

EMERGENCY POWERS (DETENTION) LAW, 5739-1979

- Application. 1. This Law shall only apply in a period in which a state of emergency exists in the State by virtue of a declaration under section 9 of the Law and Administration Ordinance, 5708—1948¹.
- Detention Order. 2. (a) Where the Minister of Defense has reasonable cause to believe that reasons of state security 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 the order.
- (b) Where immediately before the expiration of an order under subsection (a) (hereinafter referred to as “the original detention order”) the Minister of Defense has reasonable cause to believe that reasons of state security 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) Where the Chief of the General Staff has reasonable cause to believe that conditions exist permitting the Minister of Defense to order the detention of a person under subsection (a), he may, by order under his hand, direct that such person be detained for a period not exceeding 48 hours and not capable of extension by order of the Chief of the General Staff.
- (d) An order under this section may be made in the absence of the person to whose detention it relates.
- Implementation. 3. 3. A detention order under this Law shall be implemented by a police officer or by a soldier within the meaning of section 1 of the Military Justice Law, 5715—1955² and shall serve as a warrant for the confinement of the detainee, under conditions prescribed by the Minister of Justice in consultation with the Minister of the Interior and with the approval of a joint committee of the Constitution, Law and Justice Committee and the Foreign Affairs and Security Committee of the Knesset, by regulations, in a place of detention prescribed in the detention order or a subsequent order. Regulations as aforesaid may prescribe, *inter alia*, provisions as to the discipline of detainees in the places of detention.

¹ I.R. of 5708, Suppl. I, p. 1; LSI vol. 1, p. 7.

² *Sefer Ha-Chukkim* of 5715, p. 171; LSI vol. IX, p. 1984.

Judicial examination of detention order.

4. (a) Where a person is arrested by order of the Minister of Defense under this Law, he shall, within 48 hours of his arrest, or, if immediately before he was under detention by order of the Chief of the General Staff, within 48 hours of his arrest under that order, be brought before the President of a District Court, and the President may confirm or set aside the detention order or shorten the period of detention. If the detainee is not brought before the President, or the hearing before him is not begun, within 48 hours as aforesaid, the detainee shall be released unless some other ground for detaining him exists under any law.
(b) Days of rest, within the meaning of the Law and Administration Ordinance, 5708—1948, applying to the President of the District Court shall not be included in the count of the 48 hours.
(c) The President of the District Court shall set aside the detention order if it has been proved to him that the reasons for which it was made were not objective reasons of state security or public security or that it was made in bad faith or from irrelevant considerations.
(d) This section shall not derogate from the power of the Minister of Defense to cancel a detention order made under this Law either before or after its confirmation under this section.

Periodical review.

5. Where a detention order has been confirmed under this Law, with or without variations, and so long as the detainee has not been released, the President of the District Court shall review the detention not later than three months after confirmation thereof under section 4 or after a decision under this section or within a shorter period prescribed by him in his decision. If the hearing before the President is not begun within the prescribed period, the detainee shall be released unless some other ground for detaining him exists under any law.

Deviations from rules of evidence.

6. (a) In proceedings under section 4 or 5 it shall be lawful to deviate from the rules of evidence if the President of the District Court is satisfied that this will be conducive to the discovery of the truth and the just handling of the case.
(b) Whenever it is decided to deviate from the rules of evidence, the reasons which prompt the decision shall be recorded.
(c) In proceedings under section 4 or 5, the President of the District Court 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 either of them may impair state security or public security. This provision shall not derogate

from any right to refrain from giving evidence under Chapter Three of the Evidence Ordinance (New Version), 5731—1971³.

- | | | |
|---|-----|---|
| Appeal. | 7. | (a) A decision of the President of the District Court to confirm, set aside or vary a detention order, or a decision by him under section 5, may be appealed to the Supreme Court, which shall hear the appeal by a single Judge. The Supreme Court shall have all the powers of the President of the District Court under this Law.

(b) The appeal shall not stay the implementation of the order unless the President of the District Court or the President of the Supreme Court otherwise decides. |
| Presence and representation. | 8. | (a) Subject to the provisions of section 6 (c), a detainee may be present at every hearing under section 4, 5 or 7.

(b) The Minister of Justice may, by order, limit the right of representation in proceedings under this Law to persons authorized, by unrestricted authorization under section 318 (c) of the Military Justice Law, 5715—1955, to act as defense counsel in courts martial. |
| Hearings in camera. | 9. | Hearings in proceedings under this Law shall be held <i>in camera</i> . |
| Relieving President instead of President. | 10. | Where for any reason the President of a District Court is unable to carry out his functions under this law, his place shall be taken by a Relieving President of that District Court. |
| Powers not delegable. | 11. | The powers of the Minister of Defense under this Law are not delegable. |
| Revocation. | 12. | Regulations 85 (1) (j) and 111 to 112B of the Defense (Emergency) Regulations, 1945 ¹ , are hereby revoked. |
| Implementation and regulations. | 13. | The Minister of Justice is charged with the implementation of this Law and may make regulations for its implementation and, with the approval of the Constitution, Law and Justice Committee of the Knesset, regulations prescribing procedure in proceedings under this Law and the time for the filing of appeal and the doing of any other act under this Law. |
| Transitional provisions. | 14. | (a) So long as no regulations under section 3 have been made, the orders and directions issued under regulation 111 (6) of the Defense (Emergency) Regulations, 1945, and in force immediately before the coming into force of this Law shall apply to detention in places of detention under the said section; but detainees under this Law shall in every case be separated from sentenced prisoners and from detainees awaiting trial.

(b) A person who immediately before the coming into force of this Law was a detainee by virtue of the said regulation 111 shall be deemed to have been arrested under this Law, on the |

³ *Dinei Medinat Yisrael (Nusah Chadash)* No. 18, p. 421; NV vol. II, P. 198.

day of its coming into force, for a period of six months or for a period ending at the date prescribed by the order under which he was arrested, whichever period ends first, and the President of the District Court shall be deemed to have confirmed the detention.

Commencement. 15. This Law shall come into force on the ninetieth day after its publication in *Reshumot*.

MENACHEM BEGIN
Prime Minister

SIMCHA EHRLICH
Minister of Finance

YITZCHAK NAVON
President of the State