

## ISRAEL DEFENSE FORCE

### Order Regarding Administrative Detention (Temporary Order) [Combined Version] (Judea and Samaria) (No. 1591), 5767 – 2007

#### Notice of Combined Version

Pursuant to my authority under the provisions of section 2C of the Order Regarding Compilation of Proclamations (Judea and Samaria) (No. 111), 5727 – 1967, and with the consent of the commander of IDF forces in the region, I hereby make the Order Regarding Administrative Detention (Temporary Order) [Combined Version] (Judea and Samaria) (No. 1591), 5767 – 2007.

This Order replaces the Administrative Detention (Temporary Order) (Judea and Samaria) (No. 1226), 5748 – 1988.

I direct that this Order shall take force on 25 Adar 5767, 15 March 2007.

**17 Adar 5767**

**7 March 2007**

**Yair Lutshtein, Colonel**

**Legal Advisor**

**Judea and Samaria**

Pursuant to my authority as commander of IDF forces in the region and being of the opinion that due to the special circumstances presently existing in the region, the action is necessary to ensure order and public safety in the region, and being of the opinion that for this reason it is necessary to once again act temporarily in accordance with the principles of administrative detention that were in effect in the region prior to the addition of chapter E1 of the Order Regarding Defense Regulations, 5730 – 1970, I hereby issue a temporary order as follows:

Administrative  
detention

1. (a) Where the commander of IDF forces in the region or the military commander delegated by him for the purposes of this Order (hereafter: military commander) has reasonable cause to believe that reasons of security of the region or public security require that a particular person be detained, he may, by order under his hand, direct that such person be detained for a period not exceeding six months, stated in an order (hereafter: detention order).  
  
(b) Where immediately before the expiration of an order under subsection (a), the military commander has reasonable cause to believe that reasons of security of the region or public security still require the detention of the detainee, he may from time to time, by order under his hand, direct the extension of the validity of the original detention order for a period not exceeding six months; and

the extension order shall in all respects be treated like the original detention order.

(c) A detention order under this section may be made in the absence of the person to whose detention it relates.

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| Implementation                         | 2. | <p>(a) A detention order under this Order shall be implemented by a soldier or a police officer and shall serve as a warrant for the confinement of the detainee.</p> <p>(b) Where no place of detention is specified in the detention order, the detainee shall be held in custody in one of the following places:</p> <ul style="list-style-type: none"><li>(1) a detention facility or internment prison facility, as these terms are defined in the military legislation;</li><li>(2) a prison, within its meaning in the Prisons Ordinance [New Version], 5722 – 1971, as it is in force in Israel;</li><li>(3) a military prison within its meaning in the Military Justice Law, 5715 – 1955, as it is in force in Israel.</li></ul>  |
| Exception to exercise of authority     | 3. | <p>A military commander shall not exercise authority under this Order unless he believes that the action is necessary for imperative security reasons.</p>  |
| Judicial review of the detention order | 4. | <p>(a) Where a person is detained under this Order, he shall, within eight days from the time of his said detention, be brought before a judge within its meaning in section 3(b)(1) of the Order Regarding Defense Regulations (Judea and Samaria) (No. 378), 5730 – 1970 (hereafter: Order Regarding Defense Regulations), provided that he holds at least the rank of major. The judge may confirm the detention order, or cancel it, or shorten the period of detention set in it.</p> <p>If the detainee is not brought before a judge, and if the hearing before the judge is not begun within eight days as aforesaid, the detainee shall be released unless other grounds for detaining him exist under any law and the military legislation.</p> <p>(b) The judge shall cancel the detention order if it has been proved to him that the reasons for which it was made were not objective reasons of security of the region or public security or that it was made in bad faith or from irrelevant considerations.</p> |
| Appeal                                 | 5. | <p>A decision of a judge under section 4 may be appealed to a judge of the Military Court of Appeals within its meaning in section 3(b)(4) of the Order Regarding Defense Regulations, and he shall have all the powers granted a judge under this Order.</p>   |
| Delay of implementation                | 6. | <p>(a) Where a judge decided under section 4 to cancel a detention order or to shorten it, and the representative of the military commander announced, shortly after the giving of the decision, of his desire to appeal it, the judge may order a stay in implementing the release for a period not exceeding 72 hours; in this regard, Sabbaths and holidays shall not be counted.</p> <p>(b) Where the representative of the military commander appealed the decision of a judge under section 4, the Military Appeals Court judge shall have the power to order a stay of implementation of the</p>   |

release until the decision on the appeal is made.

(c) Where a judge of the Military Appeals Court decided in a proceeding under section 5 to cancel a detention order or to shorten it, the judge may, at the request of the military commander's representative, and for special reasons that shall be recorded, stay implementation of the release for a period not exceeding 72 hours.

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| Rules of evidence         | 7.  | (a) In proceedings under section 4 or 5, it shall be lawful to deviate from the rules of evidence if the judge is satisfied that this will be conducive to discovery of the truth and just handling of the case.<br>(b) Whenever it is decided to deviate from the rules of evidence, the reasons that prompted the decision shall be recorded.<br>(c) In proceedings under section 4 or 5, the judge may accept evidence without the detainee or his representative being present and without disclosing the evidence to them if, after studying the evidence or hearing submissions, even in their absence, he is satisfied that disclosure of the evidence to the detainee or his representative may impair security of the region or public security. This provision shall not derogate from any right to refrain from giving evidence under section 9A of the Order Regarding Defense Regulations.   |
| Hearings <i>in camera</i> | 8.  | (a) Hearings in proceedings under this Order shall be held <i>in camera</i> .<br>(b) Subject to the provisions of section 7(c), the detainee may be present at all hearings in his matter.  |
| Powers not delegable      | 9.  | The powers of a military commander under this Order are not delegable.  |
| Revocation of order       | 10. | A military commander may at any stage cancel or shorten a detention order to which this Order applies.  |
| Regulations               | 11. | The commander of IDF forces in the region may make regulations for implementation of this Order, including regulations prescribing procedure in proceedings under this Order and the time for the filing of appeal and the execution of any other act under this Order.   |
| Transitional provisions   | 12. | (a) A detention order that was issued under chapter E1 of the Order Regarding Defense Regulations prior to the coming into force of this Order shall be deemed as if it were issued under this Order, regardless of whether the confirmation proceedings under section 87B of Order Regarding Defense Regulations or the periodic review under section 87C of the Order Regarding Defense Regulations have ended.<br>(b) The provisions of chapter E1 of the Order Regarding Defense Regulations and every regulation issued under it shall not apply to a detention order to which this Order applies.<br>(c) Notwithstanding the provisions of the aforesaid subsection (b), the holding in detention in the region of detainees under this Order shall be subject to the Regulations Regarding Administrative Detention (Conditions of Holding a Person in Administrative Detention) (Judea and Samaria), 5742 – 1981.<br>(d) Notwithstanding the provisions of section 5 of this Order, a |

detainee shall not have the right to appeal a detention order that was issued under Chapter E1 of the Order Regarding Defense Regulations prior to the commencement of this Order, and as to which the proceedings on appeal under section 87E of the Order Regarding Defense Regulations, or the proceedings of the periodic review under section 87C of the Order Regarding Defense Regulations, have ended.

(e) Where a confirmation proceeding, an appeal, or a periodic review under Chapter E1 of the Order Regarding Defense Regulations are pending, they shall be stopped immediately.

**Validity**

13. (a) This Order shall remain in force until ordered otherwise by the commander of IDF forces in the region.
- (b) Notwithstanding the provisions of subsection (a), where a person is detained under a detention order to which the provisions of this Order apply, the provisions of this Order shall continue to apply until the expiration of validity of the above-mentioned detention order, even if this Order has expired in the meantime.

**Name**

14. This Order shall be called: "Order Regarding Administrative Detention (Temporary Order) [Combined Version] (Judea and Samaria) (No. 1591), 5767 – 2007.