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Torts Law (State Liability) 5712-1952

1. Interpretation (Amended: 5762)

In this law –

“**Ordinance**” shall mean the Torts Ordinance, 1944;

“**Act**” – including an omission;

“**Liability in Tort**” shall mean liability under the Ordinance for an Act performed after the effective date of this law; other terms shall have the meaning imparted thereto in the Ordinance;

“**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.

2. State’s Liability in Tort

With respect to Liability in Tort, 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 Liable in Tort 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 Liable in Tort for defamation.

5. Wartime Action

The state is not Liable in Tort for an Act performed through a Wartime Action of the Israel Defense Forces.

5A. Claims arising from activity of security forces in the region (Amended: 5762)

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 Torts 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.

6. Injury Caused in Military Service (Amended: 5732)

(a) The state is not Liable in Tort 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 (Amended: 5732)

(a) The state is not Liable in Tort 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 (Amended: 5723)

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 Liability in Tort for Agents of the State (Amended: 5749)

(a) In circumstances in which the state is not Liable in Tort pursuant to any one of sections 5-7, the person due to whom the state would have been Liable in Tort, 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 (Amended: 5749)

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 liable in Tort 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.

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) Torts.