

The Law for the Prevention of Infiltration, Consolidated

Chapter A: Definitions

Definitions

1. In this law –

“Family members” – Parents, siblings, aunts or uncles over the age of 21.

“Law of Entry into Israel” – Law of Entry into Israel, 1952

“The Arrests Law” – Criminal Procedure Law, 1996

“Infiltrator” – a person who is not a resident according to section 1 of the Population Registrar Law, 1965, who entered Israel not by way of a border crossing determined by the Minister of Interior according to section 7 of the Law of Entry into Israel.

“Director of the General Staff” – deleted

“Armed” – including a person who is armed with an instrument or with material which is liable to kill a person or cause him serious injury or a dangerous injury, but which is not a firearm or explosive material or inflammable material.

“Director of Border Control” – with the meaning from the Law of Entry into Israel.

Chapter B: Offenses

The law with regards to an infiltrator

2. The infiltrator is subject to five years imprisonment or a fee of 5,000 liras or both punishments together.

Illegal Departure

2a. The departer who knowingly and unlawfully leaves from Israel to Lebanon, Syria, Egypt, across to Jordan, Saudi Arabia, Iraq, Yemen, Iran or to any part of the Land of Israel which is outside of the territory of Israel shall be sentenced to four years or be fined 4,000 liras.

The sentence for an infiltrator after he has been deported from Israel

3. A person who infiltrates after being deported from Israel is sentenced to seven years or a fine of 7000 liras or both punishments together.

The sentence for an armed infiltrator

4. A person who infiltrates while armed or in the company of an armed person or who is supported by an armed person is sentenced to 15 years, and if the infiltrator or the person mentioned above is armed with a firearm or with explosives materials or with inflammable material, he is sentenced to a life sentence.

The sentence for an infiltrator who committed certain crimes

5. A person who infiltrated and committed a crime or an offence which harms property or which involves the use of force or disruption of peace shall be sentenced to a life sentence.

The sentence for a person who provides protection or other aid to the infiltrator

6. A person who provides protection to an infiltrator or provided him other aid in order to facilitate his infiltration or his illegal residency in Israel shall be sentenced to 15 years or a fine of 15,000 liras and both punishments together.

The sentence for a person who trades with an infiltrator

7. A person who trades with an infiltrator, so long as he is in Israel unlawfully, is sentenced to 15 years or a fine of 15,000 liras or both punishments together.

The sentence for a person who is on his way to provide protection or other aid to an infiltrator

8. A person who provides protection to an infiltrator or provided him other aid in order to facilitate his infiltration or his illegal residency in Israel and the Tribunal is aware that he already provided protection or other aid as stated is sentenced to 15 years or a fine of 10,000 liras or both punishments together.

Presumption of knowledge

9. So long as not proven otherwise –
 - (1) The accused according to section 6 or 8 is seen as if he knew, while receiving protection or other aid, that he is an infiltrator and that he resides in Israel unlawfully.
 - (2) The accused according to section 7 is seen as if he knew, when trading with a person, that he is an infiltrator and that he resides in Israel unlawfully.

Reservation for the application of the temporary order

- 9a. For the periods stated in sections 9 and 10 of the Prevention of Infiltration Law (amendment 3 and temporary order), 2011 –
 - (1) In section 4, the end shall begin with the words “and if the infiltrator or the person mentioned above is armed” – will not be read.
 - (2) The guidelines from sections 5 until 9 will not apply except for a case of an infiltrator who is armed or who infiltrated in order to commit a crime –
 - a. Of human trafficking according to section 377(A)(a)(5) of the Penal Code, 1977.
 - b. In order to commit a crime according to note (B) in chapter (C) of the Dangerous Drugs Ordinance (new version), 1973.

Detention of an Infiltrator

10. A person who entered Israel without permission to enter or who resides in Israel illegally shall be seen for the matter of this law as an infiltrator so long it is not proven otherwise.
11. (Nullified)
12. (Nullified)
13. (Nullified)
14. (Nullified)
15. (Nullified)
16. (Nullified)
17. (Nullified)
18. (Nullified)
19. (Nullified)
20. (Nullified)

- 21. (Nullified)
- 22. (Nullified)
- 23. (Nullified)
- 24. (Nullified)
- 25. (Nullified)
- 26. (Nullified)

Detention and Search

- 27. The criminal procedure ordinances (detention and searches) applies to a person accused of an offense according to this law, with the following changes:
 - (1) The authority to release with guaranty because the conviction is given to the sole judge.
 - (2) The authority granted to a police officer is granted also to a soldier.
- 28. (Nullified)
- 29. (Nullified)

Chapter C: Deportation and Holding in Custody

Deportation

- 30. (A) The Minister of Defense or a person authorized by him may order in writing that an infiltrator be deported whether he is convicted accorded to this law or not. The order will be used as the legal basis for holding the infiltrator in detention until his deportation.
 - (A1) a deportation order according to section (a) will not be implemented until after the Minister of Defense or a senior state employee authorized by him determined that it is possible to do so taking into account the personal circumstances of the infiltrator and the country targeted for his deportation.
 - (A2) If an infiltrator is given a permit and license for residency in Israel according to the Law of Entry into Israel, the Minister of Defense or a person authorized by him will cancel the deportation order that was given according to section (a).
- (B) A person who enters Israel without permission to enter before the implementation of this law and because of this it is possible to order his deportation from Israel whether according to the Aliyah Ordinance, 1941, or according to the Law of Entry into Israel, 1952, the instructions from this section apply to him as if he entered Israel after the implementation of the law.

Bringing before the Director of Border Control and his authorities:

30A

- (a) An infiltrator in custody will be brought before the Director of Border Control no later than five working days from the day his detention commenced.
- (b) The Director of Border Control is authorized to release an infiltrator with a monetary guarantee, with a bank guarantee or another suitable guarantee or under other suitable conditions (in this law – guarantee), if he is convinced that one of the following applies:

- (1) Due to the infiltrator's age or to his physical condition, including his mental health, his custody may harm his health and there is no other way to prevent this stated harm;
 - (2) There are special humanitarian grounds other than those stated in paragraph (1) justifying the release of the infiltrator with a guarantee, including if as a result of the detention, a minor will be left unaccompanied;
 - (3) The infiltrator is a minor who is unaccompanied by a family member or a guardian.
 - (4) The release with guarantee of the infiltrator may assist in the infiltrator's deportation proceedings.
 - (5) 60 days have passed since the date on which the infiltrator submitted a request for a visa and a permit to stay in Israel under the Law of Entry and treatment of his request has not yet begun;
- (c) The Director of Border Control shall release an infiltrator with guarantee if three months have passed since the beginning of the infiltrator's detention.
- (d) Notwithstanding the provisions of subsection (b)(2), (4) or (5) or subsection (c), an infiltrator will not be released with guarantee if the Director of Border Control is convinced of one of the following:
- (1) His deportation from Israel is prevented or delayed due to a lack of full cooperation on his part, including with regard to clarifying his identity or arranging for the proceedings for his deportation from Israel;
 - (2) His release would endanger national security, public order or public health; for this matter, the Director of Border Control is allowed to rely on an opinion from authorized security officials according to which in the infiltrator's country of origin or region of residence activities are taking place which are liable to endanger the security of the State of Israel or its citizens.
- All the above, unless the Director of Border Control is convinced that due to the age or health of the infiltrator, holding him in custody is liable to cause harm to his health and there is no other way to prevent the stated harm.
- (e) Release with guarantee from custody will be contingent on conditions determined by the Director of Border Control, to ensure that the infiltrator will report in order to be deported from Israel at a determined time or for any other legal proceedings; the Director of Border Control is allowed at any time to review the guarantee conditions, if new facts have been discovered or if the circumstances have changed after the decision to release with guarantee was rendered.
- (f) With regard to an infiltrator released from custody with guarantee according to this section, the decision granting his release with guarantee will be regarded as the legal attestation of his stay in Israel for the period of his release with guarantee; the force of this decision regarding release with guarantee is contingent on the fulfillment of the conditions as stated.
- (g) If a guarantor requested to cancel the guarantee which he gave, the Director of Border Control may grant the request or deny it, as long as his decision will ensure the reporting of the infiltrator by producing a different guarantor; if it is not possible to ensure the reporting of the infiltrator by means of a different guarantee, the infiltrator will be returned to detention.

- (h) If an infiltrator is deported from Israel at the determined time, he and his guarantors will be exempt from their guarantee and the monetary guarantee will be returned, according to the matter.
- (i) If the Director of Border Control realizes that an infiltrator who has been released with guarantee violated or is about to violate one of the conditions of his release on guarantee, he may instruct, by issuing an order, that the infiltrator is returned to custody and he may also instruct that the guarantee is confiscated or realized.
- (j) No order will be given to confiscate or realize the guarantee as mentioned in subsection (i) until the infiltrator or guarantor, as the case may be, has been given an opportunity to state their claims, provided that that it is reasonably possible to locate them.
- (k) Once the Director of Border Control ordered the release with guarantee of an infiltrator pursuant to this Article, and the conditions for issuing a residence order pursuant to Article 32D apply, the Director of Border Control shall issue a residence order as stipulated by the provisions of said Article.

Conditions for detention

30B(a) : An infiltrator will be detained in the place of detention; for this issue, “place of detention” – is all of these:

- (1) The place of detention as defined in section 13(a) in the Law of Entry into Israel, with the necessary changes;
- (2) A place which the Minister of Defense, by himself or together with the Minister of Internal Security, determined by order as a place of determine for the purposes of this law.

30B(b) An infiltrator held in detention will be held in proper conditions which will not be, taking into consideration the circumstances of the matter, including the length of detention, harmful to the health and dignity of the infiltrator.

30B(c) An infiltrator held in detention will be held in a separate cell from criminal prisoners.

30B(d) The provisions from section 9(b) of the Arrests Law will apply to the detainment in detention according to this law, with the necessary changes.

30B(e) The provisions from section 10 of the Arrests Law will apply to the detainment in detention according to this law, with the necessary changes.

30B(f) The Minister for Internal Security, with the agreement of the Minister of Interior, and with the permission from the Interior and Environmental Protection Committee of the Knesset, is entitled to set, subject to the provisions from section (b), other provisions regarding the matter of detention conditions in a special place of detention, including the matter of detention conditions for families and children.

30B(g) The main rights and obligations of infiltrators in detention will be published in a place that stands out in detention in Hebrew and English.

Appointing a Tribunal for the Detention Review of Infiltrators

30C The Minister of Justice will appoint, from amongst those appointed as Detention Review Tribunals for Unlawful Residents according to section 13(k) in the Law of Entry into Israel, one or more Detention Review Tribunals for Infiltrators according to this law (in this law -- Detention Review Tribunals for Infiltrators).

The Tribunal's authorities

30D(a) The Detention Review Tribunals for Infiltrators is authorized to -

- (1) Approve the detainment of an infiltrator in detention, and it is entitled to instruct that the infiltrator's matter be brought before it for additional examination where the conditions that it determined exist or within a time-frame which he determined which will not be greater than thirty days;
- (2) Instruct the release with guarantee of the infiltrator at the end of a period determined, if it is convinced that the conditions for his release with guarantee exist according to section 30(A)(b) and subject to the qualifications determined in section 30(A)(c).
- (3) Instruct to change the guaranty conditions determined according to section 30(A)(d), as well as the confiscation of the guarantee due to the violation of a condition from the release with guarantee conditions.

30D(b) The instructions from section 30(A)(d) will apply, with the necessary changes, to release with guarantee according to the order from the Detention Review Tribunals for Infiltrators.

30D(c) A decision by the Detention Review Tribunals for Infiltrators will include the main claims made by both parties, will be well-explained and in writing, will be delivered to the infiltrator on the spot, to the extent possible; if the Tribunal sees a need for additional clarification, it will instruct to bring before it the infiltrator held in detention at a time-period it determines.

30D(d) Once the Tribunal for the Review of Custody of Infiltrators ordered the release with guarantee of an infiltrator pursuant to sub-Article (a)(2), and the conditions for the issuing of the residence order apply to the same infiltrator pursuant to Article 32D, the Director of Border Control shall issue a residence order as stipulated pursuant to the provisions of the stipulated Article.

Applying the instructions from the Law of Entry into Israel to the matter of the Tribunal

30E The provisions from subsection (b) in the fourth chapter of the Law of Entry into Israel, except for instructions 13(o) – 13(u) in the above-mentioned law, will apply to the matter of the Detention Review Tribunals for Infiltrators, with the necessary changes and with the following changes:

30E(1) In section 13(n) in the Law of Entry into Israel –

- (a) In section (a), in place of “as soon as possible and not later than 96 hours from

the time the detainment began,” will read, “no later than ten days from the day in which detainment in detention began”.

- (b) In section (b), instead of “section 13(q)”, it will read section 30(A)(h);
- (c) In section 13(37) in the Law of Entry into Israel, instead of “section 13(g)” it will read “section 30(A)(h)”;
- (d) In section 13(17)(b) in the Law of Entry into Israel, in place of “section 13(6)(c),” it will read “section 30(E)(a)(2).”

Appeal and Administrative Petitions

30F(a) The decisions of the Detention Review Tribunals for Infiltrators are appealable before the Court for Administrative Affairs.

30F(b) If a petition is submitted to the Court for Administrative Affairs against a decision regarding deportation based on this law, and at the same time there is an administrative appeal pending on the decision in the Detention Review Tribunals for Infiltrators regarding the detention or the release with guarantee, within the framework of the petition the Court will also discuss the matter of detention or release with guarantee and the appeal will be deleted; however if the petitioner has not yet submitted an administrative appeal regarding detention or release with guarantee, these matters will be included in the petition.

30F(c) The Court for Administrative Affairs’ decision on an appeal or petition as mentioned in this section should not subtract from the Detention Review Tribunals for Infiltrator’s authority, although the Tribunal will not have to rely on any matter which the court decides on within the framework of an appeal or a petition unless it is convinced that there has been a change in circumstances which constitutes a basis for the court’s decision.

Release from Prison for the Purpose of Deportation

- 31. If an order is given according to section 30 and the provisions of section 30(A)(1) exist and the infiltrator is for whatever reason held in detention, it is possible to release the infiltrator from detention in order to carry out the order, even if the detention period has not come to an end.

Covering Expenses

- 32. A person who gave an order according to section 30 is entitled to instruct that the expenses incurred as a result of implementing the deportation order of the infiltrator and of other infiltrators dependent on him will be covered by him or by his property.

Chapter E: Miscellaneous

Amendment of the Criminal Law Proceedings Law (Enforcement Authorities – Bodily Search and Taking of Means of Identification) – Temporary Order

10. In the Criminal Law Proceedings Law (Enforcement Authorities – Bodily Search and Taking of Means of Identification), 5756-1996, in section 1, in the definition of “special place of custody” and “person held in custody,” at the end will come – “including a place of custody as stated in paragraph (2) of the definition of “place of custody” in section 30B(a) of the Prevention of Infiltration Law (Offenses and Jurisdiction), 5714-1954 and a person held in custody as stated, and including a Residency Center as defined in section 32A of the same law and the resident in a Residency Center as stated.”

11. In the Prevention of Infiltration Law (Offenses and Jurisdiction) (Amendment No. 3 and Temporary Order), 5772-2012, after section 9, the following will come:

Extension of Validity

10. Notwithstanding the provisions of section 9, sections 2, 4, and 6 of this law, and sections 30B through 30F of the main law as worded in section 5 of this law, will continue to be valid until the end of three years from the date of coming into force of the Law for the Prevention of Infiltration and to Ensure the Departure of Infiltrators from Israel (Legislative Amendments and Temporary Order), 2014.”

Validity

14(a) Sections 3, 5, 6, and 8 of this law will be valid for three years from the date of its coming into force.

(b) Despite the provisions in subsection (a), Articles 3 and 10 of this law will continue to be valid for three years from the date of the coming into force of the Law for the Prevention of Infiltration and to Ensure the Departure of Infiltrators from Israel (Legislative Amendments and Temporary Order), 2014.

Applicability

15. The provisions of sections 30A of the main law, as worded in section 5 of this law, will apply to an infiltrator who entered Israel after the coming into force of this law.

The law adds and does not detract

33. This law is not meant to detract from the criminal responsibility a person has under another law, or the jurisdiction of another court to try a person for an offense according to this law, or the jurisdiction of any other authority.

34. (Nullified)

Implementation

35. The Minister of Defense is charged with implementing this law and he is entitled to make rulings with regards to its implementation.