

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

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- Interpretation    **1.**    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 terrorism, hostile actions, or insurrection, and also any action as stated that is intended to prevent terrorism, hostile actions, or insurrection that is of a belligerent nature given its overall circumstances, including the object of the act, its geographic location or the threat to the force carrying it out.
- Other terms shall have the meaning imparted thereto in the Ordinance;**
- Civil Liability of the State    **2.**    With respect to civil liability, the state shall be deemed as any incorporated body, except as provided in this law.
- Acts within the Realm of Lawful Authorization (Amendment No. 6 5775-2005)    **3.**    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
- Defamation (Amendment No. 6 5775-2009)    **4.**    **[revoked]**
- Wartime Action (Amendment No. 8 5785-2012)    **5.**    (a) The state is not civilly liable for an act performed through a Wartime Action of the Israel Defense Forces.
- (Amendment No. 8 5785-2012)    (b) Where the state makes, as a preliminary argument, the argument that it is not civilly liable because the act for which it is being sued was A Wartime Action as stated in subsection A, the court shall hear said argument immediately, and if it rules that the act is a Wartime Action as stated, it shall dismiss the claim
- Claims arising from activity of security forces in the region (Amendment No. 4 5775-2002)    **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" – any of the following: Judea, Samaria, and the Gaza Strip;**
- "Israel Defense Forces" – including other security forces of the State operating in the region;**
- (2)**    (a) The court shall not hear a claim unless the injured person or his guardian or another person acting on his behalf has given 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 notice within said period, the notice shall be given within 30 days from the day on which the impediment was removed;

- (c) Where the injured person has died and had not given notice while still living and the time for giving notice pursuant to subsection (b) has not passed, 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) <sup>1</sup> The court shall not hear a claim filed more than two years after 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, 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 shall be recorded;
- (5) If the court is convinced that the State has been denied a fair opportunity to defend the claim because the Palestinian Council has not complied 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 the 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.

Claims by an enemy and a person who is active in, or a member of, a terrorist organization (Amendment No. 7 5775-2005)

- 5B.** (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 injury sustained in the types of claims or to the types of claimants set forth in the First Annex -
  - (1) A subject of a state that is an enemy, or person who is not an Israeli citizen and is a resident of a territory outside Israel which the government has declared, by order, as enemy territory, unless lawfully present 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.

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<sup>1</sup> With respect to a claim the cause of which is an act that took place prior to the commencement of Amendment No. 4 and is still within the period of limitations, the dates specified in this section shall be counted from the date of commencement of the Amendment, provided that in each case the limitations period does not exceed the limitations period applicable by law on the date of the act.

(b) In this section –

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

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

- The competent court  
(Amendment No. 8 5782-2012)
- 5B1.** A claim as stated in section 5A, as well as a claim as stated in section 5B, including in the types of claims or types of claimants as stated in the First Annex, shall be submitted to the competent court in either the Jerusalem District or the South District, whichever is closest to the location of the act that is the subject of the claim.
- (Amendment No. 8 5782-2012)
- 5C.<sup>2</sup>** [revoked]
- Change in Annexes by order  
(Amendment No. 7 5775-2005)  
(Amendment No. 8 5782-2012)
- 5D.** The Minister of Defense, after consulting with the Minister of Justice, and with the approval of the Knesset Constitution, Law and Justice Committee, may change by order the First Annex and the Second Annex.
- Injury Caused in Military Service  
(Amendment No. 2 5732-1972)
- 6.** (b) The state is not civilly liable for an injury caused to a person or for any illness or deterioration of an illness, suffered by him during the period of his Military Service due to his Military Service.
- (c) “Military Service”, in this section, as defined in the Disabled Persons Law (Provident Payments and Rehabilitation), 5709-1949.
- Death Caused in Military Service  
(Amendment No. 2 5732-1972)
- 7.** (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.
- Limitation for Purposes of Rehabilitation Laws  
(Amendment No. 1 5723-1963)
- 7A.** 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.
- Exemption from civil liability for Agents of the State  
(Amendment No. 3 5749-1989)
- 7B.** (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.

<sup>2</sup> Prior to its revocation in 2012, the section was ruled null and void in H CJ 11426, 83883, 8276/05 **Adalah v. Minister of Defense**, dated December 12, 2006.

<sup>3</sup> See, Official Gazette 5766 No. 5492, dated February 9, p. 1658; Official Gazette 5766 No. 5493, dated February 13, p. 1842.

- State's Right to Indemnification (Amendment No. 3 5749-1989)
- Properties Bestowed upon the State
- Preservation of Special Legal Provisions
- (Amendment No. 5 5764-2004)
- Preservation of laws (Amendment No. 7 5775-2005) (Amendment No. 8 5782-2012)
- Revocation
- Amendment of Governmental Trials Ordinance
- (Amendment No. 7 5775-2005)
- (Amendment No. 8 5782-2012)
- 7C.** 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.** 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.** 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) [deleted]
- 9A.** 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.** Section 4(1) of the Ordinance is hereby revoked.
- 11.** 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 by a person as stated in section 5B(a) while 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 member of, a terrorist organization or act on behalf of such or as an agent thereof.

**Second Annex**  
**(revoked)**