

**ABSENTEES' PROPERTY LAW, 5710-1950\***

**1. In this Law -**

- (a) "property" includes immovable and movable property, moneys, a vested or contingent right in property, goodwill and any right in a body of persons or in its management;
- (b) "absentee" means -
  - (1) a person who, at any time during the period between the 16th Kislev, 5708 (29th November, 1947) and the day on which a declaration is published, under section 9(d) of the Law and Administration Ordinance, 5708-1948(1), that the state of emergency declared by the Provisional Council of State on the 10th Iyar, 5708 (19th May, 1948)(2) has ceased to exist, was a legal owner of any property situated in the area of Israel or enjoyed or held it, whether by himself or through another, and who, at any time during the said period -
    - (i) was a national or citizen of the Lebanon, Egypt, Syria, Saudi Arabia, Trans-Jordan, Iraq or the Yemen, or
    - (ii) was in one of these countries or in any part of Palestine outside the area of Israel, or
    - (iii) was a Palestinian citizen and left his ordinary place of residence in Palestine
      - (a) for a place outside Palestine before the 27th Av, 5708 (1st September, 1948); or
      - (b) for a place in Palestine held at the time by forces which sought to prevent the establishment of the State of Israel or which fought against it after its establishment;
  - (2) a body of persons which, at any time during the period specified in paragraph (1), was a legal owner of any property situated in the area of Israel or enjoyed or held such property, whether by itself or through another, and all the members, partners, shareholders, directors or managers of which are absentees within the meaning of paragraph (1), or the management of the business of which is otherwise decisively controlled by such absentees, or all the capital of which is in the hands of such absentees;
- (c) "Palestinian citizen" means a person who, on the 16th Kislev, 5708 (29th November, 1947) or thereafter, was a Palestinian citizen according to the provisions of the Palestinian Citizenship Orders, 1925-1941, Consolidated(3), and includes a Palestinian resident who, on the said day or thereafter, had no nationality or citizenship or whose nationality or citizenship was undefined or unclear;
- (d) "body of persons" means a body constituted in or outside Palestine, incorporated or unincorporated, registered or unregistered, and includes a company, partnership, cooperative society, society under the Law of

Inter-pretation.

Societies of the 29th Rajab, 1327 (3rd August, 1909) and any other juridical person and any institution owning property;

- (e) "absentees' property" means property the legal owner of which, at any time during the period between the 16th Kislev, 5708 (29th November, 1947) and the day on which a declaration is published, under section 9(d) of the Law and Administration Ordinance, 5708-1948, that the state of emergency by the Provisional Council of State on the 10th Iyar, 5708 (19th May 1948), has ceased to exist, was an absentee, or which, at any time as aforesaid, an absentee held or enjoyed, whether by himself or through another; but it does not include movable property held by an absentee and exempt from attachment or seizure under section 3 of the Civil Procedure Ordinance, 1938(4);
- (f) "vested property" means property vested in the Custodian under this Law;
- (g) "held property" means vested property actually held by the Custodian, and includes property acquired in exchange for vested property;
- (h) "released property" means property released under section 28;
- (i) "area of Israel" means the area in which the law of the State of Israel applies;
- (j) "bill" means a bill of exchange, a cheque, a promissory note or any other negotiable instrument.

## 2.

Custodian of  
Absentees'  
Property.

- (a) The Minister of Finance shall appoint, by order published in *Reshumot*, a Custodianship Council for Absentees' Property, and shall designate one of its members to be the chairman of the Council. The chairman of the Council shall be called the Custodian.
- (b) The Custodian may bring an action and institute any other legal proceeding against any person and be a plaintiff, defendant or otherwise a party in any legal proceeding.
- (c) The Custodian is entitled to be represented in any legal proceeding by the Attorney-General or his representative.
- (d) When the Custodian ceases to hold office, his functions, powers, rights, and duties shall automatically pass to the Minister of Finance; when another person is appointed Custodian, the said functions, powers, rights and duties shall automatically pass to him, and so on from Custodian to Custodian.

## 3.

Appointment  
of Inspectors,  
agents and  
employees.

- (a) The Custodian may, with the written approval of the Minister of Finance, appoint inspectors of absentees' property and delegate to any of them any of his powers, except the power to appoint inspectors. A notice of the appointment and scope of powers of every inspector shall be published by the Custodian in *Reshumot*.
- (b) The Custodian may appoint agents for the management of held property on his behalf and may fix and pay their remuneration.

- (c) The Custodian may appoint officials and other employees, whose status shall be the same as that of other State employees.

**4.**

Vesting of absentees' property in Custodian.

- (a) Subject to the provisions of this Law -
  - (1) all absentees' property is hereby vested in the Custodian as from the day of publication of his appointment or the day on which it became absentees' property, whichever is the later date;
  - (2), every right an absentee had in any property shall pass automatically to the Custodian at the time of the vesting of the property; and the status of the Custodian shall be the same as was that of the owner of the property.
- (b) The proceeds of vested property shall be dealt with like the vested property yielding the proceeds.
- (c) Vested property -
  - (1) shall remain vested property so long as it has not become released property under section 28 or ceased to be absentees' property under section 27;
  - (2) may be taken over by the Custodian wherever he may find it.
- (d) Where the Custodian has acquired any property which was not absentees' property at the time of the acquisition, in exchange for vested property, the acquired property shall become held property and shall be dealt with as was the property in exchange for which it was acquired.

Identity of absentee unknown.

**5.** The fact that the identity of an absentee is unknown shall not prevent his property from being absentees' property, vested property, held property or released property.

**6.**

Handing over Property to Custodian.

- (a) A person who has in his possession any absentees' property is bound to hand it over to the Custodian.
- (b) A person who has a debt to, or any other obligation towards an absentee shall pay such debt or discharge such obligation to the Custodian.

**7.**

Care of held property, expenses and investments.

- (a) The Custodian shall take care of held property, either himself or through others having his consent.
- (b) The Custodian may, himself or through others having his written consent, incur any expenses and make any investments necessary for the care, maintenance, repair or development of held property or for other similar purposes.

Absentees' businesses.

**8.**

- (a) The Custodian may carry on the management of a business on behalf of an absentee, whether or not he indicates that the business is managed by the Custodian, but he shall always have the right to sell or lease the whole or a part of the business, and -
  - (1) if it is the business of an individual - to liquidate it;
  - (2) if it is the business of a partnership all the partners of which are shareholders of which are absentees, or of a cooperative society all the members of which are absentees - to wind up the partnership, company or cooperative society by order published in *Reshumot*.
- (b) Where the Custodian has published a winding-up order under subsection (a)(2), the winding up shall be conducted -
  - (1) in the case of a partnership or company - as if the winding-up order had been made by a competent court in accordance with part V of the Partnership Ordinance(5) or in accordance With part VI of the Companies Ordinance(6), as the case may be;
  - (2) in the case of a cooperative society - as if the winding-up order had been made by the Registrar of Cooperative Societies in accordance with section 47 of the Cooperative Societies Ordinance(7),

and in every case as if the Custodian had been appointed as a liquidator not replaceable by another liquidator.

## 9.

Payments to persons supported by absentees, and to absentees; payments for purposes of a trust.

- (a) If the Custodian is of the opinion that a particular person was a dependant of an absentee, he may grant allowances to that person out of the held property of that absentee, in such amounts as in the opinion of the Custodian is necessary for the maintenance of that person; provided that they shall not exceed 50 pounds per month in respect of any such person.
- (b) If several persons were dependants of the same absentee, and in the opinion of the Custodian there are family ties between them, the Custodian may pay the allowances to one of them for all of them.
- (c) The Custodian may grant an allowance as aforesaid also to the absentee himself if, in the opinion of the Custodian, it is necessary for the maintenance of the absentee.
- (d) Income from vested property which is a trust may be expended by the Custodian, wholly or in part, for purposes for which the trust was established.

## 10.

Expulsion.

- (a) Where vested property of the category of immovable property is occupied by a person who, in the opinion of the Custodian, has no right to occupy it, the Custodian may confirm such fact by a certificate under his hand describing the property. The certificate shall have the effect of a

judgment in favour of the Custodian for the expulsion of the occupier of the vested property.

- (b)
  - (1) Where the certificate has been filed in the Execution Office, such Office shall serve a copy thereof on every occupier of the property described therein, in like manner as a copy of a judgment is served on a judgment debtor, and shall proceed as it would in the execution of a judgment for expulsion. The expulsion shall be considered as an urgent matter within the meaning of section 38 of the Execution Law of the 11th May, 1914, except that the time within which the occupier of the property shall be required to relinquish it shall be seven days.
  - (2) If a person occupying property as aforesaid contends that he has a right to occupy it, and he proves to the Chief Execution Officer that there is some substance in his contention, the Chief Execution Officer may stay the execution for such time as he may think fit, with a view to enabling that person to apply to a competent court and to establish his right.
- (c) Where an occupier has applied to a competent court and has established his right to occupy the property, the court shall annul the certificate and the execution proceedings taken thereunder.

## 11.

- (a) If on any vested property, being of the category of immovable property, a building has been or is being built without the written permission of the Custodian, the Custodian may order that -
  - (1) all building operations on such property shall be discontinued within operations the time prescribed in the order;
  - (2) the building shall be demolished;
  - (3) the expenses of implementing an order under paragraph (2) shall be paid to him by the persons responsible for the building operations or by the persons who carried them out.
- (b) An order under subsection (a)(1) shall be posted up in a conspicuous position in or as near as possible to the property to which it relates, and any person contravening the order shall be guilty of an offence and shall be dealt with as provided in section 35(a).
- (c) An order under subsection (a)(2) shall be filed in the Execution Office, and such Office shall serve a copy thereof on everyone concerned, in like manner as a copy of a judgment is served on a judgment debtor, and shall proceed as it would in the -execution of a demolition order.
- (d)
  - (1) Whosoever considers himself aggrieved by an order under paragraph (1) or (2) of subsection (a) may appeal within seven days from the day on which the order came to his knowledge to the District Court in whose area of jurisdiction the property is situated.

Demolition of buildings and discontinuance of building operations.

- (2) The appeal shall be lodged and heard in the form of an application by motion. The Custodian shall be respondent in the appeal.
- (3) the lodging of an appeal shall not stay the implementation of the order unless a judge of the District Court so orders.
- (4) The District Court may confirm the order, with or without modifications, or annul it.
- (5) The decision of the District Court in an appeal under this section shall be final.
- (e) Where the Custodian has made an order as specified in paragraph (2) of subsection (a), he may remove from the property, or retain control of, any materials, tools and implements found on the property, with a view to clearing the property or to securing the reimbursement of his expenses in connection with the implementation of the order.
- (f) "Building", in this section, has the same meaning as in section 2 of the Town Planning Ordinance, 1936(8).

## 12.

Application of Rent Restrictions (Dwelling-Houses) Ordinance, 1940, and Rent Restrictions (Business Premises) Ordinance, 1941.

- (a) In the case of property to which the provisions of the Rent Restrictions (Dwelling-Houses) Ordinance, 1940(9), or the Rent Restrictions (Business Premises) Ordinance, 1941(10), apply, and which has been vested in the Custodian, the person who occupied it immediately before the day of its vesting - whether under an agreement made before the owner of the property became an absentee or in virtue of the protection afforded by the provisions of one of those Ordinances - or his successor shall be protected by those provisions even after the vesting of the property.
- (b)
  - (1) Where vested property, being a house or a part of a house, has been let by the Custodian as a separate dwelling, within the meaning of section 3 of the Rent Restrictions (Dwelling-Houses) Ordinance, 1940, the provisions of that Ordinance shall apply to it subject to subsections (c), (d) and (e) and with the following modifications and adaptations:
    - (i) The rent fixed in the contract of lease, as reduced under subsection (d) (if so reduced), shall be regarded as the standard rent;
    - (ii) the words "rent at the agreed rate as modified by this Ordinance", appearing in section 8(1) of that Ordinance, shall be regarded as referring to the rent fixed in the contract of lease, as reduced under subsection (d) (if so reduced).
  - (2) Where vested property, being business premises within the meaning of the Rent Restrictions (Business Premises) Ordinance, 1941, situated in an area to which that Ordinance has been made applicable, has been let by the Custodian, the provisions of that Ordinance shall apply to it subject to subsections (c), (d) and (e),

except that the rent fixed in the contract of lease, as reduced under subsection (d) (if so reduced), shall be regarded as the maximum rent fixed under section 6(1) of that Ordinance.

- (c) The Minister of Finance may, by regulations, prescribe rules to be followed in fixing the rent.
- (d)
  - (1) A lessee who considers himself aggrieved by the fixing of the rent in his contract of lease may appeal against it to the Magistrates' Court in whose area of jurisdiction the property is situated.
  - (2) The appeal shall be lodged and heard in the form of an application by motion. The Custodian shall be respondent in the appeal.
  - (3) The Magistrate's Court may confirm or reduce the rent fixed in the contract of lease, having, reference to the rules (if any) prescribed under subsection (c) and having regard to all the circumstances of the case.
  - (4) Where the Magistrate's Court has reduced the rent -
    - (i) it shall fix the date from which the reduction shall have effect, provided that this date shall not be earlier than the day of the lodging of the appeal;
    - (ii) it may order that any amount in excess of the rent as reduced which the lessee has paid in respect of a period subsequent to the date fixed under subparagraph (i) shall be refunded to him.
  - (5) The decision of the Magistrate's Court in an appeal under this subsection shall be final.
- (e)
  - (1) Where vested property is occupied by a person in virtue of the protection afforded by the provisions of the Rent Restrictions (Dwelling Houses) Ordinance, 1940, or the Rent Restrictions (Business Premises) Ordinance, 1941, in accordance with subsection (b), and its vacation by the occupier is, in the opinion of the Custodian, required for the purposes of the development of the place or area in which it is situated, the Custodian may, after placing suitable alternative accommodation at the occupier's disposal, make an order of vacation in respect of the property. The order shall have the effect of a judgment in favour of the Custodian for the expulsion of the occupier of the vested property.
  - (2) Where the order has been submitted to the Execution Office, such Office shall serve a copy thereof on the occupier of the property, in like manner as a copy of a judgment is served on a judgment debtor, and shall proceed as it would in the execution of a judgment for expulsion.
  - (3)
    - (i) An occupier of property in respect of which an order of vacation has been made under this subsection may appeal

against it within fourteen days from the day on which the order came to his knowledge to the District Court in whose area of jurisdiction the property is situated, on the ground that no suitable alternative accommodation has been placed at his disposal.

- (ii) The appeal shall be lodged and heard in the form of an application by motion. The Custodian shall be respondent in the appeal.
- (iii) The lodging of an appeal shall stay any execution proceedings under paragraph (2).
- (iv) The District Court may confirm the order, with or without modifications, or annul it.
- (v) The decision of the District Court in an appeal under this paragraph shall be final.

Cultivators (Protection) Ordinance not to apply.

**13.** A person who occupies vested property, being a holding within the meaning of the Cultivators (Protection) Ordinance(11), shall not be protected by the provisions of that Ordinance unless immediately before the vesting of the property in the Custodian he occupied it by virtue of the protection afforded by those provisions.

Cultivator and his right to the produce.

**14.** Where the vested property is a citrus grove, a vineyard or any other plantation, or any other agricultural land, and the Custodian has handed it over to a person for the purpose of cultivation, that person shall be entitled to enjoy the produce in accordance with the terms stipulated between him and the Custodian, and his right shall have priority over any charge vested in another person theretofore; but any such charge shall extend also to the income due to the Custodian from that property.

**15.**

Vested property-charge thereon and attachment thereof.

- (a) The fact that any property has become absentees' property or vested property shall not exonerate it from any mortgage, pledge or other charge, or from any right of tenure or use, legally created theretofore.
- (b) No execution proceedings shall be taken, no act under section 14 of the Land Transfer Ordinance(12) shall be done, and no recourse shall be had to sections 8, 9 or 10 of the Law Concerning the Partition of Immovable Property of the 14th Muharram, 1332, in respect of vested property, except by permission in writing from the Custodian or, if such permission, having been applied for after the 13th Nisan, 5710 (31st March, 1950), has not been given within one year from the day on which it was applied for, upon the expiration of that year.
- (c) An attachment imposed on absentees' property, whether before or after it became vested property, shall not prevent the Custodian from relinquishing control of the property in accordance with this Law; and where he has done so, the attachment shall apply, instead of to the property, to the consideration which he has received for it.

Extent of responsibility

**16.** Where the Custodian or a person who acted, directly or indirectly, under his



of Custodian and persons acting under his instructions.

instructions has taken over, or has done any act in respect of, any property in the honest and reasonable, but mistaken, belief that the property is absentees' property, the Custodian or that person shall bear no civil responsibility therefor beyond that which he would bear if the property had at the time been absentees' property.

Validity of transactions.

**17.** Any transaction made in good faith between the Custodian and another person in respect of property which the Custodian considered at the time of the transaction to be vested property shall not be invalidated and shall remain in force even if it is proved that the property was not at the time vested property.

**18.**

Extent of property erroneously considered vested property.

- (a) Where a competent court has decided that some property which the Custodian considered to be vested property is not vested property, the Custodian, shall, subject to the provisions of section 17, hand over the property or the consideration which he has received for it, as the case may be, to such person as the court has in its decision directed or, if no such direction has been given by the court, to the person from whom he received the property; and if that person is not known to him, he shall apply to a competent court for directions.
- (b) Where the Custodian has found that some property which he considered to be vested property is not vested property, he may, subject to the provisions of section 17, hand over the property or the consideration which he has received for it, as the case may be, to the person who in the opinion of the Custodian is entitled to possession of the property or of the consideration.

**19.**

Limitation of powers of Custodian.

- (a) Where the vested property is of the category of immovable property, the Custodian shall not -
  - (1) sell or otherwise transfer the right of ownership thereof; provided that if a Development Authority is established under a Law of the Knesset, it shall be lawful for the Custodian to sell the property to that Development Authority at a price not less than the official value of the property;
  - (2) grant a lease of the property for a term exceeding six years, except -
    - (i) to the said Development Authority; and on leasing property to it, that Custodian shall stipulate with the Development Authority in the contract of lease that the annual rent payable by it shall not be less than an amount equal to 4.8 per cent of the official value of the property; or,
    - (ii) to another lessee who undertakes in the contract of lease to cultivate or develop the property to the satisfaction of the Custodian.
- (b) A voluntary partition of immovable property held in *musha'* shall not for

the purpose of subsection (a) be regarded as a transfer of the right of ownership of such immovable property.

- (c) Where the Custodian has granted a lease of any property for a term exceeding three years, the provisions of the Land Transfer Ordinance shall not apply to the lease; but the Custodian may apply for registration of the lease in accordance with that Ordinance.
- (d) "Official value", in this section, means -
  - (1) in relation to property which, in the financial year 1947-1948, was chargeable with urban property tax under the Urban Property Tax Ordinance, 1940(13) - an amount  $16 \frac{2}{3}$  times the amount of the net annual value determined for it, for the purposes of that Ordinance, in the last assessment before the 6th Iyar, 5708 (15th May, 1948);
  - (2) in relation to property which, in the financial year 1947-1948, was chargeable with rural property tax under the Rural Property Tax Ordinance, 1942(14) -
    - (i) if it is an industrial building, within the meaning of that Ordinance - an amount  $16 \frac{2}{3}$  times the amount of the net annual value determined for it, for the purposes of that Ordinance, in the last assessment before the 6th Iyar, 5708 (15th May, 1948);
    - (ii) if it belongs to category 1, 2, 3, 4 or 17 referred to in the Schedule to that Ordinance - an amount 300 times the amount of tax which was or would have been charged on it in respect of that financial year if it belonged or had belonged to category 1 referred to in the said Schedule,
    - (iii) if it belongs to one of the other categories referred to in the Schedule to that Ordinance - an amount 75 times the amount of tax which was charged on it in respect of that financial year;
  - (3) in relation to other property - an amount  $16 \frac{2}{3}$  times the amount of the net annual value which would have been determined for it in the financial year 1947-1948 for the purposes of the Urban Property Tax Ordinance, 1940, had it been chargeable, in that financial year, with urban property tax under that Ordinance;

provided at the Minister of Finance may reduce any of the rates mentioned in this subsection in the case of property the possibilities of using which are, in his opinion, limited owing to damage or neglect or for another similar reason.

- (e) Where the vested property is a voidable charge, the Custodian may void it only for a consideration or in accordance with the conditions of the charge; where it is a waivable right, the Custodian may waive it only for a consideration.
- (f) Nothing in this Law shall derogate from the powers of the Minister of

Agriculture under the Emergency Regulations (Cultivation of Waste Lands) 5708-1948(15).

20.

Debts of absentees and actions in connection therewith.

- (a) The Custodian shall not pay a debt due from, or in connection with any property of an absentee, or discharge any other obligation incurred by an absentee, except -
  - (1) if it is a debt in respect of taxes, rates or other similar obligatory charges, or
  - (2) if the debt or obligation has been proved to the complete satisfaction of the Custodian, or
  - (3) under a judgment of a competent court, and to the extent that the held property of that absentee is sufficient for the purpose.
- (b) The court which deals with a claim for a debt due from, or in connection with any property of, an absentee or a claim for the discharge of any other obligation incurred by an absentee may, notwithstanding anything contained in any other law -
  - (1) postpone from time to time the hearing of the claim, in order to enable the submission of evidence as complete as possible;
  - (2) strike out or dismiss the claim if it has not been proved beyond all reasonable doubt.
- (c) The Minister of Finance may, by regulations, determine categories of vested immovable property in respect of which the Custodian shall have the right to postpone the payment of all or any taxes, rates or other similar obligatory charges due on such immovable property, for such period and on such conditions as the Custodian, with the approval of the Minister of Finance, may determine in each case.

21.

Duty to make notification of absentees' property.

- (a) A person or body of persons holding, managing or enjoying vested property shall deliver to the Custodian a written notification, containing the particulars of vested property, within thirty days from the day of publication of the Custodian's appointment or, if the property came to be held, managed or enjoyed by him or it - otherwise than with the consent of the Custodian - after the day of publication, within thirty days from the day on which it came to be so held, managed or enjoyed, or, if the property became vested property after the day of publication, within thirty days from the day of the vesting.
- (b) A company which is registered in the area of Israel or which has therein an office for the transfer of shares, or an office for the registration of shares, shall deliver to the Custodian, within thirty days from the day of publication of his appointment, a written notification containing full particulars of all securities (including shares, stocks, debentures, debenture stock and bonds) which have been issued by the company and are registered in the name or in

favour of or held on behalf of or by an absentee; and where the securities relate in any such manner as aforesaid to a person who became an absentee after the day of publication of the Custodian's appointment, the company shall deliver the said notification to the Custodian within thirty days from the day on which that person became an absentee.

- (c) Where a partnership has among its partners an absentee or absentees, the partnership and each of the partners shall deliver to the Custodian, within thirty days from the day of publication of his appointment, a written notification containing full particulars of the share in the partnership, and of the other rights in respect of the partnership and of the partners, of each absentee partner; and where a partner became an absentee after the day of publication of the Custodian's appointment, the partnership and each of the partners shall deliver the said notification within thirty days from the day on which the partner became an absentee.
- (d) Anyone bound under this section to deliver to the Custodian a written notification shall also deliver to him from time to time returns, accounts or other documents, or other information, as the Custodian may from time to time require, in connection with the property in respect of which he is bound to deliver a notification.
- (e) Where the Custodian has required a person to deliver to him, within the time prescribed in the notice, any returns, accounts or other documents, or any other information, as specified in subsection (d), that person shall comply with everything contained in the notice.
- (f) Whosoever was bound under this section to deliver a notification before the 13th Nisan, 5710 (31st March, 1950) and has not fulfilled this obligation may do so until the 13th Iyar, 5710 (30th April, 1950); and if he does so, he shall not be prosecuted for not fulfilling his obligation in time.

## 22.

- (a) A person shall not without the written consent of the Custodian -
  - (1) hold, manage, or otherwise deal with, or relinquish or transfer, vested property, or hand over vested property to any person other than the Custodian;
  - (2) pay to any person other than the Custodian a debt, or discharge to any person other than the Custodian any other obligation, the right of claim in respect of which has been vested in the Custodian;
  - (3) act under a power of attorney or other authorisation of an absentee principal, whether the principal became an absentee before the giving of the power of attorney or other authorisation or whether he became an absentee thereafter; however, an advocate duly authorised on that behalf by an absentee who is at the time in the area of Israel may represent that absentee with regard to any legal act; if the absentee is not at the time in the area of Israel, his representation by an advocate with regard to any legal act requires the written consent of the Attorney-General.

Prohibited  
Acts.

- (b) Consent under this section may be given before or after the fact.
- (c) An act which has been done in contravention of this section is null and void; and if it was a transfer of a bill, then any subsequent transfer is likewise void, notwithstanding anything contained in any other law.
- (d) No act in respect of vested property may be registered in the Land Register otherwise than with the written permission of the Custodian, given before the registration, or under a judgment of a competent court. If a registration has been effected in contravention of this provision the Court shall, on the application of the Custodian, order that such registration and any subsequent registration shall be deleted.
- (e) Anyone who contends that an act was done in respect of any property before it became vested property or in respect of any person before he became an absentee, or that an act was done with the consent or written permission of the Custodian, shall bear the onus of proving the same.

### 23.

- (a)
  - (1) A transfer or handing-over of property to an absentee or to another for the benefit of an absentee during the period between the 21st Adar Bet, 5708 (1st April, 1948) and the day of publication of the appointment of the Custodian, effected with intent to smuggle the whole or a part of the property or the whole or a part of the consideration received for it to a part of Palestine which at the time of the transfer or handing-over was outside the area of Israel, or to the Lebanon, Egypt, Syria, Saudi-Arabia, Trans-Jordan, Iraq or the Yemen, is null and void.
  - (2) A transfer or handing-over of property from the hands of an absentee to another person during the period referred to in paragraph (1), effected for a fictitious or insufficient consideration or without consideration, or under unfair pressure, is null and void.
- (b) Property which has been transferred or handed over as stated in subsection (a) shall be regarded as vested property, and any person who has transferred or handed over or received the property shall be responsible to the Custodian for the property or for its value.
- (c) The Custodian may require in writing any person whom he regards as responsible under subsection (b) to hand over to him the property or its value, and that person shall comply with the requirement, but he may appeal against it to the District Court of Jerusalem within thirty days from the day of receipt of the requirement.
- (d) The appeal shall be lodged and heard in the form of an application by motion. The Custodian shall be respondent in the appeal.
- (e) Where the District Court has found that the requirement of the Custodian is not justified in law or in fact, it shall annul the requirement and declare its effects to be void.
- (f) Any party who considers himself aggrieved by a decision of the District

Transfers  
to be void.

Court under this section may appeal against it to the Supreme Court sitting as a Court of Civil Appeal, and the provisions of the Civil Procedure Rules, 1938(16), shall apply as if the decision of the District Court were a judgment of that court in a civil action in which the party who appeals against the requirement had been the plaintiff and the Custodian the defendant.

- (g) Anyone who contends that a transfer or handing-over of property to an absentee or to another for the benefit of an absentee, during the period referred to in subsection (a)(1), was effected otherwise than with intent to smuggle the whole or a part of the property, or the whole or a part of the consideration received therefor, as specified in that subsection, or that a transfer or handing-over of property from the hands of an absentee to another person during the said period was effected for full consideration or otherwise than under unfair pressure, shall bear the onus of proving the same.

#### 24.

- (a) Where a notification concerning an absentee partner has been delivered to the Custodian under section 21(c) and the Custodian intends to participate in the management of the business of the partnership, he shall give notice to that effect to the other partners within six months from the day on which the notification was delivered to him.
- (b) After the Custodian has given notice as provided in subsection (a) - but not before then - he may participate in the management of the business of the partnership in the place of the absentee partner.
- (c) From the day of delivery to the Custodian of the notification under section 21(c) until the receipt of the notice of the Custodian under subsection (a), the partners who are not absentees may manage the business of the partnership in the usual way.
- (d) Where a notification under section 21(c) concerning an absentee partner has not been delivered, the Custodian may at any time, after giving notice to the other partners, participate in the management of the business of the partnership.
- (e) As soon as the Custodian has become authorised to participate in the management of the business of the partnership, he may - regardless of the terms of the partnership contract - leave the partnership and receive the share of the absentee partner from the partners who are not absentees or, failing their consent, dissolve the partnership by giving notice to those partners; the notice shall be treated like notice given under section 38(1)(c) of the Partnership Ordinance(17).
- (f) The Custodian shall on no account be liable for debts and obligations of the partnership save to the extent of the value of the held property of the absentee partner.

Provisions as to partnership in which there is an absentee partner.

Management of joint

**25.** Where a part of any property of the category of immovable property has been vested in the Custodian, the Custodian is entitled to participate in the management

property. of the whole of the property, together with the owners who are not absentees, with the same rights as the absentee had.

**26.** Where the property of the absentee is a bill -

Absentees' property which is a bill.

- (1) it shall be vested in the Custodian even if it has not been delivered to him and has also not come into his hands in any other manner;
- (2) the Custodian is exempt from presenting the bill for acceptance or payment, from giving notice of dishonour and from protesting against non-acceptance or non-payment;
- (3) non-presentation or non-notice or non-protest in pursuance of paragraph (2) shall not in itself release any party to the bill from the obligations thereunder.

**27.**

Confirmation to non-absentee.

- (a) If the Custodian is of opinion that a particular person whom it is possible to define as an absentee under section 1(b)(1) (iii) left his place of residence -
  - (1) for fear that the enemies of Israel might cause him harm, or
  - (2) otherwise than by reason or for fear of military operations, the Custodian shall give that person, on his application, a written confirmation that he is not an absentee.
- (b) The Custodian may, in his sole discretion, but subject to the provisions of section 29, give a written confirmation that a particular person who is at the time lawfully in the area of Israel is not an absentee, even though it be possible to define him as an absentee, if the Custodian is of opinion that such person is capable of managing his property efficiently and that he will not in so doing be aiding the enemies of Israel.
- (c) A confirmation under this section shall have effect from the day on which it is given, unless it is stated therein that it shall have effect from an earlier or a later date.
- (d) From the day on which a confirmation under this section takes effect, the property of the person concerned ceases to be absentees' property, and if his property includes held property, the Custodian shall hand over the same to the person who in the opinion of the Custodian is entitled to possession thereof.

**28.**

Release of vested property.

- (a) The Custodian may, in his sole discretion, but subject to the provisions of section 29, release vested property by certificate under his hand; and as soon as he has done so, that property shall cease to be absentees' property and any right a person had in it immediately before it was vested in the Custodian shall revert to that person or to his successor.
- (b) The Custodian may stipulate with a person who requests him to exercise his power under subsection (a) that at the time of the giving of a certificate

as aforesaid some other property shall become held property. Where that person has agreed to the stipulation and the certificate has been given as aforesaid, the other property becomes held property.

- (c) Where the Custodian has sold vested property, the property which has been sold becomes released property and passes into the ownership of the purchaser, and the consideration which the Custodian has received becomes held property; where the vested property is a voidable charge and the Custodian voids it for a consideration, or where it is a waivable right and the Custodian waives it for a consideration, the consideration becomes held property at the time of the voiding or waiving, as the case may be.

Recommendations of committee.

**29.** The Custodian shall not exercise his powers under section 27 (b) or section 28 unless such has been recommended, in respect of each case or a particular class of cases, by a special committee to be appointed by the Government. Notice of the appointment of such a committee shall be published in *Reshumot*.

**30.**

- (a) Where the Custodian has certified in writing that a person or body of persons is an absentee, that person or body of persons shall, so long as the contrary has not been proved, be regarded as an absentee.
- (b) Where the Custodian has certified in writing that some property is absentees' property, that property shall, so long as the contrary has not been proved, be regarded as absentees' property.
- (c) A certificate of the Minister of Defence that a place in Palestine was at a particular time held by forces which sought to prevent the establishment of the State of Israel or which fought against it after its establishment shall be conclusive evidence of its contents.
- (d) A copy certified by the Custodian of an entry in his books or official files or of another document in his possession shall, in any action or other legal proceeding, be accepted as *prima facie* evidence of the correctness of its contents.
- (e) A written confirmation by the Custodian as to matters within the scope of his functions shall, unless the Court has otherwise directed, be accepted in any action or other legal proceeding as *prima facie* evidence of the facts stated in the confirmation.
- (f) The Custodian and his inspectors, agents and officials are not bound to produce in any action or other legal proceeding any book, file or other document the contents of which can be proved in accordance with this section, and are not bound to testify on matters which can be proved through a confirmation of the Custodian as specified in this section, unless the Court has otherwise directed.
- (h) A certificate, a confirmation, a permit or any other document which purports to have been signed, issued, given or delivered by the Minister of Defence, the Minister of Finance or the Custodian shall, so long as the contrary has not been proved, be considered to have been so signed, issued, given or delivered.

Rules of evidence.



- (i) The plea that a particular person is not an absentee, within the meaning of section 1(b)(1)(iii), by reason only that he had no control over the causes for which he left his place of residence as specified in that section shall not be heard.

Plea that property is absentees' property reserved to Custodian.

**31.** A court shall not, in any civil proceeding, entertain the plea that some party, being the subject of litigation, is absentees' property, unless the Custodian is a party to the proceeding. If this plea is made where the Custodian is not a party, and the court finds that there is some substance in it, the court shall invite the Custodian to join the case as a party. If the Custodian does so, the court shall consider the plea; if he does not, the court shall regard the plea as invalid.

**32.**

- (a) At the time of the transfer of any property in accordance with this Law, at the time when any property ceases, under section 27, to be absentees' property, and at the time of the release of any property under section 28, there is due to the State from the absentee a remuneration equal to 4 per cent of the value of the property; but the Minister of Finance may, in respect of a particular case or class of cases, reduce or waive the remuneration.
- (b) For the purpose of determining the remuneration, there shall be regarded as the value of property of the category of immovable property the official value of that property within the meaning of section 19, and as the value of other property, the price which in the opinion of the Custodian it would have been possible to obtain for it if, at the time of determining the remuneration, it had been sold on the free market by a willing seller to a willing purchaser; and if the property (whether it be property of the category of immovable property or other property) has been sold by the Custodian, the price at which it was actually sold shall be regarded as its value.
- (c) Besides the remuneration, there are due to the State from the absentee or the owner of the property, as the case may be, all expenses (including travelling expenses, costs of legal proceedings and the remuneration of advocates, agents or other persons employed by the Custodian in connection with the property) which have been incurred by the Custodian or with his consent, or which he has undertaken to incur, for the purpose of safeguarding, maintaining, repairing or developing absentees' property or property which the Custodian, considered to be absentees' property or for other similar purposes, plus interest at the rate of 6 per cent per annum from the day on which the expenses were incurred.
- (d) The payments due under this section shall be a charge on all the property of the absentee or the owner of the property, as the case may be, which shall have priority over any other charge; and if that property includes moneys, the Custodian may deduct therefrom the amount of the payments.
- (e) The Custodian may withhold the giving to any person of a confirmation or certificate under section 27 or section 28 until all payments due from that person under this section have been discharged.

Custodian's remuneration and expenses.

Fees. 33. The Minister of Finance may, by order published in *Reshumot*, prescribe fees payable in respect of certificates, confirmations, permits or other documents, or other acts of the Custodian, under this Law.

34.

Dealing with absentees' property before appointment of Custodian.

- (a) If the Minister of Finance is of opinion that a person who dealt with Absentees' property, or with property which he had reason to believe to be absentees' property, during the period between the 16th Kislev, 5708 (29th November, 1947) and the day of publication of the Custodian's appointment did so to the best of his ability, in good faith and with the intention of handing over the property dealt with by him, and that such person handed over to the Custodian, at or about the time of the publication of his appointment, the property which was in his possession, the Minister of Finance may give a confirmation to such effect by notice published in *Reshumot*.
- (b) The dealings of a person in relation to whom the Minister of Finance has published a notice under subsection (a) shall be regarded as lawful and justified in all respects; no act which formed part of those dealings and which was done by that person, or by another person upon his instructions, shall be a basis for a charge or a ground for a claim against that person or the other person, unless it is proved, beyond all reasonable doubt, that the accused or defendant did the act with malicious intent or through gross negligence.

35.

Offences.

- (a) A person who -
    - (1) contravenes any of the provisions of section 22 (a) ; or
    - (2) contravenes anything contained in order under section 11; or
    - (3) conceals absentees' property from the Custodian or does not hand over to him property which he is bound to hand over to him; or
    - (4) willfully delivers to the Custodian or to one of his inspectors, agents or officials a declaration or some information which is false in a material particular
- is liable to imprisonment for a term not exceeding two years or to a fine not exceeding five hundred pounds or to both such penalties.
- (b) A person who
    - (1) does not deliver to the Custodian or to one of his inspectors , agents or officials a return, an account, a notice or another document, or some information, which he is bound to deliver under this Law; or
    - (2) through negligence delivers to the Custodian or to one of his inspectors, agents or officials a declaration or some information which is false in a material particular; or
    - (3) wilfully obstructs the Custodian or one of his inspectors, agents

or officials in the exercise of any of his functions under this Law

is liable to imprisonment for a term not exceeding six months or to a fine not exceeding one hundred pounds or to both such penalties.

- (c) Where a body of persons is guilty of an offence under this section, every person who at the time of the commission of the offence was the head, or a secretary, trustee, director or manager, or the chief or sole accountant, of that body shall be likewise guilty thereof unless he proves that it was committed without his knowledge or that he took all appropriate steps to prevent its commission.
- (d) An action for an offence under this section shall be brought only by, or with the written consent of the Attorney- General.

**36.**

Notices, etc.

- (a) Any notice, requirement or direction which the Custodian is bound or authorised to give or make under this Law - except notices, requirements or directions requiring publication in *Reshumot* - may be sent by registered post to the person to whom it is addressed; and if it has been so sent, it shall be considered to have been delivered to that person at the expiration of ten days from the day on which it was delivered to the Post Office for despatch, unless it is proved that it came to his hands before then.
- (b) Any notice, requirement or direction permitted to be delivered in the manner determined in subsection (a) may be delivered by the Custodian by publication in *Reshumot*, and he is not bound to indicate in the notice, requirement or direction the name of the person to whom it is addressed.
- (c) Any notice, requirement or direction under this Law published in *Reshumot* shall be considered to have been delivered to everyone concerned on, the day of publication.

Replacement of Regulations.

**37.** The provisions of this Law shall replace the provisions of the Emergency Regulations (Absentees' Property), 5709-1948(18), from the 13th Nisan, 5710 (31st March, 1950) onwards; but this Law shall be read as one with those Regulations, and for this purpose those Regulations shall be deemed to be a Law amended by this Law.

Validations of Acts.

**38.** An act which was done before the 13th Nisan, 5710 (31st March, 1950) and which would have been validly done if, at the time it was done, the text of this Law as in existence on the 13th Nisan, 5710 (31st March, 1950) had been in force shall be deemed to have been validly done.

Interpretation.

**39.** The Minister of Finance is charged with the implementation of this Law and may make regulations as to any matter relating to such implementation.

DAVID BEN-GURION    ELIEZER KAPLAN    CHAIM WEIZMANN  
*Prime Minister*                      *Minister of Finance*                      *President of the State*

\* Passed by the Knesset on the 25th Adar, 5710 (14th March 1950), and published in *Sefer Ho-Chukkim* No. 37 of the 2nd Nisan, 5710 (20th March, 1950). P. 86.

- 1) *I.R.* No. 2 of the 12th Iyar, 5708 (21st May 1948), Suppl. I, p. 1; *LSI* vol. 1, p.7.
- 2) *I.R.* No. 2 of the 12th Iyar, 5708 (21st May 1948). p. 6.
- 3) *P.G.* No. 1351 of the 10th October, 1944, Suppl. II, p. 755 (English Edition).
- 4), *P.G.* No. 781 of the 7th May 1938, Suppl. I, p. 25 (English Edition).
- 5) *Laws of Palestine* vol. II, cap. 103, p. 1041 (English Edition).
- 6) *Laws of Palestine* vol. I, cap. 22, p. 161 (English Edition).
- 7) *Laws of Palestine* vol. i, cap. 24, p. 360 (English Edition).
- 8) *P.G.* No. 589 of the 4th May 1936, Suppl. I, p. 157 (English Edition); *P.G.* No. 770 of the 24th March, 1938, Suppl. I, p. 14 (English Edition).
- 9) *P.G.* No. 1065 of the 20th December, 1940, Suppl. I, p. 289 (English Edition).
- 10) *P.G.* No. 1086 of the 31st March, 1941, Suppl. I, p. 19 (English Edition).
- 11) *Laws of Palestine* vol. 1, cap. 40, p. 506 (English Edition)
- 12) *Laws of Palestine* vol. II, cap. 81, p. 881 (English Edition); *P.G.* No. 782 of the 12th May, 1938, Suppl. I, p. 28 (English Edition); *P.G.* No. 938 of the 22nd September, 1939, Suppl. I, p. 107 (English Edition).
- 13) *P.G.* No. 1065 of the 20th December, 1940, Suppl. I, p. 275 (English Edition).
- 14) *P.G.* No. 1182 of the 10th March, 1942, Suppl. I, p. 11 (English Edition).
- 15) *I.R.* No. 41 of the 6th Tevet, 5709 (7th January, 1949) Suppl. I, p. 94.
- 16) *P.G.* No. 755 of the 31st March, 1938, Suppl. II, p. 111 (English Edition).
- 17) *Laws of Palestine* vol. II, cap. 103, p. 1037 (English Edition).
- 18) *I.R.* No. 37 of the 10th Kislev, 5709 (12th December, 1948), Suppl. 11, p 59.

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**THIS LAW:** [Absentees' Property Law](#) (passed by the Knesset March 14, 1950).

**ITS AMENDMENTS:** [\(6.3.51\)](#)[\(14.2.56\)](#)[\(3.19.58\)](#)[\(2.2.65\)](#)[\(8.7.67\)](#)[\(8.8.67\)](#)

**SOURCE:** "*Laws of the State of Israel: Authorized Translation from the Hebrew, Volume 4*". Government Printer, Jerusalem, Israel (1948-1987), p. 68-82.

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<http://www.israellawresourcecenter.org/israellaws/fulltext/absenteepropertylaw.htm>