



Australian Government
Refugee Review Tribunal

Country Advice

Hungary

Israel – HUN40336 – Citizenship Status
upon Aliyah – Obligations of Olehs to
perform national service – Loss of
citizenship

18 May 2012

1. What is the residency/citizenship status of Jews upon arrival following migration to Israel? What are the military service obligations for new Jewish migrants to Israel?

Citizenship Status upon Aliyah

A Jew exercising his or her ‘right of return’ to Israel is known as an *oleh*. The act of ‘returning’ to Israel is known as undertaking the *aliyah*. Part One, Section 2 of Israel’s *Nationality Law, 5712-1952* states that “every *oleh* under the Law of Return, 5710-1950(1), shall become an Israel national”. Furthermore, “by a person having come to Israel as an *oleh* after the establishment of the State – with effect from the day of his *aliyah*”:

2.

(a) Every ‘*oleh*** under the Law of Return, 5710-1950(1), shall become an Israel national.

(b) Israel nationality by return is acquired-

(1) by a person who came as an ‘*oleh* into, or was born in, the country before the establishment of the State – with effect from the day of the establishment of the State;

(2) by a person having come to Israel as an ‘*oleh* after the establishment of the State – with effect from the day of his ‘*aliyah***;

(3) by a person born in Israel after the establishment of the State – with effect from the day of his birth;

(4) by a person who has received an ‘*oleh*’s certificate under section 3 of the Law of Return, 5710-1950 – with effect from the day of the issue of the certificate.

(c) This section does not apply-

(1) to a person having ceased to be an inhabitant of Israel before the coming into force of this Law;

(2) to a person of full age who, immediately before the day of his ‘*aliyah* or the day of his ‘*oleh*’s certificate is a foreign national and who, on or before such day, declares that he does not desire to become an Israel national;

(3) to a minor whose parents have made a declaration under paragraph (2) and included him therein.¹

Military Service Obligations of Olehs

¹ *Nationality Law, 5712-1952; Part One: Acquisition of Nationality*, Israel Law Resource Center
<<http://www.israelawresourcecenter.org/israelaws/fulltext/nationalitylaw.htm>> Accessed 14 May 2012

According to Israel's Ministry of Immigrant Absorption, men over the age of 18 who migrate to Israel "are usually entitled to a shortened period of service, in accordance with age and family status". Male migrants over the age of 26 are exempt from compulsory service "in most cases":

Generally speaking, the usual period of service for men is 36 months; for women 24 months. Men who immigrate to Israel after the age of 18 are usually entitled to a shortened period of service, in accordance with age and family status. In most cases, the period of service extends from a few weeks to up to 36 months. At the time of publication, men age 26-39 are in most cases exempt from compulsory service, and are assigned to the reserves.

...

New immigrants are called up only after you have resided in Israel for at least 12 months. New immigrants who are conscripted for reserve military service only are called up once two years have passed receipt of new immigrant status.²

On the question of timing of military service, Israel's Ministry of Foreign Affairs states that new immigrants do not have to begin military service in their first twelve months in Israel, however new arrivals may choose to waive any deferment:

New immigrants are not inducted during their first year in the country, unless they waive the deferment – which many of them do. Military service of newcomers, side by side with old-timers, has proved to be a powerful instrument for successful integration.

...

Conscription has become deeply ingrained over the years. Not to have served in the IDF has in the past been regarded as a disgrace; moreover it has been a real impediment to future civilian careers.³

2. Does military service for a male migrant to Israel in his mid-30s indicate citizenship or permanent residency?

Being called-up for military service or having served the whole or part of military service in Israel indicates citizenship or permanent residency. Chapter One, Section 1.1 of Israel's *Defence Service Law 1986* states:

"person of military age" means an Israel national, or a permanent resident, of an age as specified hereunder:

(1) in the case of a male person – any age from eighteen to fifty-four years;

(2) in the case of a female person – any age from eighteen to thirty-eight years.⁴

Chapter 2, section 15(2) of the *Defence Service Law 2006* states that if a male "came to Israel as an *oleh* after attaining the age of twenty-seven years he shall be liable to regular service for a period of eighteen months only":

² Israel Ministry of Immigrant Absorption 2009, *Guide for the New Immigrant*, 7th Edition p.114
<http://www.moia.gov.il/NR/rdonlyres/374A8641-4D1C-4701-8EFD-2FBA0AE6289F/0/moleh_en.pdf> Accessed 14 May 2012

³ Ministry of Foreign Affairs 1997, *The Israel Defense Forces*, 31 May
<<http://www.mfa.gov.il/MFA/Facts+About+Israel/State/The+Israel+Defense+Forces.htm>> Accessed 11 December 2009

⁴ *Defence Service Law -Consolidated Version 5746-1986*, Israel Ministry of Foreign Affairs website, 30 January
<http://www.mfa.gov.il/MFA/MFAArchive/1980_1989/Defence%20Service%20Law%20-Consolidated%20Version--%205746-1> Accessed 31 October 2006

15. A male person of military age who is called upon to report for regular service under section 13 or 14 shall be liable to regular service

(1) if he is called upon to report for regular service while being of any age from eighteen to twenty-six years - for a period of thirty months;

(2) if he is called upon to report for regular service while being of any age from twenty-six to twenty-nine years or while being a physician or dentist and being of any age from twenty to thirty-four years - for a period of twenty-four months; but if he came to Israel as an *oleh* after attaining the age of twenty-seven years he shall be liable to regular service for a period of eighteen months only;

(3) if he is called upon to report for regular service while being a physician or dentist and being of any age from twenty-five to thirty-eight years - for a period of twelve months.⁵

According to Israel's Israel Ministry of Immigrant Absorption, male immigrants (*olehs*) to Israel between the ages of 26 and 39 are generally exempt from compulsory military service:

Generally speaking, the usual period of service for men is 36 months; for women 24 months. Men who immigrate to Israel after the age of 18 are usually entitled to a shortened period of service, in accordance with age and family status. In most cases, the period of service extends from a few weeks to up to 36 months. At the time of publication, men age 26-39 are in most cases exempt from compulsory service, and are assigned to the reserves.⁶

3. Would desertion from the Israeli Army lead to a loss of citizenship or permanent residency?

Articles 35, 43, 46 and 47 of the *Defence Service Law* relate to failure to fulfil or complete military service and subsequent punishments:

35. (a) A person of military age liable to report for regular service shall belong to the regular forces of the Israel Defence Forces from the time prescribed by word for his so reporting. If he fails to report without sufficient excuse, he shall be deemed to have left the service without permission at such time.

(b) A person of military age liable to report for reserve service shall be deemed to be in service from the time prescribed by order or by call-up under section 27(c) for his so reporting. If he fails to report without sufficient excuse, he shall be deemed to have left the service without permission at such time.

...

43. (a) A person designated for defence service and a person of military age who belongs to the regular forces of the Israel Defence Forces shall not go abroad save under a permit from the Minister of Defence.

(b) A person of military age the continuance of whose regular service has been deferred for any reason shall not go abroad during the period of deferment save under a permit from the Minister of Defence.

...

46. (a) A person who - (1) fails to fulfil a duty imposed on him by or under this Law or

⁵ *Defence Service Law -Consolidated Version 5746-1986*, Israel Ministry of Foreign Affairs website, 30 January <http://www.mfa.gov.il/MFA/MFAArchive/1980_1989/Defence%20Service%20Law%20Consolidated%20Version--%205746-1> Accessed 31 October 2006

⁶ Israel Ministry of Immigrant Absorption 2009, *Guide for the New Immigrant*, 7th Edition p.114 <http://www.moia.gov.il/NR/rdonlyres/374A8641-4D1C-4701-8EFD-2FBA0AE6289F/0/moleh_en.pdf> Accessed 14 May 2012

- (2) knowingly supplies to an authority acting under this Law false information as to a particular which he is bound to supply thereunder or
- (3) by knowingly supplying to an authority acting under this Law false information as to a material particular, obtains an order of exemption from service, or of deferment of service, under section 36, or an exemption under section 40, an exit permit under section 43 or any other relaxation under this Law or
- (4) commits an offence under section 43 shall be liable to imprisonment for a term of two years.

(b) A person who

- (1) does one of the things specified in subsection (a) with intent to evade defence service or
- (2) injures or maims, or allows another person to injure or maim, his body with intent thereby to impair his medical fitness for defence service shall be liable to imprisonment for five years.

47. The courts in Israel shall be competent to try a committed abroad person who while abroad commits an offence under section 46.⁷

According to War Resisters International, attempting to evade military service is punishable by up to five years' imprisonment:

According to the National Defence Service Law, art 35 (a) (2), failure to fulfil a duty imposed by the National Defence Service Law is punishable by up to two years' imprisonment.

Attempting to evade military service is punishable by up to five years' imprisonment.

Refusal to perform reserve duties is punishable by up to 56 days' imprisonment, the sentence being renewable if the objector refuses repeatedly.

...

Those who disobey call-up orders are regarded as refusing to perform military service and can thus be sentenced to up to five years' imprisonment. In practice sentences do not exceed more than a year's imprisonment [32]. In practice, conscientious objectors are sentenced on one of the following charges: refusing to obey an order, absence without leave, desertion, or refusal to be mobilised [4].⁸

On the loss of citizenship, Part 2, Section 11 of Israel's *Nationality Law, 5712-1952* states:

- (a) Where a person, having acquired Israeli nationality by naturalisation -
 - o (1) has done so on the basis of false particulars; or
 - o (2) has been abroad for seven consecutive years and has no effective connection with Israel, and has failed to prove that his effective connection with Israel was severed otherwise than by his own volition; or
 - o (3) has committed an act of disloyalty towards the State of Israel, a District Court may, upon the application of the Minister of the Interior, revoke such person's naturalisation.⁹

⁷ *Defence Service Law -Consolidated Version 5746-1986*, Israel Ministry of Foreign Affairs website, 30 January <http://www.mfa.gov.il/MFA/MFAArchive/1980_1989/Defence%20Service%20Law%20Consolidated%20Version--%205746-1> Accessed 31 October 2006

⁸ War Resisters International 2003, *Conscientious objection to military service in Israel an unrecognised human right*, 31 January <<http://www.wri-irg.org/co/co-isr-03.htm>> Accessed 10 October 2006

⁹ *Nationality Law, 5712-1952; Part One: Acquisition of Nationality*, Israel Law Resource Center <<http://www.israelawresourcecenter.org/israelaws/fulltext/nationalitylaw.htm>> Accessed 14 May 2012

No sources were located that indicate that the act of going AWOL during a conflict constitutes an act of disloyalty in the context of Part 2, Section 11, (a)(3) of the *Nationality Law, 5712-1952*. No examples were located of persons absent without leave or conscientious objectors being stripped of their Israeli citizenship.

4. Deleted.

References

Defence Service Law -Consolidated Version 5746-1986, Israel Ministry of Foreign Affairs website, 30 January

<http://www.mfa.gov.il/MFA/MFArchive/1980_1989/Defence%20Service%20Law%20Consolidated%20Version--%205746-1> Accessed 31 October 2006.

Israel Ministry of Foreign Affairs 1997, *The Israel Defense Forces*, 31 May

<<http://www.mfa.gov.il/MFA/Facts+About+Israel/State/The+Israel+Defense+Forces.htm>> Accessed 11 December 2009. (CISNET Israel CX237541)

Israel Ministry of Immigrant Absorption 2009, *Guide for the New Immigrant*, 7th Edition

<http://www.moia.gov.il/NR/rdonlyres/374A8641-4D1C-4701-8EFD-2FBA0AE6289F/0/moleh_en.pdf> Accessed 14 May 2012.

Nationality Law, 5712-1952; Part One: Acquisition of Nationality, Israel Law Resource Center

<<http://www.israelawresourcecenter.org/israelaws/fulltext/nationalitylaw.htm>> Accessed 14 May 2012.

War Resisters International 2003, *Conscientious objection to military service in Israel an unrecognised human right*, 31 January

<<http://www.wri-irg.org/co/co-isr-03.htm>> Accessed 10 October 2006. (CISNET Israel CX163087)