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Civil Wrongs (Liability of the State) (Amendment No. 7) Law, 5765 – 2005

1. Addition of articles 5B to 5E

In Hoq ha-Neziqin ha-Ezrahiyyim (Ahrayut ha-Medina) [Civil Wrongs (Liability of the State) Law], 5712-1952¹ (hereinafter: **the principal law**), after article 5A, shall come:

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 article –

“**enemy**” and “**terrorist organization**” have the same meaning as in article 91 of Hoq ha-Oneshin [Penal Law], 5737–1977.²

“**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.

¹ Sefer ha-Huqqim 5712 [1952], p. 339; 5749 [1989], p. 16; Hazzza'ot Hoq 5757 [1997], p. 493.

² Sefer ha-Huqqim 5737 [1977], p. 322.

- (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 sub-article (a) applies and to set the amount of the payment (in this sub-article – **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*.
- (d) Where a written notice was given pursuant to Article 5A(2) (in this article – **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 sub-article (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 article –

“**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 sub-article (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.

2. Addition of article 9A

After article 9 in the principal law, shall come:

9A. Preservation of laws

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

3. Provisions on commencement and applicability

- (a) The provisions of articles 5B to 5D of the principal law, in their wording in article 1 in this law, shall apply to an act that took place on 29 Elul 5760 (29 September 2000) and thereafter, except for an act as to which a claim was filed and the hearing of evidence thereon began prior to the time of publication of this law.
- (b) For a period of six months from the day of publication of this law, the Minister of Defense may, notwithstanding the provisions of article 5C(d), declare an area a zone of conflict for the period from 29 Elul 5760 (29 September 2000) until the publication of this law.

4. Obligation to appoint the first committee and making of initial rules

- (a) The first Committee pursuant to article 5C(b) of the principal law in its wording in article 1 of this law shall be appointed within 60 days from the day of publication of this law.
- (b) The initial rules pursuant to article 5C(b)(3) of the principal law in its wording in article 1 of this law shall be presented for the approval of the Knesset's Constitution, Law and Justice Committee within 60 days from the day of publication of this law.

First Annex
(Article 5B(a))

A claim the cause of which is injury sustained to a person as stated in article 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
(Article 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 articles 22 of the Penal Law, 5737-1977³; in claims pursuant to this sub-article, regarding the period of limitation for filing a claim, as stated in article 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 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 - 1994⁴; 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 – 1975⁵, 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

³ Sefer ha-Huqqim 5737 [1977], p. 322.

⁴ Sefer ha-Huqqim 5755 [1994], p. 326.

⁵ Sefer ha-Huqqim 5735 [1975], p. 234.

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 article 4 in this annex are met.