

The Equal Rights for People with Disabilities Law, 5758-1998*

Chapter One: Basic Principles

1. Basic principle

Rights of people with disabilities and the obligation of Israeli society toward these rights are founded upon recognition of the principle of equality, man's worth - created in God's image - and on the principle of respect for all human beings.

2. Object

The object of this Law is to protect the dignity and liberty of a person with disabilities and anchor his right to equal and active participation in society in all walks of life, as well as provide a suitable response to his special needs in such a manner as to enable him to live his life with maximum independence, in privacy and with dignity, by exploiting his fullest potential.

3. Affirmative action

Any action designed to correct a prior or existing discrimination against people with disabilities or designed to advance the equality of people with disabilities shall not be regarded as unlawful discrimination.

4. The right to make decisions

A person with disabilities is entitled to make decisions relating to his life, according to his desires and priorities, all in accordance with the provisions of any law.

Chapter Two: Interpretation

5. Definitions

In this Law -

"person with disabilities" means a person with a physical, mental or intellectual (including cognitive) handicap, permanent or temporary, by virtue of which his functioning in one or more of the central facets of his life is substantially limited;

"representative employees' organization" has the same meaning as in the Collective Agreements Law, 5717-1957¹;

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"Commission" means the Equal Rights for People with Disabilities Commission within the meaning of Chapter Six of this Law.

Chapter Three: General Principles

6. Principles regarding the exercise of rights and provision of services

(One) Exercise of rights and provision of services to a person with disabilities shall be performed as follows -

- (1) in strict compliance with the person's dignity and liberty and protection of his privacy;
- (2) within the ambit of services provided and designated for the general public, while performing any necessary modifications in the particular circumstances, as stated in this Law;
- (3) in respect of rights and services provided by a public body - to a suitable standard, within a reasonable time and within a reasonable distance from the person's place of residence, and all within the framework of the financial resources available to the public body.

(Two) In this section, "public body" means one of the following:

- (1) a government Ministry, including its units and its support units;
- (2) a local authority;
- (3) a corporation where a local authority holds at least one-half of the voting power or has the right to appoint at least one half of its directors;
- (4) a corporation established under statute;
- (5) a government company, within the definition in the Government Companies Law, 5735-1975², as prescribed by the Minister of Justice, with the agreement of the Ministers as they are defined in the aforesaid Law;
- (6) any other body, which is an inspected body within the meaning of section 9 of the State Comptroller Law, 5718-1958 [Consolidated Version]³, as prescribed by the Minister of Justice, with the consent of the Constitution, Legislation and Law Committee of the Knesset.

7. Determination of entitlement

Any examination or review whose object is to determine a person's entitlement to rights or services on account of his disabilities, shall be conducted with full consideration of his ordinary way of life.

Chapter Four: Employment

8. Prohibition of discrimination in employment

(One) An employer shall not discriminate between his employees or persons seeking employment, by reason of their disabilities, provided that they are qualified for the job or position in question, in any of the following:

- (1) hiring, including hiring tests;
- (2) employment terms;
- (3) promotion at work;
- (4) training or professional advanced studies;
- (5) severance or severance pay;
- (6) benefits and payments given to an employee in connection with retirement from work.

(Two) For the purposes of subsection (a), setting irrelevant conditions shall also be deemed discrimination.

(Three) Any act or failure to act which are necessary from the substantive requirements of the job or position, shall not be deemed discrimination under this section.

(Four) The provisions of this section shall also apply, *mutatis mutandis*, to a person who was formerly a person with disabilities, a person regarded as a person with disabilities and to the family members who take care of a person with disabilities.

(Five) For the purposes of this section -

"family member" means -

"(1) a spouse, parent or child;

(2) a spouse of a parent, a spouse of child, a brother or sister or their spouses, a grandparent or grandchild, who are mainly responsible supporting the person with disabilities;

"discrimination" includes non-performance of modifications required on account of the special needs of the person with disabilities which will enable his employment;

"modification", "modifications" includes modifying the workplace, the equipment therein, job requirements, work hours, job hiring tests, training and instruction and work procedures, all without imposing an excessive burden on the employer;

"an excessive burden" means an unreasonable burden in the specific circumstances, taking into consideration, *inter alia*, the cost and nature of the modification, the size and structure of the business, the scope of activity, number of employees, composition of the staff and the existence of external or State sources of financing to perform the modification.

9. Suitable representation of people with disabilities

(One) Where an employer sees that among his employees, people with disabilities are not suitably represented, in the particular circumstances, (hereinafter referred to as "suitable representation"), he shall act to advance suitable representation, including the implementation of modifications.

(Two) The activities of an employer under this section may be made in a plan to include provisions with respect to preference in employment or advancement of people with disabilities who are qualified for the job or position and who have similar qualifications to those held by other candidates for the job or position.

(Three) The Minister of Labor and Social Welfare may, in consultation with the Commission and with organizations engaged in the advancement of the rights of people with disabilities, according to the basic principles of this Law and with the approval of the Labor and Social Welfare Committee of the Knesset, act as follows -

- (1) prescribe supplementary provisions, either for a particular case or types of cases, concerning employer obligations under this section, including provisions on categories of disabilities or the severity of disabilities of people who must be employed or promoted at work;
- (2) prescribe provisions in respect of an employer's duty to report on taking action under this section;
- (3) prescribe limitations on obligations of an employer under this section.

(Four) In this section -

"employer" means an employer employing more than 25 employees, excluding the State or any other employer to which the provisions of section 15A of the State Service (Appointments) Law, 5719-1959⁴ are applicable;

"modifications" as defined in section 8(e).

10. Protection of a complainant

(One) An employer shall not harm an employee in the matters specified in section 8 because of a complaint or claim of an employee in respect of the provisions of this chapter, or because he assisted another employee in connection with a complaint or claim under this chapter.

(Two) In a criminal or civil case for breach of subsection (a), it shall be a valid defense if the employer acted in response to a false complaint or assistance in respect of a false complaint made maliciously and with the knowledge that the complaint was a false complaint.

11. Advertisements of job offers

(One) An employer or a person requiring a worker shall not publish an advertisement regarding a job offer or a referral for professional training which is discriminatory under the provisions of section 8.

(Two) The provisions of this section shall not apply to the publication of an advertisement regarding a job offer or referral for professional training to which section 8(c) applies.

12. Right of action

Actions regarding breach of the provisions of this chapter may be filed by the following -

- (1) an employee;
- (2) a representative employees' organization at the same workplace, and where there is no such organization, the employees' organization to which the employee belongs;
- (3) the Commission or an organization engaged in the advancement of the rights of people with disabilities, provided the employee consents thereto.

13. Application of provisions of the Equality of Opportunities in Labor Law

The provisions of sections 5, 9(a), 11, 13, 14, 16, 17, 18 and 21 of the Equality of Opportunities in Labor Law, 5748-1988⁵ shall apply, *mutatis mutandis*, to the provisions of this chapter.

14. Jurisdiction and remedies

The Labor Court shall have exclusive jurisdiction to hear a civil proceeding for breach of the provisions of this chapter and it may act as follows:

- (1) award damages, even where no pecuniary damage has been incurred, at a the rate it deems fit in the circumstances;
- (2) grant a prohibitory injunction or mandatory injunction, if it considers that an award of damages alone is not just; when granting an order under this section, the Court shall take into account, *inter alia*, the influence of the order on labor relations at the workplace and the possibility of another employee being harmed. The provisions of this paragraph shall be in force despite the provisions of section 3(2) of the Contracts (Remedies for Breach of Contract) Law, 5730-1970⁶.

15. Penalties

- (One) Those acting in contravention of the provisions of sections 8, 10 and 11 shall be liable to twice the fine set in section 61(a)(1) of the Penal Law, 5737-1977⁷.
- (b) No person shall be criminally liable for an offense under section 11, other than the employer or the person seeking a worker.
- (c) The provisions of this section shall not apply to non-performance of modifications, as defined in section 8(h).

16. Programs

- (One) The Minister of Labor and Social Welfare shall initiate, develop and prepare programs in respect of the following matters:
 - (1) employment and rehabilitation of people with disabilities, with priority to their integration into regular workplaces;
 - (2) establishment of an employment assessment system and an appropriate vocational system to ensure the integration of people with disabilities into the employment pool;

(3) providing counseling and vocational training to employers and employees in respect of integration of people with disabilities into the employment pool.

(Two) The Minister of Labor and Social Welfare shall, once a year, submit a report on such programs referred to in subsection (a), to the Labor and Social Welfare Committee of the Knesset.

17. Implementation and Regulations

(One) The Minister of Labor and Social Welfare is charged with the implementation of the provisions of this chapter and he may enact Regulations in all matters relating to the implementation of this chapter, including in respect of the nature of the modifications required under the provisions of this chapter.

(Two) The Minister of Labor and Social Welfare and the Minister of Finance shall prescribe Regulations regarding contributions to funding the implementation of modifications, as defined in section 8(e).

(Three) The Minister of Labor and Social Welfare, in consultation with the Minister of the Interior, shall make Regulations regarding the provision of priority to people with disabilities when granting parking spaces at workplaces.

(Four) (1) Regulations under this chapter shall be made in consultation with the Commission and with the organizations engaged in the advancement of the rights of people with disabilities, in accordance with the basic principles of this Law, and with the approval of the Labor and Social Welfare Committee of the Knesset.

(2) Regulations under subsections (b) and (c) shall also be enacted in consultation with representative employees' organizations which, in the opinion of the Minister of Labor and Social Welfare, are involved in the matter, and with employer organizations which, in the opinion of the Minister of Labor and Social Welfare, are representative and are involved in the matter.

(Five) Regulations under this chapter shall be submitted for the approval of the Labor and Social Welfare Committee of the Knesset within one year of the date of publication of this Law.

18. Temporary provision

Section 9 shall remain in force for seven years from the date of publication of this Law.

Chapter Five: Public Transportation Services

19. Public transportation services

- (One) A person with disabilities is entitled to public transportation services which are accessible and appropriate for his use, at a reasonable frequency, including the possibility of access to stations and ports within which public transportation services operate. In this section "public transportation services" means buses on municipal routes, trains, air transportation and boats intended for the public.
- (Two) An operator of public transportation services and the local authority shall regulate access as stated in subsection (a), each according to his area of responsibility.
- (Three) The Minister of Transport and the Minister of Finance, in consultation with the Ministers involved in the matter, the Commission, representations of operators of public transportation and organizations engaged in the advancement of the rights of people with disabilities, in accordance with the basic principles of this Law and with the approval of the Constitution, Legislation and Law Committee of the Knesset, shall make Regulations to regulate access under this section, including the modes and dates for their regulation. Regulations under this section shall be submitted for the consent of the Constitution, legislation and Law Committee of the Knesset within one year of the date of publication of this Law.
- (Four) Those acting in contravention of the provisions enacted under this section shall be liable to a fine as stated in section 61(a)(3) of the Penal Law, 5737-1977.

**Chapter Six: The Equal Rights for People with Disabilities
Commission**

20. Establishment of Commission

An Equal Rights for People with Disabilities Commission is hereby established.

21. Functions of the Commission

The Commission shall act -

- (1) to promote the basic principles of this Law;
- (2) to promote equality and prevent discrimination against people with disabilities;

- (3) to encourage the integration and active participation of people with disabilities in society;
- (4) to fulfill the functions vested in it under this Law.

22. Equal Rights for People with Disabilities Commissioner

- (One) The Government, in consultation with the Minister of Justice and the Minister of Labor and Social Welfare, shall appoint an Equal Rights for People with Disabilities Commissioner (hereinafter referred to as "the Commissioner").
- (Two) The Commissioner shall be charged with the execution of the functions of the Commission.

23. Appointment qualifications of Commissioner

An Israeli national and resident in Israel who holds an academic degree in a profession within the sphere of the Commission's functions is qualified to be appointed Commissioner. The Commissioner shall be a State employee and notice of his appointment shall be published in *Reshumot*.

24. Commission employees

Commission employees shall be State employees.

25. Commission budget

The Commission's budget shall be determined in the Budget Law as a separate budget item within the meaning in the Budgetary Principles Law, 5745-1985⁸.

26. Advisory Council

- (One) The Minister of Labor and Social Welfare and the Minister of Justice shall appoint an Advisory Council to the Commission. Notice of the appointment and composition of the Council shall be published in *Reshumot*.
- (Two) People with various disabilities or their representatives, depending on the circumstances, representatives of organizations engaged in the advancement of the rights of people with disabilities, experts in the areas of activity of the Commission, lawyers and public representatives shall be members of the Advisory Council. The majority of members of the Advisory Council shall be people with disabilities.
- (Three) The Commissioner shall consult with the Advisory Council on matters concerning the functions of the Commission.

Chapter Seven: Miscellaneous Provisions

27. Amendment of the Labor Courts Law - No. 28

In the Labor Courts Law, 5729-1969⁹, the following shall be inserted at the end of the Second Schedule:

"Chapter Four of the Equal Rights for People with Disabilities Law, 5758-1998".

28. Amendment of the State Service (Appointments) Law - No. 10

In the State Service (Appointments) Law, 5719-1959, in section 15A -

- (1) the marginal heading shall read "fair representation";
- (2) in subsection (a), the words "(hereinafter referred to as "suitable representation")" shall be replaced by the words "in addition to the representation of people with disabilities (hereinafter referred to as "suitable representation"); in this section, "person with disabilities", "people with disabilities" has the same meaning as in the Equal Rights for People with Disabilities Law, 5758-1998";
- (3) the following shall be inserted at the end of subsection (b), "including implementation of modifications, as defined in section 8(e) of the Equal Rights for People with Disabilities Law, 5758-1998.";
- (4) in subsection (c) -
 - (One) after the words "as shall be determined therein" the words "and for the purposes of suitable representation of people with disabilities, including the provisions in respect of categories of disabilities or their severity" shall be inserted;
 - (Two) at the end of the subsection the words "in addition to granting priority in a tender to a person with disabilities where people with disabilities are not fairly represented and where the candidate, who is a person with disabilities, holds similar qualifications to those of the other candidates" shall be inserted

29. Commencement

This Law shall come into force on the 13th Tevet, 5759 (1st January, 1999).

Ezer Weizman
President of the State

Binyamin Netanyahu
Prime Minister

Dan Tichon
Speaker of the Knesset

Eliyahu Ishai
Minister of Labor and
Social Welfare

Amendment to the Military Justice Law, 5715-1955
[last amendment April 7, 2000 (5760)]

231. Arrest by a military policeman without a warrant of arrest [Amendment: 5760]

Where a soldier has been arrested by a military policeman and is held in custody, a warrant for his arrest shall be obtained as soon as possible and by no later than twenty-four hours from the time of his arrest. If a warrant of arrest has not been issued by the expiration of twenty-four hours from the time of his arrest, he shall be released.

232. Transfer of person other than a soldier to civil authority [Amendment: 5760]

A military policeman who arrests a person, other than a soldier, under this Law, shall transfer him to a civil authority as soon as possible and no later than twelve hours after the arrest.

233. Arrest by other soldier without warrant of arrest [Amendment: 5760]

A person who has been arrested under sections 228 and 229 shall be put in a military place of detention, and if he is held in custody, a warrant for his arrest shall be obtained as soon as possible. If a warrant of arrest has not been issued within twenty-four hours from the time of his arrest, he shall be released.

234. Warrant of arrest by disciplinary officer [Amendment: 5753, 5760]

(One) A disciplinary officer may issue a warrant of arrest with respect to a soldier of a lower rank than himself who is suspected of or charged with an offense, for a period not exceeding forty-eight hours. If the warrant of arrest is for a period of less than forty-eight hours, the disciplinary officer may direct the extension of the arrest for additional periods of time, provided that the total periods of arrest shall not exceed forty-eight hours.

(a1) A disciplinary officer of the rank of at least Lieutenant-Colonel may, on grounds related to operational activity or naval activity, direct the extension of arrest for additional periods of time, provided that the total periods of arrest under this subsection and subsection (a) shall not exceed ninety-six hours; where a disciplinary officer has directed an extension of arrest as aforesaid, his grounds for the extension of arrest shall be recorded.

(Two) A warrant of arrest shall be in writing and signed by the disciplinary officer, and shall be executed by a policeman or military policeman or by another soldier who has been authorized for this purpose by the disciplinary officer. For the purpose of its enforcement, another soldier executing a warrant of arrest shall be deemed a military policeman.

234A. Execution of warrant of arrest [Amendment: 5738]

Where a warrant of arrest has been issued by a senior disciplinary officer, a policeman or military policeman enforcing such warrant in his possession, may

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- (1) enter any place where he has grounds to believe that the arrested person is present;
- (2) use reasonable force against a person or property to the extent necessary to enforce the warrant of arrest.

235. Approval of warrant of arrest [Amendment: 5753, 5756(6), 5760]

(One) A disciplinary officer of a rank less than Lieutenant-Colonel who issued a warrant of arrest as stated in section 234(a) shall immediately submit such warrant, in accordance with army orders, for the approval of another disciplinary officer of a rank of not less than the rank of Lieutenant-Colonel.

(Two) A disciplinary officer of the rank of at least Lieutenant-Colonel who issued a warrant of arrest under section 234(a) or who approved a warrant of arrest issued under the aforesaid section and a disciplinary officer who ordered an extension of the arrest under section 234(a1), shall notify the Military Advocate thereof immediately, according to army orders.

236. Validity of warrant of arrest by disciplinary officer [Amendment: 5753, 5756(6), 5760]

Repealed.

236. [Amendment: 5742 (2), 5753]

Repealed.

237A. Military policeman's warrant of arrest [Amendment: 5742(2), 5753, 5756(6), 5760]

(One) Notwithstanding the provisions of section 234(a), a disciplinary officer may issue a warrant of arrest for any soldier for a period not exceeding forty-eight hours. Such disciplinary officer who issued a warrant of arrest for a period of less than forty-eight hours may direct the extension of the arrest for additional periods of time, provided that the total periods of arrest shall not exceed forty-eight hours;

(Two) Where a soldier has been arrested under a warrant of arrest issued by a disciplinary officer as stated in subsection (a), whose rank is less than that of Captain or who is not a military base commander, his arrest shall be brought for the approval of a military police officer who is a military police base commander or a military police officer, whose decorated rank is at least that of a Captain, as soon as possible and no later than the expiration of twenty four hours from his arrest.

(Three) A military police officer to whom the arrest of a soldier has been brought for his approval, as stated in subsection (b), may approve or shorten the period of arrest prescribed in the warrant of arrest or order the release of the soldier from his custody.

(Four) Where the conditions of subsection (b) are not fulfilled, the soldier shall be released from his custody.

(d1) Notwithstanding the provisions of this section and section 237C, if a military police officer of the rank of at least Lieutenant-Colonel finds it necessary to perform extremely urgent investigative activity which cannot be performed save by the arrest of the suspect, and such activity may not be delayed until the arrested person is brought before a judge, or extremely urgent activity is required in respect of an investigation of an offense as stated in section 35(b) of the Criminal Procedure (Enforcement Powers - Arrests) Law, 5756-1996², he may order the extension of arrest for the purpose of performing such activity for a period not exceeding seventy-two hours from the commencement of the arrest.

(d2) A military police officer shall not direct the extension of arrest, as stated in subsection (d1), except for an offense classified as a felony and after having received the prior approval of the Military Advocate for the extension of the arrest. A military police officer who extended the arrest as stated shall record the grounds for such an extension.

(Five) The provisions of this section shall not apply to a warrant of arrest issued by a military policeman within the sphere of his authority as disciplinary officer in the unit of a soldier under his control, unless the offense for which the soldier was arrested is under the investigation by an investigating officer as stated in section 252(a)(3).

237A1. Hearing arguments of person under arrest [Amendment: 5760]

(One) (1) Where a soldier has been arrested under the Arrests Ordinance in accordance with section 237A, he shall be given the opportunity to state his case, after having been warned under the caution prescribed in section 267. The statement in respect of the arrest shall be brought before the person competent to approve an arrest under section 237A(b) (hereinafter referred to in this section as "the competent officer") as soon as possible, and no later than the expiration of twenty-four hours from his arrest.

(2) The statements made in respect of the arrest may be brought before the competent officer in writing or orally, all to be determined by the competent officer.

(Two) (1) Where a soldier has been arrested, not pursuant to the Arrests Ordinance or he is situated in a military police base and there is an intention to arrest him, a disciplinary officer shall not issue a warrant of arrest in respect thereof under section 237A, except after having provided the soldier with the opportunity state his case in the manner prescribed in subsection (a), and for this purpose, the disciplinary officer shall have the powers of a competent officer, within the meaning in the aforesaid section.

(2) Where a warrant of arrest has been issued under the circumstances stated in paragraph (1) and the approval of the warrant of arrest is required under the provisions of section 237A(b), the statements made in respect of the arrest of the soldier shall also be brought before the approving officer. The provisions of subsection (a)(2) shall apply for the purposes of this paragraph.

(Three) Statements made in respect of the arrest of a soldier under subsections (a) and (b) shall be recorded.

(Four) The provisions of this section shall not apply to a decision of a disciplinary officer to extend the arrest of a soldier and the approval of a military advocate to the extension of an arrest.

237B. Application to a military court for extension of arrest [Amendment: 5742(2), 5753, 5756(6)]

Where a Military Advocate is of the opinion that an arrest should be extended beyond the periods prescribed in sections 234 and 237A, he may direct a military prosecutor or military policeman, who shall be appointed for these purposes in the manner to be prescribed in military orders, to apply to the district military court with an application to extend the arrest. A military police officer of a rank no less than Lieutenant-Colonel may direct a military policeman as aforesaid, who shall be appointed for these purposes in the manner to be prescribed in military orders.

237C. Bringing an arrested person before a judge on the Sabbath and festivals [Amendment: 5760]

(One) The following provisions shall apply to a person arrested under a warrant of arrest in accordance with section 237A:

(1) Where the date of application for extension of arrest, as stated in section 237B, falls on a Sabbath or festival, the person under arrest shall be brought before a judge as stated in section 240, prior to the commencement of the Sabbath or festival;

(2) (a) Where an arrest has been made less than twenty-four hours prior to the commencement of the Sabbath or festival, the person under arrest shall be brought before a judge no later than the

expiration of forty-eight hours from the conclusion of the Sabbath or festival, or at the expiration of forty-eight hours from his arrest, according to the later of the two.

- (b) Where the duration of the festival or the combination of the Sabbath and the festival exceed forty-eight hours, the person under arrest shall be brought before the judge prior to the commencement of the Sabbath or the festival; where the arrest has been made less than eight hours prior to the commencement of the Sabbath or the festival and a military police officer, of the rank of at least Lieutenant-Colonel, has confirmed that the person under arrest may not be brought before a judge until immediately prior to the commencement of the Sabbath or festival, the person under arrest shall be brought before a judge no later than the expiration of four hours from the conclusion of the Sabbath or festival; where the arrest has been made less than four hours prior to the commencement of the Sabbath or festival or the arrest has been enforced during the Sabbath or festival, the person under arrest shall be brought before a judge no later than the expiration of four hours from the conclusion of the Sabbath or festival, or at the expiration of forty-eight hours from the arrest, according to the later of the two.
- (c) Where the combination of the festival and the Sabbath exceed seventy-two hours, the person under arrest shall be brought before a judge prior to the commencement of the festival; where the arrest has been made less than four hours prior to the commencement of the festival and the person under arrest cannot be brought before a judge until immediately prior to the commencement of the festival, or the arrest is performed during the festival or Sabbath, the person under arrest shall be brought before a judge as soon as possible after the conclusion of the Sabbath and no later than the expiration of four hours from the conclusion of the Sabbath or at the expiration of forty-eight hours from his arrest, according to the later of the two.

(Two) In this section, "festival" means one of the Jewish festivals specified in section 18A(a) of the Law and Administration Ordinance, 5708-1948³."

238. Further review or objection against a warrant of arrest or approval thereof [Amendment: 5742(2), 5753, 5754, 5756(6), 5760]

- (a) A person arrested under a warrant of arrest and whose arrest was not brought for the approval of a Military Advocate, as stated in section 237A(d2), may lodge an objection to the arrest with the Military Advocate, as determined by military orders.

(b) Where the matter of the arrest of a soldier is brought for the approval of a military advocate, as stated in section 237A(d2), or an objection has been lodged on the arrest and the military advocate has not directed the release of the soldier, the soldier under arrest may submit an application to the Military Advocate for further review.

(Three) Where a Military Advocate is of the opinion that an objection or an application for further review should not be accepted, the matter shall be transmitted for the decision of the Military Advocate or his deputy.

239. Quashing of a warrant of arrest [Amendment: 5742(2), 5753, 5754, 5760]

A Military Advocate may quash any warrant of arrest of a disciplinary officer, either under an objection or at his own initiative, and order the release of the person under arrest; however, where prior approval for extension of the warrant of arrest as stated in section 237A(d2) has been given by the Military Advocate General, this authority shall be vested solely in the Military Advocate General.

267. Contents of caution [Amendment: 5747(2), 5760]

(One) The contents shall be worded as follows:

"You are suspected of having committed a particular offense; do you wish to say anything in relation to the aforesaid offense? You are not obliged to say anything if you do not wish to do so, but whatever you say will be taken down and may be used as evidence at your trial".

(Two) Where the caution is in respect of section 237A1, the following shall be added to the contents of the caution in subsection (a) -

"you may state your case in respect of your arrest".

Penal (Amendment No. 55) Law, 5760-2000*

1. In the Penal Law, 5737-1977¹, the contents of section 329 shall be marked "(a)" and the following shall be inserted thereafter:

"(b) A person committing an offense under subsection (a) against a family member shall be liable to a penalty of no less than one fifth of the maximum penalty prescribed for the offense, unless the court decides on special grounds, to be recorded, to lower the penalty. In this subsection, "family member" shall be within the definition in section 382(b)."

Avrum Burg
Acting President
of the State

Ehud Barak
Prime Minister

Avrum Burg
Speaker of the Knesset

Yoseph Beilin
Minister of Justice

* Passed by the Knesset on the 7th Tammuz, 5760 (10th July, 2000) and published in *Sefer Ha-Chukkim* No. , p. ; the Bill and an Explanatory Note were published in *Hatza'ot Chok* No. 2839 of the 3rd Shevat, 5760 (10th January, 2000), p. 187 and in *Hatza'ot Chok* No. 2852 of the 22nd Adar A, 5760 (28th February, 2000), p. 302.

¹ *Sefer Ha-Chukkim* of 5737, p. 266; *Sefer Ha-Chukkim* of 5760, p. 194.

Penal (Amendment No. 56) Law, 5760-2000*

Repeal of section 199

1. In the Penal Law, 5737-1977¹ (hereinafter referred to as "the principal Law"), in section 199 -

(1) In subsection (a) -

(One) in paragraph (1), the words "on the earnings of a prostitute" shall be replaced by the words "on the earnings of a person engaged in prostitution";

(Two) in paragraph (2), the words "an act of prostitution of a woman" shall be replaced by the words "an act of prostitution of a person";

(2) subsection (b) shall be replaced by the following:

"(b) Where a person has committed an offense under this section against his spouse, child or step-child, or has committed the offense by exploiting a relationship of control, dependency, education or care, he shall be liable to seven years' imprisonment.";

(3) in subsection (c), the following shall replace paragraph (2):

"(2) whether he receives it from a person engaged in prostitution or some other person;" .

Replacement of sections 201 to 203 and addition of sections 203A to 203D

2. Sections 201 to 203 of the principal Law shall be replaced by the following:

"Instigation of person to act of prostitution

201. A person instigating a person to an act of prostitution shall be liable to imprisonment for five years.

Instigation to practice prostitution

202. A person instigating a person to practice prostitution shall be liable to imprisonment for seven years.

Aggravating circumstances

203. (a) Where an offense has been committed under sections 201 or 202 by exploiting a relationship of control, dependency, education or care, or by exploiting the economic or emotional distress of the person instigated to an act of prostitution or to practice prostitution, the person committing such offense shall be liable to imprisonment for ten years.
- (b) Where an offense has been committed under sections 201 or 202 in one of the following circumstances, the person committing the offense shall be liable to imprisonment of sixteen years:
- (1) using force or exercising other means or pressure or using threats of one of the aforesaid, and likewise, where these acts are committed against a person instigated to an act of prostitution or to practice prostitution, or against another person;
 - (2) by exploiting a situation preventing the resistance of a person instigated to an act of prostitution or to practice prostitution, or by exploiting a person who is mentally ill or retarded;
 - (3) fraudulently obtaining the consent of the person instigated to an act of prostitution or to practice prostitution.

Trafficking in persons to practice prostitution

- 203A. (a) A person selling or buying a person to practice prostitution or a person brokering such sale or purchase shall be liable to imprisonment of sixteen years; for these purposes, "sale or purchase" means in consideration for money, money's worth, a service or other benefit.
- (b) A person causing a person to leave the country in which he is resident, in order to practice prostitution, shall be liable to imprisonment for ten years.

Exploitation of minors for prostitution

- 203B. (a) Where an offense has been committed under sections 199, 201, 202, 203 or 203A against a minor who is over fourteen years of age, the person committing the offense shall be liable to the following penalties -
- (1) if the offense has a prescribed penalty of imprisonment for five years - imprisonment for seven years;

- (2) if the offense has a prescribed penalty of imprisonment for seven years - imprisonment for ten years;
 - (3) if the offense has a prescribed penalty of imprisonment for ten years - imprisonment for fifteen years;
 - (4) if the offense has a prescribed penalty of imprisonment for sixteen years - imprisonment for twenty years.
- (b) Where an offense has been committed under sections 199, 201, 202, 203 or 203A against a minor who is under fourteen years of age, or he is over the age of fourteen and the person committing the offense is responsible for the minor, the person committing the offense shall be liable to twice the prescribed penalty for the offense, but no more than twenty years.
- (c) In this section, "responsible for a minor" is within the definition in section 368A.

Liability of customer of minor

203C. A person receiving prostitution services from a minor shall be liable to imprisonment for three years.

Burden of proof

203D. The burden of proof is on the person contending that he was unaware of the age of a person to whom or in relation to whom an offense under this article was committed; this provision shall not apply in respect of an offense under section 214(b3)."

Amendment of section 205

3. In section 205 of the principal Law, the word "woman" shall be replaced by the word "person".

Repeal of sections 206 and 207

4. Sections 206 and 207 of the principal Law are repealed

Repeal of sections 209 to 211

5. Sections 209 to 211 of the principal Law are hereby repealed.

Amendment of section 323

6. In section 323 of the principal Law, the words "under the age of eighteen years" shall be deleted.

Amendment of section 345

7. In section 345 of the principal Law -

(1) in subsection (a) -

(One) in paragraph (4), the concluding part commencing with the words "other state" shall be replaced by the words "or other state preventing her from resisting";

(Two) the following shall be inserted after paragraph (4):

"(5) by exploiting the fact that she is mentally ill or retarded, if by virtue of her illness or retardation her consent to the unlawful sexual intercourse was not free consent.";

(2) in subsection (b)(1), the words "in subsection (a)(1), (2) or (4)" shall be replaced by the words "in subsection (a)(1), (2), (4) and (5)";

(3) in subsection (c), the definition of "minor" shall be deleted.

Amendment of section 348

8. In section 347 of the principal Law -

(1) in subsection (a), the words "under the age of eighteen years" shall be replaced by the words "under the age of sixteen years, or a person committing an act of sodomy with a person over the age of sixteen years and under the age of eighteen years, by exploiting a relationship of dependency, control, education or care";

(2) subsection (c) shall be replaced by the following:

"(c) for the purposes of this article, "an act of sodomy" means penetration of the anus of a person by a physical organ or by an instrument, or insertion of a sexual organ into the mouth of a person."

Amendment of section 348

9. In section 348(a) of the principal Law, the words "in section 345(a)(1) to (4)" shall be replaced by the words "in section 345(a)(1) to (5)".

Amendment of section 353

10. In section 353 of the principal Law, the words "under section 346(a)" shall be replaced by the words "under sections 346(a) or 347(a)", the words "between him and the female minor" shall be replaced by the words "between him and the minor", the words "two years" shall be replaced by the words "three years"

and the words "if the female minor consented" shall be replaced by the words "if the minor consented".

Amendment of section 354

11. The contents of section 354 shall be remarked as "(a)" and the following shall be inserted thereafter:

"(b) The provisions of this section shall also apply to an act committed prior to the 19th Av 5760 (10th August, 1999), provided that the following conditions have been fulfilled:

- (1) the act was an offense under this article as drafted at the time of the commission thereof;
- (2) had the act been committed after the aforesaid date, it would have amounted to an offense under section 351;
- (3) the prescription period for the offense had not yet elapsed under section 9 of the Criminal Procedure Law [Consolidated Version], 5742-1982²."

Amendment of section 368A

12. In section 368A of the principal Law, the definitions of "minor" shall be deleted.

Amendment of section 368D

13. In section 368D(h) of the principal Law, before the words "an offense of endangering life" shall be inserted the words "offenses of prostitution under sections 199, 201, 202, 203, 203A, 203B, 203C and 205A, an offense of publication of obscene material under section 214(B1)".

Amendment of the Evidence Ordinance - No. 14

14. In the Evidence Ordinance [New Version], 5731-1971³, in section 5(2), the words "under articles" shall be replaced by the words "under article 10 of chapter 8 and under articles".

Avram Burg
Acting President
of the State

Ehud Barak
Prime Minister

Avrum Burg
Speaker of the Knesset

Yoseph Beilin
Minister of Justice

² *Sefer Ha-Chukkim* of 5742, p. 43.

³ *Dinei Medinat Yisrael (Nusach Chadash)*, vol. 18, p. 421.

Government Companies Law, 5735-1975 [Amendment: 5760]

18A1. Fair representation of Arabs

- (One) In the composition of a board of directors of a government company, fair expression shall be granted to the representation of the Arab population.
- (Two) Until the attainment of the aforesaid fair expression of representation, the Ministers shall appoint directors from among the Arab population, wherever this is possible in the particular circumstances.
- (Three) For the purposes of this section, "the Arab population" includes the Druse and Circassian populations.

Law of Evidence Revision (Protection of Children) (Amendment No. 6), 5760-1999*

Amendment of section 1

1. In the Law of Evidence Revision (Protection of Children), 5715-1955¹ (hereinafter referred to as "the principal Law"), in section 1, after the definition of "minor" shall be inserted the following:

"investigation tape" means a video tape or an audio tape documenting the investigation of a child in respect of an offense against morality or an offense against the person;

"an offense against the person" means one of the offenses enumerated in chapter ten of the Penal Law, 5737-1977³, excluding the offenses enumerated in the Schedule."

Amendment of section 2

2. In section 2 of the principal Law -

- (1) The words "youth interrogator", wherever they appear, shall be replaced by the words "child interrogator", and the words "the youth interrogator", wherever they appear, shall be replaced by the words "the child interrogator";
- (2) in subsection (a), after the words "offense against morality" shall be inserted the words "or an offense against the person".

Amendment of section 2A

3. In section 2A of the principal Law, after the words "and of the Penal Law, 5737-1977" shall be inserted the words "(hereinafter referred to as "the Penal Law")".

Amendment of section 3

4. In section 3 of the principal Law -

- (1) in the marginal heading, the words "youth interrogators" shall be replaced by the words "child interrogators";
- (2) in subsection (a), the words "youth interrogators" shall be replaced by the words "child interrogators";

* Passed by the Knesset on the 30th Cheshvan, 5760 (9th November, 1999) and published in *Sefer Ha-Chukkim* No.1719 of the 30th Kislev, 5760 (9th December, 1999), p. 30; the Bill and an Explanatory Note were published in *Hatza'ot Chok* No. 2743 of the 4th Av, 5758 (27th July, 1998), p. 530.

¹ *Sefer Ha-Chukkim* of 5715, p. 96; *Sefer Ha-Chukkim* of 5751, p. 3

- (3) in subsection (b), the words "youth interrogator" shall be replaced by the words "child interrogators".

Amendment of section 4

5. In section 4 of the principal Law -

- (1) in the marginal heading, the words "youth interrogator" shall be replaced by the words "child interrogator";

- (2) at the opening part of the section, the words "youth interrogator" shall be replaced by the words "child interrogator", after the words "offense against morality" shall be inserted the words "or an offense against the person" and the words "youth interrogator" shall be replaced by the words "child interrogator".

Amendment of section 5

6. In section 5 of the principal Law, the words "youth interrogator" shall be replaced by the words "child interrogator" and the words "the youth interrogator" shall be replaced by the words "the child interrogator".

Addition of sections 5A and 5B

7. The following shall be inserted after section 5 of the principal Law:

"Documenting an examination

- 5A. (a) A child interrogator shall fully document an examination of a child conducted by himself, including any exchange of conversation with the child being examined, or in his presence, as follows -

- (1) by means of video;
- (2) by an audio tape - if there is no reasonable possibility of documenting by means of a video tape, or if the child refuses to respond to the questions of the child interrogator on account of use of the video, and his refusal is documented by means of the video;
- (3) in writing - if there is no reasonable possibility of documenting by means of an audio tape, or if the child refuses to respond to the questions of the child interrogator on account of the audio tape, and his refusal is documented by means of the aforesaid tape.

- (b) The tape of the examination shall not be subject to any alterations.

- (c) A written transcript of an examination of a child documented by the child interrogator by means of video or audio tape (hereinafter referred to as "the transcript") shall be prepared in each of the following situations:
- (1) _____ where an information has been filed for the offense relating to the examination;
 - (2) _____ at the demand of the prosecution, for the purpose of fulfilling its function.
- (d) A child interrogator shall be responsible for the preparation of the transcript in the situations referred to in subsection (c).
- (e) In this section "examination of a child" includes a further examination of a child in accordance with section 10.
- (f) Immediately upon the commencement of an examination, the child interrogator shall explain to the child being examined the importance of documenting the examination by video and shall specify the other modes of documentation.

Modes of review of recording

- 5B. (a) The provisions of sections 74 and 75 of the Criminal Procedure Law [Consolidated Version], 5742-1982³ (hereinafter referred to as "the Criminal Procedure Law") shall apply to the recording of the examination and the transcript, with the following modifications:
- (1) _____ a prosecutor shall transfer the transcript to the accused;
 - (2) _____ the accused is entitled to listen, watch and compare the contents of the recording of the examination with the contents of the transcript;
 - (3) _____ the accused is not entitled to copy the recording of the examination, remove it from its permanent location or receive a copy thereof, unless the Court directs otherwise on special grounds to be specified; where the Court has directed as aforesaid, the accused will be obliged to return the recording of the examination and any copy thereof, in addition to the transcript, to the court file, at the conclusion of the legal hearing, unless the Court has determined another date for the return thereof as stated.

- (b) In this section, "the accused" includes a person acting on his behalf, as specified in section 74(a) of the Criminal Procedure Law."

Amendment of section 6

8. In section 6 of the principal Law -

- (1) The marginal heading shall be "Confidentiality";
- (2) in subsection (a), after the words "an offense against morality" shall be inserted the words "or an offense against the person" and the following shall be inserted thereafter:

"(A1) A person shall not publish a recording of an examination or a transcript, including any copy thereof, or a memorandum or report as stated in sections 8 and 9, except with the permission of the Court.

(A2) For the purposes of this section, "publication" means presentation, making heard, distribution or transfer outside the Court, except to or in front of one of the following:

- (1) the accused, his defense counsel, and the law clerk under the supervision of the defense counsel or another person specified in section 74(a) of the Criminal Procedure Law;
- (2) a prosecutor within the meaning in section 12 of the Criminal Procedure Law or the law clerk under his supervision;
- (3) a child interrogator;
- (4) a policeman requiring a prohibition on publication under subsections (a) or (a1) for the purpose of fulfilling his function of investigating an offense against morality or an offense against the person;
- (5) a welfare officer requiring a prohibition on publication under subsections (a) or (a1) for the purpose of fulfilling his function under the provisions of the law."

Addition of section 6A

9. The following shall be inserted after section 6 of the principal Law:

"In camera proceedings

6A. A court hearing which is likely to involve the disclosure of the identity of a child interrogated for an offense against morality or an offense against the person shall be conducted *in camera*, unless the Court orders it to be conducted fully or partially in public."

Amendment of section 7

10. In section 7 of the principal Law, after the words "an offense against morality" shall be inserted the words "or an offense against the person", and the words "youth interrogator" shall be replaced by the words "child interrogator."

Amendment of section 8

11. In section 8 of the principal Law, after the words "for an offense against morality" shall be inserted the words "or for an offense against the person", the words "youth interrogator" shall be replaced by the words "child interrogator" and wherever the words "youth interrogator" appears they shall be replaced by the words "child interrogator".

Replacement of section 9

12. Section 9 of the principal Law shall be replaced by the following:

"Admissible evidence

9. (a) Testimony in an offense against morality or an offense against the person which is documented by a child interrogator in accordance with the provisions of this Law, in addition to any memorandum or report relating to an investigation documented as aforesaid, recorded by a child interrogator at the time of an examination or thereafter, are admissible as evidence in Court.

(b) Where the Court is convinced that all reasonable measures have been taken to document the examination by means of video or audio recording in accordance with the provisions of section 5A, although the recording of the examination was unsuccessful due to a technical malfunction, the Court may admit as evidence the written documentation of the examination made by the child interrogator, instead of the recording of the examination."

Amendment of section 10

13. In section 10 of the principal Law, the words "where the youth interrogator" shall be replaced by the words "where the child interrogator" and the words "youth interrogator" shall be replaced by the words "child interrogator".

Addition of section 11A

14. The following shall be inserted after section 11 of the principal Law:

"Other proceedings

11A. In legal proceedings which are not criminal proceedings, relating to an offense against morality or an offense against the person, the following provisions shall apply:

- (1) testimony in an offense against morality or an offense against the person as stated in section 9, in addition to a memorandum or report as stated in the same section, shall not be admitted into evidence unless the court permits them to be admitted as evidence;
- (2) the court shall not grant permission as stated in paragraph (1) unless it deems it necessary, on grounds to be recorded, in the best interests of the child or in order to prevent any injustice;
- (3) permission, as stated in paragraph (1), may be subject to conditions and limited to specific evidence, all as determined by the Court, taking into consideration the necessity to prevent publication of the evidence;
- (4) for the purposes of this section, "court" includes a tribunal, as defined in section 155(1) of the Inheritance Law, 5725-1965⁴."

Amendment of section 12

15. In section 12 of the principal Law, the following shall be inserted at the end of the section: "including the determination of procedures in respect of examination recordings, and their storage, preservation and destruction."

Amendment of Schedule

16. In the Schedule to the principal Law, section (b) shall be replaced by the following:

"(b) an offense of a person responsible for a minor, as defined in section 368A of the Penal Law, committed against a minor for whom he is responsible, under sections 337, 368B and 368C of the aforesaid Law."

Commencement

17. Section 5A of the principal Law, as drafted in section 7 of this Law, and section 9 of the principal Law, as drafted in section 12 of this Law, shall come into effect six months after the date of publication of this Law.

⁴ *Sefer Ha-Chukkim* of 5725, p. 63.

Ezer Weizman Ehud Barak Avrum Burg Yoseph Beilin
President of the State Prime Minister Speaker of the Knesset Minister of Justice

Amended Tests for Allocation of Funds to Assist Public Institutions

Under the Budgetary Principles Law, 5745-1985

Pursuant to section 3A of the Budgetary Principles Law, 5745-1985¹ (hereinafter referred to as "the Law") and in consultation with the Attorney General, we hereby publish these tests for allocation of assistance funds from the Ministry of Religious Affairs to public institutions of the ultra-Orthodox communities, as set forth hereunder:

The following shall be inserted at the end of the Tests for Allocation of Funds to Assist Public Institutions, which were published in *Yilfut Hapirsumim* No. 4020 of 5752, p. 3736:

"Chapter Nine: Public Institutions of Ultra-Orthodox Communities

1. In this chapter, "public institutions" means a religious institution of a religious community, such as a place of worship, cemetery, funeral parlor, etc.
2. The Assistance Committee shall decide upon the grant of assistance to public institutions, aiming to act on an equal basis, taking into consideration the special circumstances of each case, based on material considerations.
3. Assistance shall not be granted to a public institution unless it is a corporation or by means of an entity such as a local authority, local committee or association (*Amuta*).
4. Assistance shall not be granted to a public institution unless its formation, expansion or renovation plan (hereinafter referred to as "the Plan") has received prior written approval by the competent authorities, and where necessary, that a lawful building permit has been granted.
5. Assistance shall be granted to the principal entity engaged in implementing the Plan.
6. The decision on grant of assistance, including the amount of assistance, shall be influenced by the following considerations:
 - (1) the number of residents which the religious institution is intended to serve;
 - (2) the existence of additional religious institutions of the same kind in that settlement;
 - (3) the special needs of the population in that settlement;

¹ *Sefer Ha-Chukkim* of 5745, p. 60; *Sefer Ha-Chukkim*, vol. 34.

- (4) the scope of the Plan in terms of construction area, financial investment, etc.
 - (5) in a renovation request - the state of the existing building and the need for the renovation;
 - (6) additional sources of financing from local residents and others;
 - (7) past assistance given to that religious institution or other religious institutions of the same kind in the same settlement.
7. The grant of assistance may be made subject to the fulfillment of conditions, including obtaining assistance for the Plan from additional sources".

1st Kislev, 5753 (26th November, 1992)

Yitzhak Rabin
Prime Minister and
Minister of Religious Affairs