

## Unofficial Translation

### Prohibition on Terrorist Financing Law, 5765-2004

#### Chapter One: Interpretation

##### Definitions

1. In this law -

“Person who is a terrorist activist” - a person who is active in perpetrating an act of terrorism or aids or solicits the perpetration of an act of terrorism or a person who takes an active role in a terrorist organization that has been declared as such pursuant to paragraph (1) of the definition of a declared terrorist organization;

“Terrorist organization” - an association of people which acts to perpetrate an act of terrorism or has as its goal enabling or promoting the perpetration of an act of terrorism; for this purpose it is immaterial –

- (1) whether or not the members of the organization know the identity of the other members;
- (2) if the composition of the members of the organization is fixed or changes;
- (3) if the organization also carries out legal activities and if it also acts for legal purposes;

“A declared terrorist organization” means any one of the following:

- (1) an association of people which the Ministerial Committee has declared as a terrorist organization pursuant to Section 2;
- (2) an association of people which the government has declared as a terrorist organization pursuant to Section 8 of the Prevention of Terrorism Ordinance, including an association of people which the government has declared as such before this law became effective;
- (3) an association of people which the Minister of Defense has declared as a non-permitted organization pursuant to Section 84(1)(b) of the Defense (Emergency) Regulations, including an association of people

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which the Minister of Defense has declared as such before this law became effective;

“Ministerial Committee” - Ministerial Committee for National Security as defined in Section 6 of the Government Law, 5761-2001<sup>1</sup>;

“Association of people” – regardless of whether it is incorporated or not;

“Prohibition on Money Laundering Law” – Prohibition on Money Laundering Law, 5760-2000<sup>2</sup>;

“Penal Law” – Penal Law, 5737-1977<sup>3</sup>;

“An act that constitutes an offence” – including an act that was committed or was planned to be committed outside of Israel, which the penal laws of Israel are not applicable to, provided that the act constitutes an offence according to the laws of the State of Israel and according to the laws of the place where the act was committed or the laws of the country against which, or against whose residents or citizens, the act was intended;

“An act of terrorism” –

- (a) an act that constitutes an offence or a threat to commit an act that constitutes an offence that was committed or was planned to be committed in order to influence a matter of policy, ideology or religion if all of the following conditions are fulfilled:
  - (1) it was committed or was planned to be committed with the goal of causing fear or panic among the public or with the goal of coercing a government or another governing authority, including the government or governing authority of a foreign country to take action or to refrain from taking action; for the purposes of this paragraph – foreseeing, as a nearly certain

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<sup>1</sup> *Sefer HaHukim* (Code of Law) 5761, p. 168.

<sup>2</sup> *Sefer Hahukim* (Code of Law) 5760, p. 293.

<sup>3</sup> *Sefer Hahukim* (Code of Law) 5737, p. 226.

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possibility, that the act or the threat will cause fear or panic among the public is equivalent to having a goal to cause fear or panic among the public;

- (2) the act that was committed or that was planned or the threat included:
  - (a) actual injury to a person's body or his freedom , or placing a person in danger of death or danger of grievous bodily injury;
  - (b) the creation of actual danger to the health or security of the public;
  - (c) serious damage to property;
  - (d) serious disruption of vital infrastructures, systems or services;
  
- (b) if the aforementioned act or threat was committed or was planned to be committed using weapons as defined in Section 144(c)(1) and (3) of the Penal Law, excluding a weapon part or accessory, it will be considered an act of terrorism even if the conditions of paragraph (1) of subsection (a) are not met, and if it was committed or planned to be committed using chemical, biological or radioactive weapons that are liable, due to their nature, to cause actual mass harm – even if the conditions set forth in paragraphs (1) and (2) of subsection (a) are not met;

“Property transaction” – acquisition or receipt of ownership or other rights in property, regardless of whether any consideration is paid, including solicitation, transfer, receipt, possession, exchange, banking transactions, investment, any transaction involving securities or possession of securities, brokerage, granting or receipt of credit, import, export or creation of a trust or co-mingling of terrorist property with other property even if it is not terrorist property;

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“Prevention of Terrorism Ordinance” - Prevention of Terrorism Ordinance, 5708-1948<sup>4</sup>;

“Arrest and Search Ordinance” – Criminal Procedures (Arrest and Search) [New Version] Ordinance, 5729-1969<sup>5</sup>;

“Public” – including a sector of the public, a public that is not in Israel and a public that is not Israeli;

“Property”- immovable and movable property, monies and rights, inclusive of property which is the proceeds of any such property, and any property accruing or originating from such property or its profit;

“Property connected with an offence” - property satisfying one of the following:

- (1) the offence was committed in it, it was used for the commission of the offence, it enabled the commission of the offence or it was intended for the commission of the offence;
- (2) it was directly or indirectly obtained as remuneration for commission of the offence, it was intended to be remuneration for commission of the offence or it was obtained as a result of commission of the offence.

“Terrorist property” – any one of the following:

- (1) property of a terrorist organization or a declared terrorist organization, property that is used or is intended to be used for its activity or property that enables its activity;

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<sup>4</sup> ע"ר 5708, appendix A, p. 73.

<sup>5</sup> Laws of the State of Israel, New Version, 12, p. 284.

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- (2) property that was used, enabled or advanced the commission of an act of terrorism, or property that will be or is intended for one these purposes;
- (3) property that was obtained, directly or indirectly, as remuneration or reward for commission of an act of terrorism or as a result of its commission, or property that will be or is intended to be remuneration or reward for the commission of an act of terrorism whether directly or indirectly;

“Seizure”, regarding property that is a right – including the prohibition on using the right, limitation of the right or making it subject to conditions;

“Defense (Emergency) Regulations” – Defense (Emergency) Regulations, 1945<sup>6</sup>.

### **Chapter Two: Declaration That a Foreign Person is a Terrorist Activist or That a Foreign Organization is a Terrorist Organization in accordance with a Determination Outside of Israel**

Declaration in Israel that a Foreign Person is a Terrorist Activist or that a Foreign Organization is a Terrorist Organization in accordance with a Determination Outside of Israel

2. (a)(1) If it has been determined outside of Israel that a foreign person is a terrorist activist or that a foreign association of people is a terrorist organization and the Ministerial Committee has a reasonable basis to assume that the said foreign person is a terrorist activist or that the said foreign association of people is a terrorist organization, it may, subject to the provisions of subsection (e)(1), declare that the said person is a terrorist activist or that the said association of people is a terrorist organization.

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<sup>6</sup> 1945 ע"ר 6, second appendix, p. 855.

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- (2) Regarding paragraph (1) –

“Determined outside of Israel” – determined by the authorized body of a foreign country following procedures undertaken there according to its laws, or determined by the United Nations Security Council or by one which it authorized to make such determinations;

“Foreign” – regarding a person – a person who is not an Israeli citizen or resident; regarding an association of people – an association of people whose center of business is not located in Israel and if it is a corporation it satisfies both of the following: it is not registered in Israel and a resident of Israel does not hold control of it;

“Resident of Israel” – including a person whose place of residence is in the Area and he is an Israeli citizen or he is entitled to immigrate to Israel according to the Law of Return, and if his place of residence was in Israel he would be considered a resident of Israel;

“The Area” – as defined in the Law for the Extension of the Effect of the Emergency Regulations (Judea and Samaria and the Gaza Strip – Jurisdiction of Crimes and Legal Assistance), 5738-1977<sup>7</sup>.

- (b) When asserting its authority pursuant to subsection (a) regarding a person who is a member of a terrorist organization that has been declared as such pursuant to subsection (a), the Ministerial Committee may regard his membership in such an organization as *prima facie* evidence that such person is a terrorist activist.
- (c) If the Ministerial Committee has made a declaration regarding a person or an association of people pursuant to subsection (a) and the determination of the foreign country or the United Nations Security

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<sup>7</sup> *Sefer Hahukim* (Code of Law) 5738, p. 48.

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Council that such person is a terrorist activist or such association of people is a terrorist organization as set forth in subsection (c) has been annulled, the Ministerial Committee shall annul its declaration.

- (d) (1) The Ministerial Committee shall not declare an association of people to be a terrorist organization pursuant to this section if the government has declared that the same organization is a terrorist organization pursuant to Section 8 of the Prevention of Terrorism Ordinance or if the Minister of Defense has declared that same association as a non-permitted organization pursuant to Section 84(1)(b) of the Defense (Emergency) Regulations, regardless of whether such declaration was made prior to or after this law became effective.

(2) Nothing in the provisions of this section shall derogate from the government's authority to declare that an association of people is a terrorist organization pursuant to Section 8 of the Prevention of Terrorism Ordinance or from the authority of the Minister of Defense to declare that an association of people is a non-permitted organization pursuant to Section 84(1)(b) of the Defense (Emergency) Regulations, even after a declaration has been made pursuant to this section.

### The Advisory Committee

3. (a) The government shall appoint an advisory committee consisting of three members, who shall be: a former district court judge or Supreme Court justice who will serve as the chairman, and a person with an appropriate security background, both of whom shall be appointed on the basis of the proposal of the Minister of Defense and the Minister of Justice, and an additional member who is a lawyer, on the basis of the proposal of the Attorney General (in this law – The Advisory Committee).

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- (b) The Advisory Committee shall make recommendations to the Ministerial Committee regarding a petition for cancellation pursuant to Section 4, and it may advise the Ministerial Committee in any matter that it has brought before it and that involves its authority pursuant to this law.

### Petition to Cancel a Declaration and the Deliberation Regarding It

- 4. (a) One who has been declared, pursuant to Section 2, as a terrorist organization or a person who is a terrorist activist, and anyone who has been directly harmed by such a declaration, may submit a petition for the cancellation of the declaration to the Advisory Committee, and to submit an additional petition if new facts have been disclosed or the circumstances have changed (in this law – a petition for cancellation).
- (b) In a proceeding pursuant to this law, including a criminal proceeding regarding an indictment for an offence pursuant to this law, the Court will not entertain an argument pertaining to the cancellation of the declaration made pursuant to Section 2.
- (c) The Advisory Committee will hear a petition for cancellation and will bring its recommendation before the Ministerial Committee, after it has given the petitioner an opportunity to bring its arguments before it; if the Advisory Committee has found that the conditions for a declaration pursuant to Section 2(a) are not fulfilled, it will recommend to the Ministerial Committee to cancel the declaration.
- (d) The Ministerial Committee will consider the recommendation of the Advisory Committee and will render its decision within the time provided.

### Periodic Review

- 5. The Advisory Committee will hold a periodic review of declarations pursuant to Section 2 once every four years, and will examine whether the circumstances have changed or if new facts have been disclosed and if the



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conditions for a declaration pursuant to this law are still satisfied; if the Advisory Committee is of the opinion that there is reason to hold a re-hearing regarding a declaration, it will make its recommendations to the Ministerial Committee which will consider the recommendations and give its decision within the time provided; the first periodic review will take place at the end of four years from the publication date of the declaration pursuant to Section 2.

### **Cancellation of a Declaration**

6. (a) The Ministerial Committee, on its own initiative or pursuant to a recommendation of the Advisory Committee, as set forth in Sections 4 and 5, may cancel a declaration that was made pursuant to the provisions of Section 2.
- (b) In a decision to cancel a declaration pursuant to this section, the Ministerial Committee will establish the date on which the cancellation becomes effective.

### **Publication**

7. (a) A notice of a declaration pursuant to Section 2 or the cancellation of a declaration pursuant to Section 4 will be published in the Official Gazette of the Israeli Government.
- (b) The Minister of Justice may provide for additional ways in which to inform the public regarding a declaration or its cancellation.

## **Chapter Three: The Offenses**

### **Prohibition on a Transaction in Property for Purposes of Terrorism**

8. (a) One who performs a transaction in property for the purpose of enabling, furthering or financing the perpetration of an act of terrorism, or to reward the perpetration of an act of terrorism, or for the purpose of enabling, furthering or financing the activity of a declared terrorist organization or of a terrorist organization shall be liable to imprisonment for ten years or a fine that is 20 times greater than the fine set in Section 61(a)(4) of the Penal Law.

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- (b) For the purposes of subsection (a) –
  - (1) proof that the transaction was performed for one of the purposes set forth in it is sufficient, even if it was not proven for which of those purposes specifically;
  - (2) “for the purpose” – including foreseeing that at least one of the possibilities set forth there is a nearly certain possibility;
  - (3) “to reward the perpetration of an act of terrorism” – even if the recipient of the reward is not the one who perpetrated or planned to perpetrate the act of terrorism.

### Prohibition on a Transaction in Terrorist Property

- 9. (a) He who performs one of the following is liable to imprisonment for seven years or a fine that is ten times greater than the fine set in Section 61(a)(4) of the Penal Law –
  - (1) Carries out a property transaction that is capable of enabling, furthering, or financing the perpetration of an act of terrorism or to reward the perpetration of an act of terrorism even if the recipient of the reward is not the one who perpetrated or planned to perpetrate the act of terrorism; for the purposes of this paragraph, proof that the one who carried out the transaction was aware that one of the possibilities existed is sufficient even if it is not proven which one of them specifically;
  - (2) Carries out a transaction in terrorist property or property that is direct compensation or direct profit from terrorist property; for the purposes of this paragraph, “Property” includes immovable property, movable property, money and rights;
  - (3) Transfers property to a declared terrorist organization or to a terrorist organization.

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- (b) He who carries out a transaction in property of a person whom he knows to be a terrorist activist or he knows that there is a declaration pursuant to Section 2 that he is a terrorist activist, there is a presumption that he did so with the knowledge that the transaction will enable, further or finance the perpetration of an act of terrorism, or to serve as a reward for the perpetration of an act of terrorism, as relevant, unless he brings evidence that he had no such knowledge; where a reasonable doubt has arisen as to whether he knew, and the doubt has not been resolved, the doubt will be to his advantage.
- (c) (1) For the purposes of this section, a person will not be regarded as having refrained from clarifying the nature of the behavior or the possibility of the existence of the circumstances for the purposes of Section 20(c)(1) of the Penal Law, if all of the following have been fulfilled:
- (a) delay of the transaction in order to clarify the nature of the behavior or the existence of the circumstances for the purposes of Section 20(c)(1) of the Penal Law and in order to file a report prior to carrying out the transaction pursuant to the provisions of Section 10, would, under the circumstances, constitute a tangible burden regarding his business transactions;
  - (b) shortly after carrying out the property transaction he filed a report of the transaction pursuant to the provisions of Section 10, and acted in accordance with the instructions of the police regarding the transaction; the Minister of Public Security upon consultation with the Minister of Justice will establish the timeframe and manner in which the instructions will be given by the police.

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- (2) In paragraph (1), “report of a property transaction” and “and acted in accordance with the instructions of the police” – including the transmission of a notice pursuant to Section 84(2)(a) of the Defense (Emergency) Regulations as well as an action in accordance with instructions that were given to him pursuant to Section 84(2)(b), (c) and (e) of the said regulation.
  
- (d) (1) The provisions of this section will not apply to types of property transactions or a particular transaction if permission to carry out the transaction has been granted in advance by the Minister of Finance in consultation with the Minister of Defense and the Minister of Public Security.
  
- (2) Notice of the granting of permission pursuant to this section that is meant for a nonspecific group of people will be published in the Official Gazette of the Government of Israel.
  
- (3) The Minister of Finance may designate additional ways to inform the public of the granting of the permission.

### The Obligation to Report on a Property Transaction

- 10. (a) A person who has been asked to carry out a property transaction in the course of his business dealings or while fulfilling the duties of his position, or in circumstances in which there was an actual possibility to carry out the transaction, and such person had a reasonable suspicion that one of situations set forth in paragraphs (1) or (2) exists, or a person who carried out a property transaction and at the time of carrying out the transaction or within six months from such time, he had a reasonable suspicion as stated, shall report to the Israel Police; for these purposes it is sufficient to prove that he had a reasonable suspicion that one of the situations set forth in paragraphs (1) or (2) exists, even if it is not proven which one of them -
  - (1) the property is terrorist property as defined in paragraph (1) of the definition of terrorist property or it is direct compensation

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in exchange for, or direct profit from terrorist property as stated; for the purposes of this paragraph, “Property” – immovable or movable property, money and rights;

- (2) the transaction may enable, further, finance or reward the perpetration of an act of terrorism.
  
- (b) One who is obligated to report pursuant to Section 7 of the Prohibition on Money Laundering Law may submit the report pursuant to the provisions of this section to the authorized authority pursuant to Section 29 of the said law.
  
- (c) A report as referred to in subsection (a) shall include all of the information known to the one reporting that is pertinent to the matter and will be submitted as close as possible, considering the circumstances of the matter, to the time when that person had a reasonable suspicion to assume as set forth in that subsection.
  
- (d) The manners of reporting and the timeframes pursuant to this section will be consistent with the manners of reporting and the timeframes set forth pursuant to Sections 6(b) and (7)(e) of the Prohibition on Money Laundering Law unless the ministers referred to in those sections have provided otherwise after consultation as set forth in those sections.
  
- (e) One who has not submitted a report pursuant to the provisions of this section is liable to one year of imprisonment or a fine in the amount set forth in Section 61(a)(3) of the Penal Law.
  
- (f) The provisions of this section do not apply to a person who submitted a report pursuant to Section 84(2)(a) of the Defense (Emergency) Regulations.

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### Exemption from Responsibility and Restrictions on the Disclosure of Reports

11. (a) The failure to carry out a property transaction, another omission or an act that was done in good faith in order to avoid committing an offence pursuant to this chapter, report, disclosure or non-disclosure that were made in good faith in order to fulfill the provisions of this chapter, and a transaction in accordance with the instructions of the police or the instructions that were given pursuant to Section 84(2)(a) of the Defense (Emergency) Regulations, do not constitute a breach of obligations of confidentiality and trust or of any other obligation pursuant to any law or agreement, and one who did or abstained from doing as set forth, will not be have any criminal, civil or disciplinary liability for the act or the omission; the provisions of Section 24(b) and (c) of the Prohibition on Money Laundering Law will apply regarding an act or omission pursuant to this subsection.
  
- (b) Section 25 of the Prohibition on Money Laundering Law will apply regarding disclosure and reporting pursuant to the provisions of this chapter, with the necessary changes.

### **Chapter Four: Forfeiture of Property after Conviction in Criminal Proceedings**

#### Post-Conviction Mandatory Forfeiture, Except on Special Grounds

12. Where a person has been convicted of an offence pursuant to Sections 8 or 9, the Court shall order, unless it decides not do so on special grounds that it shall detail, that in addition to any punishment, the property that is connected to the offence and that is in the possession, the control or in the account of the convicted person shall be forfeited.

#### Optional Forfeiture of Property of One Who Has Been Convicted

13. Where property as set forth in Section 12 is not found for the issuance of a forfeiture order pursuant to the said section or to realize the forfeiture order in full, because of an act performed by the convicted person not in good faith, the Court may issue a forfeiture order or direct that the order be realized from the

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property of the convicted person that is equal in value to the property that is connected to the offence.

### **Post-Conviction Optional Forfeiture of Property That the Convicted Person Financed or Gave to Another Without Compensation**

14. Where property of the convicted person is not found for the issuance of a forfeiture order or to realize the forfeiture order in full pursuant to Section 13, the Court may order the forfeiture or direct that the order be realized from the property of another person, even if it is not property that is connected to the offence, if the convicted person financed its acquisition or transferred it to the other person without consideration for the purpose of preventing the forfeiture of the property pursuant to the said section.

### **Post-Conviction Optional Forfeiture of Property Connected with an Offence**

15. Where a person has been convicted of an offence pursuant to Sections 8 or 9, the Court may order the forfeiture of property connected with the offence, even if it is not found in the possession, the control or the account of the convicted person.

### **Application of Prosecutor to Forfeit Property – Specification in the Indictment**

16. The application of a prosecutor to forfeit property pursuant to this chapter, and the details of the property for which forfeiture is requested or the value of the property with respect to which the forfeiture order is requested shall be set forth in the indictment; when additional property is discovered, the forfeiture of which is requested, the prosecutor may amend the indictment at any stage of the proceedings prior to the handing down of the sentence.

### **Proof of Facts and Conditions Required for Forfeiture**

17. Further to a conviction in criminal proceedings, the degree to which the facts and conditions for forfeiture under this chapter must be proven is the degree of proof required in a civil trial.

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### Transfer of Hearing on Forfeiture to a Civil Proceeding and Forfeiture within the Framework of Such Proceeding

18. (a) Where the Court determines that the examination of the arguments on forfeiture is likely to impede the continuation of the hearing in the criminal proceedings, it may, on grounds to be recorded, determine that the hearing on forfeiture shall take place in civil proceedings in a district court.
- (b) Forfeiture of property in civil proceedings after the hearing has been transferred, as stated in subsection (a), from the court that convicted the person in the criminal proceedings, shall be performed under the provisions of this chapter, *mutatis mutandis*, and the provisions of Chapter Six shall not apply.

### Value of Forfeited Property

19. The value of forfeited property according to forfeiture orders made pursuant to this Chapter shall not exceed the value of property connected to the offence in connection with which commission the order was given.

## **Chapter Five: Restrictions on Forfeiture of Property Further to Conviction in a Criminal Proceeding**

### Property that May Not Be Forfeited Due to Rights of another Person

20. (a) The Court shall not order the forfeiture of all or of part of any property, even if the facts and conditions for forfeiture of property pursuant to Sections 12, 13, 14 and 15 have been proven, in the following instances:
  - (1) In forfeiture pursuant to Sections 12 and 15 - if one of the following has been fulfilled:
    - (a) the person claiming a right to the property proved his right to the property and that he acquired such right prior to the



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commission of the offence in connection with which the forfeiture is requested, and he brought evidence that he was unaware or did not agree, as the case may be, that the property would be property connected with the aforesaid offence; where a doubt arises as to whether he was unaware or did not agree, and this doubt is not removed, the doubt shall operate in favor of the person claiming the right;

- (b) the person claiming a right to the property proved his right to the property and that he acquired such right after commission of the offence in connection with which the forfeiture is requested, and he proved that he did so for consideration and in good faith;
- (2) In forfeiture pursuant to Section 13 - the person claiming a right to the property has proved his right to the property;
  - (3) In forfeiture pursuant to Section 14 - the person claiming a right to the property is not the person to whom the convicted person transferred the property or for whom he financed the acquisition of his right to the property; he has proven his right to the property, and the provisions of subparagraphs (a) or (b), as the case may be, of paragraph (1) have been fulfilled.
- (b) Where the Court has found that part of the property should not be forfeited under the provisions of subsection (a) on account of the right of a person claiming a right to the property, it may, notwithstanding the provisions of the opening passage of subsection (a), also forfeit that part of the property, if it finds it proper to do so, subject to instructions to protect the right of the person claiming a right to the property, and preventing any unreasonable injury to such property, and instructions regarding compensation for any reasonable injury to such property.
  - (c) In this section, “a person claiming a right to property” - to the exclusion of the convicted person.

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### Proof of Existence of the Restrictions on Forfeiture

21. Subject to the provisions of Section 20(a)(1)(a) regarding the raising of a doubt, the level of proof of the restrictions on forfeiture pursuant to this chapter, and removal of the said doubt shall be the level of proof required in a civil trial.

### **Chapter Six: Forfeiture of Terrorist Property in a Civil Proceeding That Was Not Preceded by Criminal Proceedings Regarding a Terrorist Organization or an Act of Terrorism That Have No Connection to Israel**

#### Forfeiture of Property in a Civil Proceeding That Was Not Preceded by Criminal Proceedings or Transferred After Criminal Proceedings

22. The District Court, upon the application of a District Attorney, may order the forfeiture of property in civil proceedings, whether or not a person has been convicted or accused of an offence pursuant to this law, where it is satisfied that the property is terrorist property and it is one of the following:
  - (1) with respect to paragraph (1) of the definition of “terrorist property”, the property is property of an organization that has been declared as a terrorist organization pursuant to Section 2;
  - (2) with respect to paragraphs (2) and (3) of the definition of “terrorist property”, the property is connected with an act of terrorism that has no connection with Israel.

#### Property That May Not Be Forfeited Due to Rights of Another Person

23. (a) The Court shall not order the forfeiture of all or of part of any property, even if the facts and conditions for forfeiture of property pursuant to Section 22 have been proven, in the following instances:
  - (1) the person claiming a right to the property proved his right to the property and that he acquired such right prior to the property

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becoming terrorist property and he brought evidence that he was unaware or did not agree, as the case may be, that the property would be terrorist property; where a doubt arises as to whether he was unaware or did not agree, and this doubt is not removed, the doubt shall operate in favor of the person claiming the right;

- (2) the person claiming a right to the property proved his right to the property and that he acquired such right after the property became terrorist property and he proved that he did so for consideration and in good faith.

- (b) Where the Court has found that part of the property should not be forfeited pursuant to the provisions of subsection (a) on account of the right of a person claiming a right to the property, it may, notwithstanding the provisions of the opening passage of subsection (a), also forfeit that part of the property, if it finds it proper to do so, subject to instructions protecting the right of the person claiming a right to the property, and preventing any unreasonable injury to the property, and instructions regarding compensation for any reasonable injury to the property.

### Proof of Facts and Conditions Required for Forfeiture

24. The degree to which the facts and conditions for forfeiture pursuant to this chapter must be proven is the degree of proof required in a civil trial.

## Chapter Seven: Forfeiture- General Provisions

### Right of Argument

- 25 (a) Notice of an application of a prosecutor for forfeiture of property shall be delivered to the convicted person as well as to the owner of the property, to one who has the property in his possession, control or account and to one who claims a right to the property (in this law – one who claims a

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right in the property), if he can be located with reasonable diligence in the circumstances of the case.

- (b) The Court may order the publication of an application for forfeiture of property in a newspaper or in another manner that it determines; such publication shall not prejudice the right of a person claiming a right to the property to file an application to amend or cancel the forfeiture order pursuant to Section 27.
- (c) The Court shall not order the forfeiture of property under this chapter except after having granted the person claiming a right to the property, if known, an opportunity to raise his claims.

### Property Which Cannot Be Forfeited and Assurance of Means of Subsistence and Housing

- 26. (a) The Court will not order the forfeiture of property under this law if it is considered movable property which cannot be attached pursuant to Section 22 of the Execution of Court Decisions Law, 5727-1967<sup>8</sup> (in this law – the Execution of Court Decisions Law).
- (b) The Court will not order the forfeiture of property pursuant to this law unless it has found that the owner of the property to be forfeited and his family members residing with him shall have reasonable means of subsistence and a reasonable place of residence.

### Amendment or Cancellation of a Forfeiture Order

- 27. (a) A person claiming a right to property forfeited under this law (in this section - the applicant) who was not summoned to state his case with respect to the forfeiture order, may request of the Court which ordered the forfeiture to amend or cancel the order.

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<sup>8</sup> *Sefer Hahukim* (Code of Law) of 5727, p. 116.

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- (b) An application to amend or cancel a forfeiture order shall be filed within two years from the day the forfeiture order was issued, or within a longer period as determined by the Court, if it deems it just to do so.
- (c) Where the court has amended or canceled a forfeiture order, it shall order the return of all or part of the property to the applicant, or compensation from the State Treasury to the applicant where it is impossible to return the property, or the applicant has agreed to receive compensation; where the Court has ordered the payment of compensation for the property, it shall set out in the order the amount of the payment, according to the free market value of the property on the day the forfeiture order was issued, or on the day the payment order was issued, according to the higher of the two; the payment order or the order for the return of the property shall be issued no later than three months from the day on which the Court decided to cancel the forfeiture order.
- (d) Where the Court has amended or canceled a forfeiture order, it may order that any person injured because of the order shall be compensated from the State Treasury.
- (e) An order for the return of property or an order for payment shall be implemented as soon as possible, and no later than 60 days from the day on which they were issued.

### Appeal

28. A decision regarding the issuance of a forfeiture order pursuant to this law, its amendment or cancellation and any decision within the scope of a hearing on the application for the grant of a temporary order may be appealed within 30 days from the day on which the appellant is notified of the decision, in the same manner as a decision in a civil matter is appealed; however, if the decision is rendered in the sentencing judgment and the judgment is appealed, the court may also hear the appeal relating to the forfeiture order; an appeal on a decision concerning a temporary order shall be heard by a single judge.

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### Powers of search and seizure

29. Powers of search and seizure under the Arrest and Searches Ordinance, shall apply, subject to the provisions of this Law and *mutatis mutandis*, with respect to property regarding which a forfeiture order may be issued pursuant to this law.

### Presumption Regarding Property of the Convicted Person

30. For the purposes of Chapters 4-9, property found in the possession, the control or in the account of the convicted person, of a declared terrorist organization or of a person who has been declared pursuant to Section 2 to be a terrorist activist, is presumed to be the property of such persons or organization, unless proven otherwise.

## **Chapter Eight: Temporary Measures**

### **Subchapter A: Temporary Measures to Insure Forfeiture**

#### Power to Grant Temporary Measures

31. Where an indictment has been filed that includes an application for forfeiture, or an application for forfeiture in a civil proceeding has been filed, the Court may, upon the application of a District Attorney, grant a temporary order with respect to giving pledges on behalf of the convicted person or another person in possession of property, an injunction, an attachment order, an order for seizure of property or other orders, including instructions to the Administrator General or another person with respect to the temporary management of the property (in this law - the temporary order); in this subchapter, “court” means the court in which the indictment has been or will be filed or the court in which the application for forfeiture in civil proceedings has been or will be filed, as the case may be.

## Unofficial Translation

### Conditions for Granting Temporary Remedies to Insure the Forfeiture

32. The Court may grant a temporary order pursuant to the provisions of this subsection where it is satisfied that *prima facie* evidence exists to prove the grounds for forfeiture and that failure to grant the order will hinder the realization of the forfeiture; in this matter, “the grounds for forfeiture” means the facts and the conditions required in order to forfeit property pursuant to Chapter Four or Six, subject to the limitations to forfeiture of property pursuant to Chapter Five or Six.

### Grant of Temporary Remedy Prior to a Filing of an Indictment or a Request for Civil Forfeiture

33. (a) The Court may grant a temporary order pursuant to the provisions of this subchapter even prior to the filing of an indictment or a request for forfeiture in civil proceedings, as the case may be, upon the request of a District Attorney, if it has been duly satisfied that there are reasonable grounds to assume that the property with respect to which the order is requested is likely to disappear or that actions are likely to be done with such property preventing the realization of the forfeiture.
- (b) A temporary order granted prior to the filing of an indictment shall lapse if the indictment is not filed within six months from the day the order was issued; the Court may extend this period for additional periods not exceeding three months, provided that the total period does not exceed one year from the day the order was issued; notwithstanding the provisions of this subsection, a justice of the Supreme Court may order the extension of the effective date of the temporary order, from time to time, each extension cannot exceed a period of three months.
- (c) A temporary order granted prior to the filing of a request for civil forfeiture shall lapse if the request is not filed within three years from the day the order was given, unless one who claims a right to the property files a request for the cancellation or amendment of the order; if such a request is filed, the Court will hold a hearing in the presence of the parties

## **Unofficial Translation**

and the burden to show that the conditions set forth in this subchapter for the granting of a temporary order are met will be on the party who requested that the order be granted.

- (d) Where a temporary order has been granted pursuant to this section and within the period in which it is in force an indictment or an application for forfeiture in civil proceedings, as the case may be, has been filed, the temporary order shall lapse upon the expiration of ten days from the time of filing the indictment or application, as the case may be, if, within this period of time an application for the grant of a temporary order pursuant to the provisions of Section 31 has not been filed in the court.

### **Subchapter B: Temporary Remedies to Prevent an Act of Terrorism that has no Connection to Israel**

Conditions for Granting a Temporary Remedy in order to Prevent an Act of Terrorism that has no Connection to Israel

- 34. (a) The District Court may grant a temporary order pursuant to this subchapter even if no indictment or request for civil forfeiture has been filed, if it is convinced that granting the order is necessary in order to prevent an act of terrorism that has no connection to Israel.
- (b) A temporary order that is granted pursuant to subsection (a) will expire within three years from the date it was granted unless one who claims a right to the property has filed a request to cancel or amend the order; if such a request is filed, the Court will hold a hearing in the presence of all of the parties and the party requesting that the order be granted will bear the burden of showing that the conditions for the granting of a temporary order are fulfilled.
- (c) The Supreme Court may extend the temporary order that was granted pursuant to subsection (b) for additional periods of time that will not exceed one year on each occasion, if it is convinced that the order is



## Unofficial Translation

necessary in order to prevent an act of terrorism as set forth in subsection (a).

### Classified Evidence

35. (a) In a hearing on an application for the granting of a temporary order pursuant to this subchapter, the Court may deviate from the rules of evidence for reasons that shall be recorded, and accept material as evidence, even in the absence of the party claiming a right in the property or his counsel, or without disclosing such evidence to them, if, after using the evidence or hearing arguments, it was convinced that disclosure of the evidence is likely to harm the security of the State or to cause harm to its foreign relations and that non-disclosure of the evidence is preferable to its disclosure in order to do justice (hereinafter - classified evidence), the Court may, prior to making a decision pursuant to this section, peruse the evidence or hear explanations without the presence of the remainder of the parties and their counsel.
- (b) Where the court has decided to accept classified material as evidence, it will order the transmission of a summary of the non-disclosed evidence to the party claiming a right in the property or his counsel, to the extent it is possible to do so without endangering State security or its foreign relations.
- (c) A hearing pursuant to this section shall be held with closed doors unless the Court has ordered otherwise regarding this matter.

### **Subchapter C: General Instructions Regarding Temporary Remedies**

#### *Ex parte* Temporary Order

36. The Court may make an *ex parte* temporary order pursuant to this chapter, where it is satisfied that there are grounds for apprehension that there will be an immediate transaction in the property and that holding a hearing in the presence of the parties will frustrate the purpose of the order; the validity of a temporary order given *ex parte* shall not exceed ten days and the application shall be heard

## Unofficial Translation

in the presence of all of the parties as soon as possible and within the period of time in which the order is valid; the court may, on grounds that are to be recorded, extend the validity of an *ex parte* temporary order for additional periods, provided that the total period does not exceed thirty days from the day the order was granted.

### Application of Provisions Regarding the Right of Argument and Restrictions on the Forfeiture of Property

37. (a) In a hearing on the application for grant of a temporary order pursuant to the provisions of this chapter, except for an application for an *ex parte* order pursuant to Section 36, the provisions of Sections 20, 23 and 25 shall apply.
- (b) The provisions of Section 26 shall apply to any application for the grant of a temporary order pursuant to the provisions of this chapter.

### Grant of Temporary Order to the Extent Necessary

38. Where the Court has decided to grant a temporary order pursuant to this chapter, it shall determine the class, scope, conditions and duration of the order, all to the extent not exceeding what is necessary to accomplish the objectives of the temporary order.

### Compensation

39. Where the Court has made a temporary order pursuant to this chapter, it may instruct that a person injured by such order shall be paid compensation from the State Treasury.

### Rehearing of Temporary Order

40. The Court may hold a rehearing regarding a temporary order it has granted, if it deems it justified in doing so due to changed circumstances or new facts that were discovered after the temporary order was granted.

## Unofficial Translation

### Chapter Nine: Administrative Seizure of Terrorist Property Regarding a Terrorist Organization or an Act of Terrorism That Has no Connection to Israel

#### Administrative Seizure of Terrorist Property

41. (a) The Minister of Defense or an employee of the Ministry of Defense ranking as Head Department at the minimum, whom the Minister of Defense has authorized for this purpose (hereinafter – an authorized employee of the Ministry of Defense), may order the seizure of terrorist property as referred to in Section 22, if he is convinced that there are grounds for apprehension that an immediate transaction will be undertaken regarding the property that will inhibit its forfeiture or that its seizure is necessary in order to prevent an act of terrorism that has no connection to Israel.
- (b) Where it has been proven to the satisfaction of the Minister of Defense that terrorist property for which there are grounds to seize it pursuant to subsection (a), is intermingled with other property and under the specific circumstances it is impossible to identify it or separate it, he may order the seizure of the other property as well.
- (c) Notice of seizure pursuant to this section shall be transmitted to the one claiming a right in the property if it is possible to locate him using reasonable diligence under the circumstances.

#### Seizure of the Property

42. (a) Seizure pursuant to this chapter may be carried out by a policeman, a customs officer who has been authorized to do so by the Director of the Customs and VAT Office or another public employee who has been authorized to do so by the Prime Minister or the Minister of Defense and for this purpose the following powers will be granted to them:
- (1) To a policeman - the powers granted to him pursuant to the Arrest and Search Ordinance;

## Unofficial Translation

- (2) To a public employee – the powers granted to a policeman pursuant to the Arrest and Search Ordinance for the purpose of carrying out a seizure;
  - (3) To a customs officer – the powers pursuant to Sections 174, 177, 184, and 185 of the Customs Ordinance<sup>9</sup> and in this regard property of the suspect shall be seen as property where the seizure provisions are applicable, as goods which are forbidden to import or export.
- (b) Where the person who is carrying out the seizure pursuant to subsection (a) realizes, while carrying out the seizure, that the property that he is to seize is intermingled with other property and under the circumstances it is not possible to identify it or to separate it and furthermore, under the circumstances it is not possible to receive an order regarding the seizure of the additional property from the Minister of Defense pursuant to Section 41, he may seize the other property as well; a notice regarding the seizure pursuant to this subsection will be transmitted to the Minister of Defense within 72 hours from the time the seizure was carried out and the Minister may order that the seizure be cancelled in whole or in part.

### Property That May Not Be Seized for the Purpose of Insuring a Means of Subsistence

43. (a) An order to seize property will not be issued and property will not be seized pursuant to this chapter, if it is considered movable property which cannot be attached pursuant to Section 22 of the Execution of Court Decisions Law.
- (b) The Minister of Defense or an employee of the Ministry of Defense will not order the forfeiture of property pursuant to this chapter unless he has found that the owner of the property and his family members residing with him shall have reasonable means of subsistence.

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<sup>9</sup> Laws of the State of Israel, new version 3, p. 39.

## **Unofficial Translation**

### Expiration of Administrative Seizure

44. Where property has been seized in an administrative seizure and a request for its forfeiture or for a temporary order regarding it pursuant to this law is not submitted within 21 days from the day of the seizure, the seizure will expire and the property will be returned.

### Presumption Regarding Property of a Terrorist Organization

45. For the purposes of Chapters 8 and 9 - property of a declared terrorist organization pursuant to paragraph (1) of the definition of “a declared terrorist organization”, property that is used for the activities of or is intended to be used for the activities of such organization, or property that enables the activity, is property whose seizure, or the granting of a temporary order regarding it, is necessary in order to prevent an act of terrorism unless it is proven otherwise.

### Prohibition on Delegation

46. The authority of the Minister of Defense pursuant to Sections 41(b) and 42(b) may not be delegated.

## **Chapter Ten: Miscellaneous Provisions**

### Implementation and Regulations

47. (a) The Minister of Justice is charged with the implementation of this law and he may promulgate regulations for its implementation, including procedural rules with respect to a petition against decisions of the Ministerial Committee and the Advisory Committee regarding a request for a forfeiture order in a criminal or civil proceeding, procedures for the hearing of objections to forfeiture, requests for the granting of remedies to safeguard property, temporary remedies, re-hearings, appeal, as well as on the ways the forfeiture may be implemented, management of the assets and the giving of notices to persons claiming a right to the property; regulations regarding chapter Nine will be promulgated upon consultation with the Minister of Defense and the Minister of Public Security.

## Unofficial Translation

- (b) The Minister of Justice will establish regulations that will include provisions regarding the following matters:
  - (1) (a) The details that shall be included in a declaration of the Ministerial Committee pursuant to Section 2;
  - (b) The manners and the timeframes for serving one who is the subject of a declaration and to one who has an obligation to file a report pursuant to the provisions of Section 7 of the Prohibition on Money Laundering Law;
  - (c) Publication of a central list of the declared terrorist organizations and of a person who has been declared to be a terrorist activist and updating of the list, and the ways in which it shall be published;
- (2) Regulations pursuant to paragraph (1) will be promulgated with the agreement of the Prime Minister;
- (3) (a) The manner and the time for filing an application to cancel a declaration issued by the Ministerial Committee, the deadline for making recommendations by the Advisory Committee and for giving decisions of the Ministerial Committee and the manner of carrying out the periodic review of a declaration of the Ministerial Committee.
- (b) Procedural and evidentiary rules in a hearing on an application before the Advisory Committee, including as regards the manner of submitting evidence and examining witnesses, submission of classified evidence and transmission of a summary of the evidence to the applicant, and regarding representation of the applicant before the Advisory Committee.

## Unofficial Translation

### Application of the Prohibition on Money Laundering Law

48. (a) The authorities granted to the Governor of the Bank of Israel and to the Minister to issue orders for the purpose of enforcing the Prohibition on Money Laundering Law as set forth in Section 7 of that law shall be granted to them for the purpose of enforcing this law as well.
- (b) Reports that are received pursuant to this law by the Israel Prohibition on Money Laundering and Terrorist Financing Authority will be preserved in the database that has been established pursuant to Section 28 of the Prohibition on Money Laundering Law; the transfer of information that was received pursuant to this law or for the enforcement of this law, from the database, will be done according to the provisions of the Prohibition on Money Laundering Law; the provisions of Section 31A of the Prohibition on Money Laundering Law, regarding a duty of confidentiality and a prohibition on disclosing information and use of it in a manner not in accordance with the provisions of the Prohibition on Money Laundering Law will apply to one who has received information pursuant to this law.
- (c) A person responsible for carrying out obligations in a banking corporation and in any body specified in the Third Schedule of the Prohibition on Money Laundering Law, who was appointed pursuant to Section 8 of such law will act to carry out the obligations that will be imposed in orders pursuant to subsection (a), on said corporation or body, and to direct the employees to fulfill such obligations and to supervise their fulfillment.
- (d) The supervisors who were appointed pursuant to Section 11N of the Prohibition on Money Laundering Law will also supervise the implementation of the orders pursuant to subsection (a), regarding the obligations of a banking corporation and any body that is among those enumerated in the Third Schedule of the said law, and for this purpose they shall be granted the authority pursuant to the said law and the provisions of Chapter 4B of such law shall apply.

## Unofficial Translation

- (e) The provisions of Section 14 of the Prohibition on Money Laundering Law which provide for financial sanctions for a violation of the provisions of the said law will apply regarding the breach of provisions of orders pursuant to subsection (a) as well; the authority granted to the Financial Sanctions' Committee that was established pursuant to Section 13 of the Prohibition on Money Laundering Law will be granted to it also regarding one who violated provisions of said orders and for the purpose of financial sanctions the provisions of Chapter 5 of said law will apply.
- (f) Where a financial sanction has been imposed pursuant to this section and it has been paid, no indictment shall be filed pertaining to the same act.
- (g) For one act that constitutes a violation of the provisions of an order pursuant to subsection (a), no more than one financial sanction shall be imposed, even if the act also constitutes a violation of an order pursuant to the Prohibition on Money Laundering Law.

### Preservation of Laws

- 49. The provisions of this law are in addition to the provisions of any law, including the Defense (Emergency) Regulations and the Prevention of Terrorism Ordinance, and do not derogate from them.

### Amendment to the Prohibition on Money Laundering Law [No. 4]

- 50. In the Prohibition on Money Laundering Law, 5760-2000<sup>10</sup> -
  - (1) In Section 1, after the definition of “a member of the stock exchange” it will read:

““The Prohibition on Terrorist Financing Law” - The Prohibition on Terrorist Financing Law, 5765-2004;”;
  - (2) In Section 28 after “according to this law”, it will read, “and according to the Prohibition on Terrorist Financing Law”;
  - (3) In Section 29 -

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<sup>10</sup> *Sefer Hahukim* (Code of Law) of 5760, p. 293; of 5764, p. 92.



## Unofficial Translation

- (a) in subsection (a), instead of the words “with approval of the government”, it will read: “with approval of the government; the name of the competent authority will be the Prohibition on Money Laundering and Terrorist Financing Authority”;
  - (b) in subsection (b), at the end, it will read “and the Prohibition on Terrorist Financing law”;
- (4) In Section 30 -
- (a) in subsection (b), paragraph (1), after the words “for the purpose of implementing this law”, the words “and the Prohibition on Terrorist Financing Law” will be added;
  - (b) in subsection (c), after the words “activity of terrorist organizations”, the words “and declared terrorist organizations, of acts of terrorism and of financing such organizations or acts” will be added;
  - (c) in subsection (e), after the words “pursuant to this law”, the words “and pursuant to the Prohibition on Terrorist Financing Law” will be added and after the words “or the war on terrorist organizations” the words “on declared terrorist organizations and on acts of terrorism” will be added;
  - (d) in subsection (f), after the words “for the implementation of this law” the words “and the Prohibition on Terrorist Financing Law” will be added and after the words “in an offence as set forth in section 2” the words “or for terrorist property”;
  - (e) in subsection (g), after the words “implementation of this law” the words “and the Prohibition on Terrorist Financing Law” will be added and in place of the words “or for the purpose of the war on terrorist organizations” it will read “or for the purpose of the war on terrorist organizations, on declared terrorist organizations and on acts of terrorism”;

## Unofficial Translation

(f) in subsection (h), after the words “of this law” the words “or the Prohibition on Terrorist Financing Law” will be added;

(g) after subsection (i) a new subsection will be added as follows:

“(j) In this section, “a terrorist organization”, “a declared terrorist organization”, “an act of terrorism”, and “terrorist property” – as they are defined in the Prohibition on Terrorist Financing Law”;

- (5) In Section 31(a), after the words “this law” the words “and of the Prohibition on Terrorist Financing Law”;
- (6) In Section 31B(a)(1), after the words “pursuant to chapter three” the words “and according to the orders that were issued pursuant to Section 48(a) of the Prohibition on Terrorist Financing Law” will be added;
- (7) In the first schedule, in item (18), after “1945” the words “pursuant to Sections 8 and 9 of the Prohibition on Terrorist Financing Law” will be added.

Amendment to the Criminal Procedures (Powers of Enforcement – Arrests) Law [No. 6]

51. In the Criminal Procedures (Powers of Enforcement – Arrests) Law, 5756-1996<sup>11</sup>, in Section 35(b) -

(1) in paragraph (4), in place of “(1) through (4)” it will read “(1) through (5)”;

(2) after paragraph (4) a new paragraph will be added as follows:

“(5) Section 8 of the Prohibition on Terrorist Financing Law, 5765-2004.”

Amendment to the Crime Register and Rehabilitation of Offenders Law [No. 6]

52. In the Crime Register and Rehabilitation of Offenders Law, 5741-1981<sup>12</sup>, in Section 17, in paragraph (4), at the end of the paragraph the following will be added:

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<sup>11</sup> *Sefer Hahukim* (Code of Laws) of 5756, p. 338; of 5764, p. 24.

## Unofficial Translation

“(i) Section 8 of the Prohibition on Terrorist Financing Law, 5765-2004”.

Amendment to the International Legal Assistance Law [No. 3]

53. In the International Legal Assistance Law, 5758-1998<sup>13</sup>, in the second schedule

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(1) After Item C beginning with the words “offences pursuant to Sections 2, 3 and 4” will be added:

“C1. Offences pursuant to Sections 8 and 9 of the Prohibition on Terrorist Financing Law, 5765-2004.”

(2) Item C beginning with the words “these offences pursuant to the Penal Law”, will become item “C2”, and in the beginning of that item, instead of the words “for terrorist activity” it will read “for an act of terrorism as defined in the Prohibition on Terrorist Financing Law, 5765-2004 (in this schedule - an act of terrorism)”;

(3) In Item F instead of the words “for terrorist activity” it will read “for an act of terrorism”;

(4) In Item I, instead of the words “for terrorist activity” it will read “for an act of terrorism”.

Effective Date

54. This law shall take effect on the first of the month following the conclusion of 6 months from the day the Law is published.

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<sup>12</sup> *Sefer Hahukim* (Code of Laws) of 5741, p. 332; 5764, p. 483.

<sup>13</sup> *Sefer Hahukim* (Code of Laws) of 5758, p. 356; 5763, p. 508.