

**5C. Claims in a zone of conflict**

- (a) Notwithstanding the provisions of any law, the State is not civilly liable for damages sustained in a zone of conflict as a result of an act that was carried out by the security forces except for injury that is sustained in the kinds of claims or to the kinds of claimants set forth in the Second Annex.
- (b) (1) The Minister of Defense shall appoint a committee, which shall be authorized to approve, beyond the letter of the law, in special circumstances, payment to a claimant as to whom subsection (a) applies and to set the amount of the payment (in this subsection – **the Committee**);
- (2) The members of the Committee shall be:
- (1) An attorney qualified to be appointed district court judge, who shall be the chairperson; the Minister of Defense shall appoint the chairperson upon consultation with the Minister of Justice;
  - (2) A representative of the Ministry of Defense;
  - (3) A representative of the Ministry of Justice;
- (3) The Minister of Defense, upon consultation with the Minister of Justice, and with the approval of the Knesset’s Constitution, Law and Justice Committee, shall establish the preliminary conditions for applying to the Committee, the manner in which the application shall be made, the Committee’s work procedures, and the criteria for payment beyond the letter of the law.
- (c) The Minister of Defense may declare a territory a zone of conflict; where the minister so declared, the declaration shall establish the borders of the zone of conflict and the period for which the declaration applies; announcement of the declaration shall be published in *Reshumot*.

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<sup>1</sup> Sefer ha-Huqqim 5737 [1977], p. 322.

(d) Where a written notice was given pursuant to Section 5A(2) (in this section – **written notice**), the following provisions shall apply:

- (1) Where the Minister of Defense declared the area in which the damages were sustained a zone of conflict – a notification of the declaration shall be provided to the person who submitted the written notice within 30 days from the day the written notice was received at the Ministry of Defense;
- (2) Where the Minister of Defense did not declare the area in which the damages were sustained a zone of conflict – he may, within 90 days from the day the written notice was received, declare the area a zone of conflict; where such a declaration is made, he shall so inform the person who submitted the written notice within the said 90-day period; where the Minister of Defense declared the area as aforesaid following the expiration of the said 90-day period, the court may, for special reasons that it shall record, accept the claim that the damages that are the subject of the written notice were sustained in a zone of conflict;
- (3) The failure to inform a person who gave written notice that the area has been declared a zone of conflict, as stated in paragraphs (1) and (2), shall not affect the validity of the declaration pursuant to subsection (c);
- (4) The Minister of Defense, upon consultation with the Minister of Justice, shall establish the manner of informing a person who gave written notice that an area has been declared a zone of conflict.

(e) In this section –

“**Zone of Conflict**” means an area outside the territory of the State of Israel which the Minister of Defense declared a zone of conflict, as set forth in subsection (c), where security forces were active or remained in the zone in the framework of the conflict.

“**The State**” includes an authority, body, or person acting on its behalf;

“**Conflict**” means a situation in which an act or acts of a military nature are taking place between the security forces and regular or irregular entities hostile to Israel, or a situation in which enemy acts carried out by an organization hostile to Israel are taking place.

**5D. Change in Annexes by order**

The Minister of Defense, after consulting with the Minister of Justice, and with the approval of the Knesset's Constitution, Law and Justice Committee, may change by order the First Annex and the Second Annex.

**6. Injury Caused in Military Service**

- (a) The state is not civilly liable for an injury caused to a person and for an illness or the deterioration of an illness, suffered by him during the period of his Military Service due to his Military Service.
- (b) “**Military Service**”, in this section, as defined in the Disabled Persons Law (Provident Payments and Rehabilitation), 5709-1949.

**7. Death Caused in Military Service**

- (a) The state is not civilly liable for the death of a person resulting from an injury caused to him, or from an illness or from the deterioration of an illness suffered by him during the period of his Military Service due to his Military Service.
- (b) “**Military Service**”, in this section, as defined in the Families of Fallen Soldiers Law (Provident Payments and Rehabilitation), 5710-1950.

**7A. Limitation for Purposes of Rehabilitation Laws**

If an action in tort is filed against the state and dismissed by virtue of sections 6 or 7, then the period of limitation for the filing of applications for grants and provident payments pursuant to the Disabled Persons Law (Provident Payments and Rehabilitation), 5719-1959 (Consolidated Version), and the Families of Fallen Soldiers Law (Provident Payments and Rehabilitation), 5710-1950, shall end on the date fixed therein or six months after the date of issuance of a non-appealable judgment, whichever is the later, provided that the action in tort is filed no later than one year after the end of the effective period of limitation in such laws.

**7B. Exemption from civil liability for Agents of the State**

- (a) In circumstances in which the state is not civilly liable pursuant to any one of sections 5-7, the person due to whom the state would have been civilly liable, but for the said sections, shall too be exempt from liability.
- (b) This section shall apply also to acts or omissions performed prior to the date of commencement hereof, but shall not prejudice a final judgment issued prior to the said date.

**7C. State's Right to Indemnification**

The provisions of section 7B shall not derogate from the state's right to indemnification from whomever would have been liable therefor but for the said provisions.

**8. Properties Bestowed upon the State**

The state is not civilly liable for properties, in the capacity of owner of properties bestowed thereupon by the law only, so long as it has not gained possession thereof.

**9. Preservation of Special Legal Provisions**

The provisions of this law shall not derogate from any provision in any one of the laws listed below which sets forth, limits or denies the liability of the state or its institutions:

- (1) Land Ordinance (Arrangement of Title);
- (2) Postal Offices Ordinance;
- (3) Governmental Railroads Ordinance, 1936;
- (4) Absentees' Property Law, 5710-1950;
- (5) Germans' Property Law, 5710-1950;
- (6) Postal Bank Law, 5711-1951.

**9A. Preservation of laws**

The provisions of sections 5B and 5C shall not derogate from any defense, immunity, or exemption, given to the State of Israel by any law.

**10. Revocation**

Section 4(1) of the Ordinance is hereby revoked.

**11. Amendment**

The Governmental Trials Ordinance shall be amended as follows:

- (1) The full stop at the end of paragraph (c) shall be replaced by a comma followed by “or”;
- (2) This paragraph shall be added:
  - (d) of civil wrongs.

**First Annex**

**(Section 5B(a))**

A claim the cause of which is injury sustained to a person as stated in section 5B(a) while he was in custody of the State of Israel as a detainee or prisoner and who, after being in custody, did not return to be active in, or a member of, a terrorist organization or to act on behalf of such or as an agent thereof.

**Second Annex**

**(Section 5C(a))**

1. A claim the cause of action of which is injury sustained as a result of an act done by a person serving in the security forces, provided that the said person was convicted of an offense for the said act by a conclusive judgment in a military tribunal or court in Israel; in this matter “offense” excludes an offense that is of the kind of offenses for which strict liability applies (within the meaning of section 22 of the Penal Law, 5737-1977<sup>2</sup>; in claims pursuant to this subsection, regarding the period of limitation for filing a claim, as stated in section 5A(3), the day of the act that is the subject of the claim is the day on which the judgment is rendered final.
2. A claim the cause of action of which is injury sustained in a zone of conflict by a person who was in the custody of the State of Israel as a detainee or prisoner and who, after being in custody, did not return to be active in, or a

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<sup>2</sup> Sefer ha-Huqqim 5737 [1977], p. 322.

member of, a terrorist organization or to act on behalf of such or as an agent thereof.

3. A claim the cause of action of which is the act of the Civil Administration within its meaning in Hoq Yissum ha-Heskem bidvar Rezu'at Azza we-Ezor Yeriho (Hesderim Kalkaliyyim we-Hora'ot Shonot) (Tiqqune Haqiqa) [the Implementation of the Agreement on the Gaza Strip and the Jericho Area (Economic Arrangements and Miscellaneous Provisions) (Legislative Amendments) Law], 5795 - 1994<sup>3</sup>; or an act of the Government, Coordination and Liaison Administration provided it is done outside the framework of conflict.
4. A traffic accident within its meaning as in Hoq ha-Pizzuyim le-Nifge'e Te'unot Derakhim [the Compensation of Victims of Traffic Accidents Law], 5735 – 1975<sup>4</sup>, in which a vehicle of the security forces is involved, the registration number of which or the identity of the driver of the vehicle at the time of the accident is known, except where the accident occurred incidental to operational activity of the vehicle or to the hostile action of the injured person against the state or against the civilian population;
5. Property damages caused to a vehicle following a traffic accident within its meaning as in the Compensation of Victims of Traffic Accidents Law, 5735 – 1975, even if bodily injury was not sustained in the said accident, provided that the other conditions set forth in section 4 in this annex are met.

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<sup>3</sup> Sefer ha-Huqqim 5755 [1994], p. 326.

<sup>4</sup> Sefer ha-Huqqim 5735 [1975], p. 234.