

BASIC LAW: THE JUDICIARY

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CHAPTER ONE: BASIC PROVISIONS

Judicial Power

1. (a) Judicial power is vested in the following courts**:

- (1) the Supreme Court;
- (2) a District Court;
- (3) a Magistrate's Court;
- (4) another court designated by Law as a court.

In this Law, "*judge*" means a judge of a court as aforesaid.

(b) Judicial power is vested also in the following:

- (1) a religious court (beit din);
- (2) any other court (beit din);
- (3) another authority all as prescribed by Law.

(c) No court or court (beit din) shall be established for a particular case.

Independence

2. A person vested with judicial power shall not, in judicial matters, be subject to any authority but that of the Law.

Publicity of Proceedings

3. A court shall sit in public unless otherwise provided by Law or unless the court otherwise directs under Law.

CHAPTER TWO: JUDGES

Appointment of Judges

4. (a) A judge shall be appointed by the President of the State upon election by a Judges' Election Committee.

(b) The Committee shall consist of nine members, namely, the President of the Supreme Court, two other judges of the Supreme Court elected by the body of judges thereof, the Minister of Justice and another Minister designated by the Government, two members of the Knesset elected by the Knesset and two representatives of the Chamber of Advocates elected by the National Council of the Chamber. The Minister of Justice shall be the chairman of the Committee.

(c) The Committee may act even if the number of its members has decreased, so long as it is not less than seven.

Nationality

5. Only an Israeli national shall be appointed judge.

Declaration of Allegiance

6. A person appointed judge shall make a declaration of allegiance before the President of the State. The declaration shall be as follows:

"I pledge myself to be in allegiance to the State of Israel and to its laws, to dispense justice fairly, not to pervert the law and to show no favour."

Period of Tenure

7. The tenure of a judge shall begin upon his declaration of allegiance and shall end only -

(1) upon his retirement on pension; or

(2) upon his resignation; or

(3) upon his being elected or appointed to one of the positions the holders of which are debarred from being candidates for the Knesset; or

(4) upon a decision of the Judges' Election Committee prepared by the chairman of the Committee or the President of the Supreme Court and passed by a majority of at least seven members; or

(5) upon a decision of the Court of Discipline.

Retired Judge

8. A judge who has retired on pension may be appointed to the position of a judge for such time, in such manner and on such conditions as may be prescribed by Law.

Restriction on re-posting

9. (a) A judge shall not be permanently transferred from the locality where he is serving to a court in another locality save with the consent of the President of the Supreme Court or pursuant to a decision of the Court of Discipline.

(b) A judge shall not without his consent be appointed to an acting position at a lower court.

Salary and Benefits

10. (a) The salaries of judges and other payments to be made to them during or after their period of tenure or to their survivors after their death shall be prescribed by Law or by a decision of the Knesset or of a Knesset committee empowered by the Knesset in that behalf.

(b) No decision shall be passed reducing the salaries of judges only.

Judge not to Engage in Additional Occupation, etc.

11. A judge shall not engage in an additional occupation, and shall not carry out any public function save with the consent of the President of the Supreme Court and the Minister of Justice.

Criminal Proceedings

12. (a) No criminal investigation shall be opened against a judge save with the consent of the Attorney-General, and no information shall be filed against a judge save by the Attorney-General.

(b) A criminal charge against a judge shall not be tried save before a District Court consisting of three judges unless the judge has consented that the charge be tried in the ordinary manner.

(c) The provisions of this section shall not apply to categories of offences designated by Law.

Disciplinary Proceedings

13. (a) A judge shall be subject to the jurisdiction of a Court of Discipline.

(b) A Court of Discipline shall consist of judges and judges retired on pension appointed by the President of the Supreme Court.

(c) Provisions as to the grounds for instituting disciplinary proceedings, the modes of filing complaints, the composition of the bench, the powers of the Court of Discipline and the disciplinary measures it shall be authorised to impose shall be prescribed by Law. The rules of procedure shall be in accordance with Law.

Suspension

14. Where a complaint or information is filed against a judge, the President of the Supreme Court may suspend him from office for such period as he may prescribe.

CHAPTER THREE: THE COURTS

Supreme Court

15. (a) The seat of the Supreme Court is Jerusalem.

(b) The Supreme Court shall hear appeals against judgments and other decisions of the District Courts.

(c) The Supreme Court shall sit also as a High Court of Justice. When so sitting, it shall hear matters in which it deems it necessary to grant relief for the sake of justice and which are not within the jurisdiction of another court (beit mishpat or beit din).

(d) Without prejudice to the generality of the provisions of subsection (c), the Supreme Court sitting as a High Court of Justice shall be competent -

(1) to make orders for the release of persons unlawfully detained or imprisoned.

(2) to order State and local authorities and the officials and bodies thereof, and other persons carrying out public functions under law, to do or refrain from doing any act in the lawful exercise of their functions or, if they were improperly elected or appointed, to refrain from acting;

(3) to order courts (batei mishpat and batei din) and bodies and persons having judicial or quasi-judicial powers under law, other than courts dealt with by this Law and other than religious courts (batei din), to hear, refrain from hearing, or continue hearing a particular matter or to void a proceeding improperly taken or a decision improperly given;

(4) to order religious courts (batei din) to hear a particular matter within their jurisdiction or to refrain from hearing or continue hearing a particular matter not within their jurisdiction, provided that the court shall not entertain an application under this paragraph if the applicant did not raise the question of jurisdiction at the earliest opportunity; and if he had no measurable opportunity to raise the question of jurisdiction until a decision had been given by a religious court (beit din), the court may quash a proceeding taken or a decision given by the religious court (beit din) without authority.

(e) Other powers of the Supreme Court shall be prescribed by Law.

Other Courts

16. The establishment, powers, places of sitting and areas of jurisdiction of the District Courts, the Magistrates' Courts and other courts shall be in accordance with Law.

Appeal

17. A judgment of a court of first instance, other than a judgment of the Supreme Court, shall be appealable as of right.

Further Hearing

18. In a matter adjudged by the Supreme Court by a bench of three, a further hearing may be held by a bench of five on such grounds and in such manner as shall be prescribed by Law.

Retrial

19. In a criminal matter adjudged finally, a retrial may be held on such grounds and in such manner as shall be prescribed by Law.

Established Rule

20. (a) A rule laid down by a court shall guide any lower court.

(b) A rule laid down by the Supreme Court shall bind any court other than the Supreme Court.

Registrar

21. A court may have a registrar, who may or may not be a judge.

CHAPTER FOUR: MISCELLANEOUS PROVISIONS

Law not to be affected by emergency regulations

22. This Law cannot be varied, suspended, or made subject to conditions by emergency regulations.

Provisions to be Prescribed by Law

23. Provisions as to the following matters shall be prescribed by Law:

(1) the manner of electing, and duration of the tenure of, the members of the Judges' Election Committee;

(2) qualifications for the posts of judges of the various grades;

(3) the manner of appointing the President of the Supreme Court, the Deputy President of the Supreme Court and the President and Vice-president of a District Court and a Magistrate's Court;

(4) the conditions and procedures for terminating the tenure of a judge;

(5) the manner of appointing a judge to an acting assignment at another court and of transferring a judge, temporarily or permanently, from the locality where he is serving to a court in another locality;

(6) proceedings for the suspension of a judge from office, and review of the suspension;

(7) the matters which the courts of the different grades are to hear by a single judge or by three or more judges;

(8) the manner of designating the judge or judges who is or are to hear a particular matter.

Provisions to be prescribed under the Law

24. Provisions as to the following matters shall be prescribed under Law:

(1) rules as to the administration of the courts, the making thereof and responsibility for their implementing;

(2) the rules of procedure of the Judges' Election Committee;

(3) procedure for the resignation of a judge;

(4) procedure for the appointment and the powers of the registrar of a court;

(5) the number of judges who are to serve in the courts of the different grades and location.

Yitzchak Shamir
Prime Minister

Chaim Herzog
President of the State

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** The Hebrew for "court" is beit mishpat (plural: batei mishpat) or beit din (plural: batei din). In the translation of this Law, "court" stands for beit mishpat unless the expression beit din is added in brackets.