(2) a hearing concerning an extension of arrest under section 240 or 241; but paragraph (3) of section 316(a) shall not apply to any such hearing."

MENAHEM BEGIN
Prime Minister

ARIEL SHARON
Minister of Defence

YITZCHAK NAVON
President of the State

(No. 15)

CRIMINAL PROCEDURE LAW (CONSOLIDATED VERSION), 5742–1982 *

Chapter One: General Provisions

Definitions.

1. In this Law –.

"act" includes attempt and omission;

"warning" means a warning in the manner prescribed in section 2 of the Rules of Evidence Amendment (Warning of Witnesses and Abolition of Oath) Law, 5740–1980[1].

Application of Law.

2. Criminal procedure shall be in accordance with this Law unless otherwise provided by or under another Law in respect of a specific matter.

Procedure in the absence of legal provisions.

3. With regard to a procedural matter not regulated by any enactment, the court shall proceed in such manner as it deems best in the interest of justice.

Non-joinder of civil claim.

4. A civil action shall not be joined with a criminal case.

* The text of this Consolidated Version was determined by the Constitution, Legislation and Juridical Committee of the Knesset on the 9th Shevat, 5742 (2nd February, 1982) under section 16 of the Law and Administration Ordinance, 5708–1948. It was published in *Sefer Ha-Chukkim* No. 1043 of the 6th Adar, 5742 (1st March, 1982), p. 43.

References
Criminal Procedure Law, 5725–1965: *Sefer Ha-Chukkim* of 5725, p. 161 – *LSI* vol. XIX, p. 158; *Sefer Ha-Chukkim* of 5729, p. 194 – *LSI* vol. XXIII, p. 210; *Sefer Ha-Chukkim* of 5733, p. 224 – *LSI* vol. XXVII, p. 249; *Sefer Ha-Chukkim* of 5734, p. 86 – *LSI* vol. XXVIII, p. 85; *Sefer Ha-Chukkim* of 5735, pp. 6, 76, 130 and 218 – *LSI* vol. XXIX, pp. 8, 95, 161 and 289; *Sefer Ha-Chukkim* of 5736, p. 244 – *LSI* vol. XXX, p. 236; *Sefer Ha-Chukkim* of 5737, p. 313 – *LSI* vol. XXXI, p. 297; *Sefer Ha-Chukkim* of 5738, p. 162 – *LSI* vol. XXXII, p. 199; *Sefer Ha-Chukkim* of 5740, pp. 61 and 138 – *LSI* vol. XXXIV, pp. 64 and 155; *Sefer Ha-Chukkim* of 5741, pp. 134, 144 and 192 – *LSI* vol. XXXV, pp. 155 and 224. Crimes against Humanity (Abolition of Prescription) Law, 5726–1966: *Sefer Ha-Chukkim* of 5726, p. 10 – *LSI* vol. XX, p. 8.

[1] *Sefer Ha-Chukkim* of 5740, p. 202; *LSI* vol. XXXIV, p. 231.

Double jeopardy.

5. A person shall not be tried for an act if he has previously been acquitted or convicted of an offence constituted by the same act: Provided that if the act caused the death of another person, he shall be tried for it even if he has previously been convicted of another offence constituted by the same act. For the purposes of this section, "conviction" includes placing a person on probation without his having been convicted.

Jurisdiction *ratione loci*.

6. (a) An accused person shall be tried by the court in whose area of jurisdiction the whole or part of the offence was committed or the accused's place of residence is situated.

(b) Offences enumerated in the First Schedule committed in respect of foodstuffs and offences under the Consumer Protection Law, 5741–1981[2], may be tried also by the court in whose area of jurisdiction the commodity was marketed or sold and, if the accused is the producer, also by the court in whose area of jurisdiction the complainant lives.

(c) If the place where the offence was committed and the place of residence of the accused are not known or if the offence was committed abroad, the accused shall be tried by the court in whose area of jurisdiction he was apprehended.

(d) The Minister of Justice may by order, with the approval of the Constitution, Legislation and Juridical Committee of the Knesset, replace, or add to or make deletions in, the First Schedule.

Jurisdiction in case of joinder of charges or accused.

7. Where charges in respect of several offences have been joined or where several accused have been charged in one information, the case may be tried by any court which, under section 6, has jurisdiction in respect of one of the offences or one of the accused.

Jurisdiction where no court has jurisdiction *ratione loci*.

8. If in respect of a particular case the Attorney-General finds that no court has jurisdiction *ratione loci* under sections 6 and 7, the accused shall be tried by a court in Jerusalem.

Prescription of offence.

9. (a) Unless otherwise provided in another Law, a person shall not be brought to trial for an offence if a period as stated hereunder has elapsed since the date of its commission:

(1) in the case of a felony punishable by death or imprisonment for life – twenty years;

(2) in the case of any other felony – ten years;

(3) in the case of a misdemeanour – five years;

(4) in the case of a contravention – one year.

[2] *Sefer Ha-Chukkim* of 5741, p. 248; *LSI* vol. XXXV. p. 298.

(b) There shall be no prescription with regard to offences under the Crime of Genocide (Prevention and Punishment) Law, 5710–1950[2], or the Nazis and Nazis Collaborators (Punishment) Law, 5710–1950[3].

(c) In the case of a felony or misdemeanour as to which, within the relevant aforesaid period, an investigation was held under any enactment or an information was filed or proceedings were taken on behalf of the court, the period of prescription shall begin on the date of the last proceeding in the investigation or on the date of the filing of the information or on the date of the last proceeding on behalf of the court, whichever is the latest date.

Prescription of penalties.

10. Where a penalty has been imposed, its implementation shall not begin, and where the implementation of a penalty has been interrupted, it shall not be continued, if a period as stated hereunder has elapsed since the date on which the judgment became final or the date of the interruption, whichever is the later:

(1) in the case of a felony – twenty years;

(2) in the case of a misdemeanor – ten years;

(3) in the case of a contravention – three years.

Chapter Two: The Parties and Their Representation

Accuser – the State.

11. The accuser in a criminal trial is the State; it shall be represented by a prosecutor, who shall conduct the prosecution.

Prosecutors.

12. (a) The prosecutors are the following:

(1) the Attorney-General and his representatives, viz. –

(*a*) the State Attorney, the Deputy State Attorney, the District Attorneys and other attorneys of the State Attorney's Office designated by title by the Minister of Justice by order published in *Reshumot*;

(*b*) any person whom the Attorney-General has empowered to be a prosecutor, either generally or for a particular class of cases or for particular courts or for a particular case;

(2) a police officer who, having the qualifications prescribed by the Minister of Justice in consultation with the Minister of the Interior, has been appointed prosecutor by the Inspector-General of Police.

(b) A prosecutor as referred to in subsection (a)(2) shall be competent to act as prosecutor in Magistrates' Courts and Municipal Courts and in

[2] *Sefer Ha-Chukkim* of 5710, p. 137; *LSI* vol. IV, p. 101.

[3] *Sefer Ha-Chukkim* of 5710, p. 281; *LSI* vol. IV, p. 154.

particular classes of proceedings in other courts, as the Minister of Justice shall prescribe in consultation with the Minister of the Interior: Provided that the Attorney-General may direct that a particular class of cases, a particular case or a particular proceeding be conducted by another prosecutor.

Engagement of defence counsel.

13. No person shall act as defence counsel unless he is duly qualified therefor and the accused has, in writing, expressed the desire to be represented by him or has empowered him in that behalf or the court has appointed him in that behalf under section 15.

Restriction on choice of defence counsel.

14. Where the Minister of Defence has certified in writing that the security of the State necessitates such a restriction, a suspected or accused person shall not be entitled to be represented – whether in investigation proceedings or in proceedings before a Judge or court – save by a person authorised, by unrestricted authorisation, to act as defence counsel under section 318 of the Military Justice Law 5715–1955[4].

Appointment of defence counsel by court.

15. (a) Where an accused person, or a person suspected of an offence for the clarification of which it has been decided to take testimony forthwith under section 117, has no defence counsel, the court shall appoint a defence counsel for him if –

(1) he is charged with murder or with an offence punishable by death or imprisonment for life or is charged in a District Court with an offence punishable by imprisonment for ten years or over, or is suspected of having committed an offence as aforesaid; or

(2) he is under sixteen years of age and is brought before a court other than a Juvenile Court; or

(3) he is dumb, blind or deaf.

(b) The appellate court may refrain from appointing a defence counsel if the accused so requests and the court considers that no injustice will be done to him if he is not represented by a defence counsel.

(c) Where an accused person who has no defence counsel is destitute or is feared to be mentally ill or intellectually deficient, the court may, on the application of a party or on its own motion, appoint a defence counsel for him.

(d) Where a suspected or arrested person for whom a defence counsel need not be appointed fulfils the conditions set out in subsection (a) (1) to (3) or (c), the court may, on the application of that person or of the procecutor or on its own motion appoint a defence counsel for him.

[4] *Sefer Ha-Chukkim* of 5715, p. 171; *LSI* vol. IX, p. 184.

16. A defence counsel appointed by the court shall represent the accused in any proceeding before a Judge or court, including an appeal, unless the court otherwise directs.

Functions of defence counsel appointed by court.

17. (a) A defence counsel whom the accused has engaged shall not without the permission of the court cease to represent him so long as the case or appeal for which he was appointed continues. A defence counsel appointed by the court shall not without the permission of the court cease to represent the accused.

Discontinuance of representation by defence counsel.

(b) Where the court has permitted a defence counsel to cease representing the accused because the latter did not cooperate with the defence counsel, it may, notwithstanding the provisions of section 15, refrain from appointing another defence counsel if it considers that no useful purpose would be served thereby.

18. Where the accused engages a defence counsel in place of the defence counsel appointed for him by the court or replaces a defence counsel he has himself engaged, the court shall not refuse the previous defence counsel permission to cease representing the accused unless it considers that the change of counsel will entail an unreasonable delay of the case.

Change of defence counsel.

19. (a) Where a defence counsel has been appointed by the court, the cost of the defence, including the expenses and fees of the defence counsel and the witnesses, shall be borne by the State as shall be prescribed by regulations.

Cost of defence.

(b) Where the court is satisfied that the accused lacks means, it may direct that the cost of the defence, including the expenses and fees of the witnesses for the accused, shall be borne by the State even if no defence counsel is appointed for the accused.

20. A defence counsel appointed by the court shall not receive from the accused or any other person any remuneration, compensation, gift or other benefit. Whosoever contravenes this provision shall be liable to imprisonment for three months.

Prohibition of receipt of remuneration.

Chapter Three: Arrest and Release of Accused

Article One: Arrest

21. (a) Where an information has been filed, the court with which it has been filed may order the arrest of the accused. Where judgment has been given, and notice of appeal has been filed by a prosecutor, the power of arrest shall vest in the appellate court.

Power to order arrest.

(b) So long as an information has not been filed, a Judge of a Magistrates' Court or District Court may order the arrest of a person on the application of a police officer supported by a declaration-on-warning by a police officer that there is reasonable cause for believing that person to have committed an offence and that there are grounds for arresting him.

Warrant of arrest.

22. Where a Judge or court has ordered the arrest of a person, a warrant of arrest shall be made out in writing, setting out the name of the person to be arrested, a summary of the charge imputed to him or of the information filed against him and the direction for his arrest. The order shall bear the signature of a Judge or registrar of the court and the seal of the court.

Execution of warrant of arrest.

23. A warrant of arrest shall be executed by a police officer or by a person specified therein by the court or Judge, and it may be executed anywhere and at any time.

Notice of warrant.

24. Whosoever arrests any person under a warrant of arrest shall at the same time notify him of the warrant and shall deliver to him a copy thereof.

Certificate in lieu of warrant.

25. Where a warrant of arrest has been issued but has not yet reached the person who is to execute it, there shall be delivered to the arrested person, upon his arrest, a certificate in writing by a commissioned officer of police, indicating the Judge or court who or which issued the warrant and the date of its issue and certifying that in view of the urgency of the matter the contents of the warrant have been transmitted by telegraph, telephone or otherwise. A copy of the warrant shall be delivered to the arrested person as soon as possible after his arrest.

Modes of execution.

26. A person executing a warrant of arrest may, while the warrant or a certificate under section 25 is in his possession –.

(1) enter any place where he has reasonable grounds for believing the person to be;

(2) use reasonable force against persons or property to the extent required for the execution of the warrant.

Period of validity of warrant of arrest.

27. (a) Where a warrant of arrest has been issued under section 21(a), then, save as otherwise provided therein or in this Law, it shall be in force until judgment is given unless it is revoked by the court before then.

(b) A person arrested by virtue of a warrant issued under section 21(b) shall be brought before a Judge as soon as possible, but not later than forty-eight hours after his arrest, and the provisions of sections 16 and 17 of the Criminal Procedure (Arrest and Searches) Ordinance (New Version), 5729–1969[5], shall apply to him.

[5] *Dinei Medinat Yisrael (Nusach Chadash)* No. 12, p. 284; *NV* vol. II, p. 30.

28. (a) Where a person has been arrested, notification of his arrest and of his place of detention shall, without delay, be made to a person close to him if the whereabouts of such a person are known, unless the arrested person requests that notification as aforesaid shall not be made. Notification upon arrest.

(b) On the application of an arrested person and subject to the provision of section 14, notification under subsection (a) shall also be made to an advocate named by the arrested person.

(c) Where a person has been arrested and brought to a police-station, the officer in charge of the police-station shall notify him shortly after his arrival at the station of his rights under subsections (a) and (b).

29. (a) An arrested person is entitled to meet with and consult an advocate. Meeting with advocate.

(b) The meeting of the arrested person with the advocate shall take place in private and under conditions ensuring the secrecy of the conversation but in a manner permitting supervision of the movements and behaviour of the arrested person.

(c) Where an arrested person asks to meet with an advocate or where an advocate appointed by a person close to the arrested person asks to meet with the arrested person, the person responsible for the place of detention shall enable the meeting to take place as soon as possible.

(d) Where the arrested person is undergoing investigative proceedings or any action connected with the investigation, and a police officer of the rank of *rav-pakad* (major) or over considers that an interruption of the proceedings or action may foil the investigation, such officer may, by reasoned decision in writing, direct that the arrested person's meeting with the advocate shall be postponed for several hours; the same shall apply if the meeting may foil or interfere with the arrest of other suspects in the same matter.

(e) Notwithstanding the provision of subsection (c), a police officer of the rank of *rav-pakad* or over may, by reasoned decision in writing, direct that the meeting of an arrested person with an advocate shall not be allowed to take place for a period not exceeding forty-eight hours from the time of the arrest if he is satisfied that such is necessary for the protection of State security or human life or in order to prevent a felony. The aforesaid shall not derogate from the right of an arrested person who so requests to be given a reasonable opportunity to meet with an advocate before being brought to court in the matter of his arrest.

(f) Subsections (c) to (e) and section 28(b) and (c), shall not apply in the case of an arrested person suspected of an offence under Article Two or

Four of Chapter Seven of the Penal Law, 5737–1977[6], regulations 48 to 60, 62, 64, 66, 67, 84 or 85 of the Defence (Emergency) Regulations, 1945[7], section 2 or 3 of the Prevention of Terrorism Ordinance, 5708–1948[8], or the Prevention of Infiltration (Offences and Jurisdiction) Law, 5714–1954[9], or in the case of an arrested person arrested under the Emergency Regulations (Judea and Samaria, Gaza Region, Golan Heights, Sinai and Southern Sinai – Trial of Offences and Legal Assistance) Law, 5728–1967[10], and suspected of an offence which, were it committed in Israel, would be one of the offences enumerated in this subsection. A meeting of an advocate with an arrested person suspected of an offence as aforesaid shall be in accordance with regulations made by the Minister of Justice in consultation with the Minister of Defence and with the approval of the Constitution, Legislation and Juridical Committee of the Knesset, provided that the postponement of a meeting under such regulations shall not exceed fifteen days.

Withholding news of arrest.

30. (a) Notwithstanding the provisions of sections 28 and 29 or of any other law, a Judge of a District Court may permit notification of the arrest of a person for a felony not to be made or to be made only to a person determied by him, or a meeting of the arrested person with an advocate not to take place, if the Minister of Defence has certified in writing that the security of the State requires that the arrest be kept secret or if the Inspector-General of Police has certified in writing that secrecy is required in the interest of the investigation.

(b) Permission under subsection (a) shall be for a period not exceeding forty-eight hours. It may be extended from time to time but the aggregate period of permission shall not exceed seven days.

(c) Where a person is suspected of an offence under one of the enactments mentioned in section 27(f), a Judge of a District Court may permit as specified in subsection (a) for a period or an aggregate of periods not exceeding fifteen days if the Minister of Defence has certified in writing that State security so requires. For the purposes of a meeting of an arrested person with an advocate, the provisions of this subsection shall not affect the power referred to in section 29 (f), and the days of the delay of a meeting under section 29 (f) shall not be included in the count of the fifteen days referred to in this subsection.

6 *Sefer Ha-Chukkim* of 5737, p. 226; *LSI Special Volume: Penal Law, 5737–1977.*
7 *P.G.* of 1945, Suppl. II, p. 1055 (English Edition).
8 *I.R.* of 5708, Suppl. I, p. 73; *LSI* vol. I, p. 76.
9 *Sefer Ha-Chukkim* of 5714, p. 160; *LSI* vol. VIII, p. 133.
10 *Sefer Ha-Chukkim* of 5728, p. 20; *LSI* vol. XXII, p. 20.

(d) An application under this section shall be heard *ex parte* and a police officer of the rank of *pakad* (captain) or over shall appear on behalf of the applicant.

Saving of laws.

31. The provisions of this article shall not derogate from the provisions of the Criminal Procedure (Arrest and Searches) Ordinance (New Version), 5729–1969, Chapter Seven of Part Two of the Penal Law, 5737–1977, or any other enactment relating to arrest.

Compensation for arrest.

32. (a) Where an arrested person is released without an information having been filed, and the court finds that there was no basis for the arrest or considers that other circumstances justify that person's being compensated, the court may order that the Treasury shall pay him compensation for the arrest, and the cost of his defence, in an amount prescribed by it.

(b) Where an arrested person is released and the court finds that the arrest was due to a baseless complaint made in bad faith, the court may require the complainant – after giving him a reasonable opportunity to state his case – to pay that person compensation for the arrest, and the cost of his defence in an amount prescribed by it.

(c) The Minister of Justice may, with the approval of the Constitution, Legislation and Juridical Committee of the Knesset, make regulations –

(1) for proceedings – both before reference to the court and in court – in an application for compensation under this section;

(2) prescribing maximum amounts for compensation under subsection (a).

(d) A decision of a court under this section shall be appealable in like manner as a judgment in a criminal case.

Article Two: Release on Bail

Release of arrested person.

33. Where a person is suspected of an offence but an information against him has not yet been filed, or where a person is accused, or where a person has been sentenced but an appeal against the judgment is pending, and such person is under arrest or imprisonment (such a person hereinafter referred to as an "arrested person"), the court may, on his application, order his release on bail.

No release on bail in case of certain offences.

34. Notwithstanding the provisions of section 33, a person arrested for an offence punishable with death or mandatory life imprisonment or for an offence under Chapter Seven of Part Two of the Penal Law, 5737–1977, punishable with life imprisonment, shall not be released on bail. Where a person released on bail in respect of another offence is to be arrested for an

offence referred to in this section or has been charged with or sentenced for any such offence, any order for his release on bail shall be void.

Restriction on release.

35. A person arrested for an offence under sections 199 to 202 of the Penal Law, 5737–1977, in connection with an act of prostitution by a woman, under section 427 or 428 of the Penal Law, 5737–1977, or under the Dangerous Drugs Ordinance (New Version), 5733–1973[11], except an offence relating only to the personal use of drugs, shall not be released on bail before, either at the trial or under section 117, the testimony of the woman and/or that of any other witness whose testimony the court considers shall be taken forthwith, has been taken unless the prosecutor consents to the release or the Judge, for reasons which shall be recorded, is satisfied that the release will not interfere with the taking of the testimony or two weeks have elapsed since the arrest.

Jurisdiction as to release.

36. (a) An application for the release on bail of an arrested person against whom an information has not yet been filed shall be heard by a Magistrates' Court. Where an information has been filed, the application shall be heard by the court with which the application has been filed and, if the Judge or bench trying the case has begun to hear evidence, by that Judge or bench or by another Judge or bench of that court.

(b) Where notice of appeal or an application for leave to appeal against a judgment has been filed, and the hearing of the appeal has not yet begun, the application for release shall be heard by the court which gave the judgment or by the appellate court. Where the hearing of the appeal has begun, the application shall be heard by the appellate court.

Reconsideration.

37. An arrested person, a person released on bail or a prosecutor may apply to the court for reconsideration of a decision given by it in a matter relating to the arrest or release, including a decision under this section, if new facts have come to light or circumstances have changed and the decision of the court is likely to be affected thereby.

Objection.

38. An arrested person, a person released on bail or a prosecutor may lodge objection with the appellate court against a decision in a matter relating to the arrest or release or to an application for reconsideration. The objection shall be heard by a single Judge. Where the decision on the objection is given by the District Court, and an information against the suspect has not yet been filed, the arrested or released person or a prosecutor may lodge objection against that decision with the Supreme Court, which shall hear the objection by a single Judge.

[11] *Dinei Medinat Yisrael (Nusach Chadash)* No. 27, p. 526; *NV* vol. III, p. 5.

39. In the case of reconsideration or objection, the court may confirm or vary the decision objected to or may rescind it and give another decision instead.

Powers of court in case of reconsideration or objection.

40. Where the court decides that an arrested person shall be released on bail and the Attorney-General or a prosecutor announces there and then that he intends to lodge objection under this article, the court may order deferment of the release for a period not exceeding forty-eight hours. For this purpose, Sabbaths and holydays shall not be included in the count of the hours.

Deferment of release.

41. An application for release on bail not submitted in the course of proceedings for the issue of a warrant of arrest, an application for reconsideration or an objection shall be submitted in writing, stating concisely the grounds thereof. If it was preceded by other applications for release or other objections, it shall be accompanied by copies of those applications or objections and of the record of the hearing thereof: Provided that the court may, for such reasons as it may think fit, entertain the application even if it is not accompanied by copies as aforesaid.

Mode of submitting applications.

42. A hearing under section 33, 37 or 38 shall be held in the presence of the person arrested or released on bail or his defence counsel and of a prosecutor: Provided that an application by an arrested person may be heard in the absence of a prosecutor if a prosecutor has been given twenty-four hours' advance notice of the hearing, and provided that an application by a prosecutor may be heard in the absence of the person released on bail if forty-eight hours' advance notice has been served on that person.

Attendance of parties.

43. Bail under this Article shall be by the arrested person's personal bond, with or without the bond of a surety, or by a monetary deposit by the arrested person or a surety, or partly by bond and partly by a deposit, as the court may direct.

Bail.

44. Release under this Article shall be conditional on the released person's appearance for trial or the hearing of the appeal or for serving sentence at any time the court may direct. The court may add any such other conditions as it may think fit, including deposit of passport, and may prohibit exit from Israel.

Conditions of release on bail.

45. The bond or the instrument of deposit (each of them hereinafter referred to as "the instrument of bail") shall specify the conditions of release and shall be signed before a Judge, a registrar or the clerk of the court.

Instrument of bail.

46. Where a surety applies for the cancellation of his bond or the return of his deposit, the court may grant or refuse the application, but it shall not

Discharge of surety.

refuse the application if the released person has appeared or been brought before the court. It the court grants the application, it may cancel the release on bail or vary the conditions thereof.

Death of surety.

47. Where a surety dies before an order for the payment of the amount of his bond or for the forfeiture of his deposit has been made, his liability under the instrument of bail shall cease and the amount of his deposit shall be returned to his estate; and the court may, on the application of a prosecutor or another surety, cancel the release on bail or vary the conditions thereof.

Consequences of infringement of conditions of release.

48. (a) Where it has been proved to the court that the released person has infringed any of the conditions of his release, it may, on the application of a prosecutor, order his arrest. It also may, after the released person or the surety, as the case may be, has been given an opportunity to be heard –

(1) order the payment of the whole or part of the amount of the bond to the Treasury; the order shall, for any purpose other than appeal, have the effect of a judgment in favour of the State in a civil action against the released person or the surety, as the case may be;

(2) order the forfeiture of the whole or part of the deposit to the State.

(b) The provisions of sections 37 and 38 shall apply to any order under this section.

Arrest of released person.

49. Where an arrested person has been released on bail, a police officer may, on his own motion or at the request of a surety, arrest such person without warrant if he has reasonable grounds for believing that he is about to abscond for the purpose of evading justice or punishment. A released person arrested under this section shall within forty-eight hours be brought before the court for a decision as to the continuance of his arrest.

Power of police officer.

50. So long as an information against the arrested person has not been filed, or where an information as aforesaid has been filed by a prosecutor as referred to in section 12 (a) (2), proceedings under this Article, except proceedings under sections 37 and 38, may be conducted by any police officer, even if he is not a prosecutor.

Article Three: Unconditional Release

Release for want of charge.

51. Where a suspect is under arrest, and an information against him is not filed within ninety days after his arrest, he shall be released.

Release where no trial is held.

52. Where after the filing of the information against him an accused person has been under arrest in respect of that information for an aggregate period of sixty days and his trial has not begun, he shall be released from arrest.

53. Where after the filing of the information against him an accused person has been under arrest in respect of that information for an aggregate period of one year and his trial in the first instance has not been terminated by judgment, he shall be released from arrest.

Release where no judgment is given.

54. Notwithstanding the provisions of sections 51 to 53, a Judge of the Supreme Court may order an extension of the arrest, or a re-arrest, for a period not exceeding three months, and he may do so again from time to time.

Extension of arrest and re-arrest.

55. (a) Where a suspect has been released on bail and an information is not filed against him within one hundred and eighty days from the date of his release on bail, then, unless the period of bail has been extended under subsection (b), he and his sureties shall be discharged from their bail, and if a deposit has been given it shall be returned.

Discharge of bail where no information is filed.

(b) So long as the suspect and his sureties have not been discharged from their bail, the court may, on the application of the Attorney-General or his representative, extend the period referred to in subsection (a) by an additional period not exceeding one hundred and eighty days; and it may again extend it by an additional period not exceeding ninety days if an application to that effect is filed by the Attorney-General.

56. Where the accused has been acquitted or the charge against him quashed, or where the proceedings against him have been discontinued, he shall, if under arrest, be released forthwith; and if he has been released on bail, he and his sureties shall be discharged from their bond or the monetary deposit shall be returned, as the case may be.

Release and discharge upon termination of trial.

57. The provisions of section 51, 52, 53 or 56 shall not prevent the arrest of the suspect or accused for another act or his arrest by order of the appellate court under section 21.

Arrest for other act.

Chapter Four: Proceedings Prior to Trial

Article One: Complaint, Investigation and Prosecution

58. Any person may complain to the police that an offence has been committed.

Complaint.

59. Where the police, whether by a complaint or in any other manner, learns that an offence has been committed, it shall open an investigation. However, in the case of an offence other than a felony, a police officer of the rank of *pakad* (captain) or over may direct that no investigation shall be held if he is of the opinion that no public interest is involved or if another authority is legally competent to investigate the offence.

Police investigation.

Transmission of investigation material to prosecutor.

60. Material obtained in the investigation of an offence being a felony shall be transmitted by the police to a District Attorney, and material obtained in the investigation of another offence shall be transmitted to a prosecutor competent to conduct the prosecution, all as prescribed by section 12.

Further investigation.

61. Where investigation material has been transmitted in accordance with section 60, the Attorney-General or any attorney of the State Attorney's Office may direct the police to continue the investigation if he considers it necessary for a decision as to prosecution or for the efficient conduct of the trial.

Prosecution.

62. Where it appears to the prosecutor to whom the investigation material has been transmitted that there is sufficient evidence to charge a particular person, he shall prosecute him unless he is of the opinion that no public interest is involved: Provided that where the investigation material has been transmitted to a prosecutor as referred to in section 12(a) (2), the decision not to prosecute for the aforesaid reason shall require the approval of a police officer of the rank of *pakad* or over.

Notice of decision not to investigate or prosecute.

63. A decision not to investigate or not to prosecute shall be notified to the complainant in writing, indicating the reason for the decision.

Objection.

64. In the case of a decision not to investigate or not to prosecute, whether for lack of public interest or for lack of evidence, the complainant may lodge objection with the Attorney-General, unless the offence is one of those enumerated in the Second Schedule.

Time for lodging objection.

65. Objection shall be lodged through the police or through the prosecutor, as the case may be, within thirty days after the complainant was notified under section 63: Provided that the Attorney-General may extend the time for lodging objection.

Delegation of power for purposes of objection.

66. (a) The Attorney-General may assign to the State Attorney – either generally or in respect of particular classes of matters or a particular matter – his power to decide on objections to a decision not to prosecute for lack of evidence and, where the decision was given by a prosecutor other than an attorney of the State Attorney's Office, his power to decide on objections to a decision not to prosecute for lack of public interest.

(b) The Attorney-General may –

(1) delegate to a Deputy State Attorney, either generally or in respect of particular classes of matters or a particular matter, his power to decide on objections, except an objection against a

decision of a prosecutor being an attorney of the State Attorney's Office not to prosecute for lack of public interest;

(2) delegate to an attorney of the State Attorney's Office of the rank of Senior Assistant State Attorney or over, either generally or in respect of particular classes of matters or a particular matter, his power to decide on an objection against a decision of a prosecutor referred to in section 12 (a) (2) not to prosecute for lack of evidence.

Information.

67. Where a person is to be prosecuted, a prosecutor shall file an information against him with the court.

Article Two: Private Complaint

Private complaint.

68. Notwithstanding the provisions of section 11, any person may bring a charge concerning one of the offences enumerated in the Second Schedule by filing a private complaint with the court.

Private complaints against State employees.

69. Save with the consent of the Attorney-General, no private complaint under this Article shall be filed against a State employee for an act done in the discharge of his functions.

Law as to private complaints.

70. The provisions of this Law relating to an information shall apply *mutatis mutandis* to a private complaint. Unless the contrary intention appears, every reference to an information shall include a private complaint and every reference to a prosecutor shall include a private complainant.

Prosecution in case of private complaint.

71. Where a private complaint has been filed, the court shall transmit a copy thereof to the District Attorney. Notwithstanding the provisions of section 11, the prosecution shall be conducted by the complainant or his representative unless, within fifteen days after receiving a copy of the complaint, the District Attorney notifies the court that an attorney of the State Attorney's Office will conduct the prosecution.

Replacement of private complaint by information.

72. Where notification has been made under section 71, the private complaint shall be replaced by an information on behalf of a prosecutor.

Discontinuance of proceedings in private complaint.

73. Where the court is satisfied that a private complainant is not himself capable of conducting his case in court or that he is conducting it vexatiously, the court may discontinue the proceedings in the complaint until the complainant appoints an advocate for himself within a period prescribed by it. If the complainant does not do so, the court may deem him not to have appeared and the provisions of section 133 shall apply.

Article Three: Inspection of Evidence of the Prosecution

Inspection of investigation material.

74. Where an information in respect of a felony or misdemeanour has been filed, the accused and his defence counsel or a person empowered in that behalf by the defence counsel or, with the consent of the prosecutor, a person empowered in that behalf by the accused, may, at any reasonable time, inspect and copy the investigation material in the possession of the prosecutor.

Procedure of inspection and copying.

75. The inspection or copying of investigation material shall take place at the office of a prosecutor, or at another place designated by a prosecutor, and in the presence of a person appointed by a prosecutor, either generally or in respect of a particular matter, to ensure that the inspection and copying are carried out in accordance with Law and the directions of the prosecutor.

Penalties.

76. Whosoever obstructs or foils a person appointed under section 75 in the carrying out of his functions shall be liable to imprisonment for a term of three months. Whosoever, without the written permission of a prosecutor, removes any document or exhibit from the material delivered to him for inspection or copying shall be liable to imprisonment for a term of one year.

Restriction on production of evidence.

77. (a) A prosecutor shall not produce any evidence to the court or call any witness without the accused or his defence counsel having been given a reasonable opportunity to inspect and copy the evidence or the statement made by the witness during the investigation, unless they have waived the right to do so.

(b) A statement by a witness on a formal matter not material to the clarification of the charge need not be in writing; but the prosecutor shall deliver to the accused or his defence counsel, a reasonable time in advance, the name of the witness and the essence of his testimony as far as known to the prosecution, unless this requirement is waived.

Secret material.

78. The provisions of section 74 shall not apply to any material the non-disclosure of which is permitted or the disclosure of which is prohibited by any law, but the provisions of section 77 shall apply to such material.

Furnishing evidence in possession of private complainant.

79. A private complainant shall not submit to the court any written evidence in his possession unless he has furnished the accused with a copy thereof.

Restriction on right of inspection of evidence.

80. The provisions of this Article shall not apply to evidence designed to refute a contention of the accused which the prosecutor could not have foreseen or evidence designed to explain the absence of a witness or relating to any other formal matter not material to the clarification of the charge.

81. The provisions of this Article shall not derogate from the provisions of section 128 of the Penal Law, 5737–1977.

Saving of law.

Article Four: Inspection of Testimony of Experts for the Defence

82. In this article, "opinion" and "medical certificate" have the same respective meanings as in section 20 of the Evidence Ordinance (New Version), 5731–1971[12].

Definitions.

83. (a) The court with which an information in respect of a felony or misdemeanour is filed may, on the application of the prosecutor, order the accused or his defence counsel –

Inspection of testimony of experts for the defence.

(1) to enable the prosecutor to inspect at any reasonable time any written opinion or medical certificate which the accused intends to bring before the court as evidence;

(2) to reduce to writing the essence of the testimony of an expert which the accused intends to have heard and to enable the prosecutor to inspect it at any reasonable time;

(3) to enable the prosecutor to copy documents as aforesaid.

(b) An inspection shall be carried out in the presence of a person appointed by the accused or by his defence counsel, or in any other manner prescribed by the court.

(c) The time and place of the inspection shall be as the court may prescribe, but it shall not take place before the accused or his defence counsel has, on his application, been enabled to inspect the investigation material under Article Three.

84. Where an order under section 83 has not been complied with in respect of any written opinion or medical certificate or the testimony of an expert, the accused shall not file such opinion or certificate with the court or have such evidence heard save with the consent of the prosecutor or the permission of the court.

Restriction on production of evidence.

Article Five: Charge

85. An information shall contain –

Contents of information.

(1) the name of the court with which it is filed;

(2) the designation of the State of Israel as accuser or the name and address of the private complainant;

(3) the name and address of the accused;

(4) a description of the facts constituting the offence, indicating the place and time in so far as they can be ascertained;

[12] *Dinei Medinat Yisrael (Nusach Chadash)* No. 18, p. 421; *NV* vol. II, p. 198.

(5) an indication of the provisions of the enactment under which the accused is charged;

(6) the names of the witnesses for the prosecution.

Joinder of charges.

86. Several charges may be joined in one information if they are based on the same or similar facts or on a series of acts so connected with one another as to form a single case. Notwithstanding any other law, in a joinder of charges as aforesaid, a charge preferred in a District Court may be joined with a charge relating to an offence other than a felony.

Joinder of accused.

87. Several accused may be charged in one information if each of them was a party to the offences included in the information or to any one of them, whether as an accomplice or otherwise, or if the charge relates to a series of acts so connected with one another as to form a single case. However, the non-inclusion of one party to an offence shall not be a bar to the trial of another.

Separate trial.

88. At any stage before the finding, the court may order a separate trial of a particular charge included in the information or of a particular accused charged jointly with others.

New information in case of separate trial.

89. Where a separate trial has been ordered, another information shall be filed in respect of the charge or the accused concerned; and the court may, if it is of the opinion that no miscarriage of justice will result, continue the trial in respect of that charge or that accused from the stage which it had reached before the separation.

Joinder of cases.

90. At any stage before the finding, the court may order the joint hearing of separate informations pending before it if the joinder is permitted according to section 86 or 87 and, in the opinion of the court, will not lead to a miscarriage of justice.

Amendment of information by prosecutor.

91. A prosecutor may, at any time until the commencement of the trial, amend, add to or make deletions in an information by giving notice to the court specifying the change. The court shall serve a copy of the notice upon the accused.

Amendment of information by court.

92. (a) The court may, at any time after the commencement of the trial, amend, add to or make deletions in an information on the application of a party, provided that the accused has been given a reasonable opportunity to defend himself. The amendment shall be made in the information itself or be entered in the record of the proceedings.

(b) The court may amend an information even if the offence introduced therein by the amendment is within the jurisdiction of another

court or of a bench with a different composition, but in such a case it shall refer the matter to the other court or bench:

Provided that it may continue to hear the matter if the offence is within the jurisdiction of a court whose powers are narrower.

(c) A court to which a matter has been referred under subsection (b) may continue the hearing from the stage which its predecessor had reached; and it may, after giving the parties an opportunity to be heard on the matter, treat the whole or part of the evidence taken by its predecessor as if it had itself taken it ,or take it again.

Withrawal of charge.

93. A prosecutor may, at any time after the commencement of the trial, withdraw the charge contained in the information in respect of one or several accused.

Provided that he shall not do so if the accused has, either in writing under section 123 or in his answer to the charge, admitted facts sufficient to convict him in respect of that charge; if the facts admitted are not sufficient to convict him, the prosecutor may withdraw the charge with the permission of the court.

Consequences of withdrawal of charge.

94. Where a prosecutor withdraws a charge before the accused has answered it, the court shall quash such charge. Where a prosecutor withdraws a charge after the accused has answered it, the court shall acquit the accused of such charge.

Article Six: Summons to Trial

Summons to trial.

95. When an information has been filed, the court shall fix a time for the trial. The court shall notify the time to the prosecutor in writing, and shall serve the accused with a written summons to the trial, accompanied by a copy of the information. Where before the fixing of the time the accused's defence counsel has submitted a power of attorney to represent the accused at the trial, the court shall notify the time, in writing,to the defence counsel as well.

Contents of summons.

96. A summons shall contain –

(1) the name of the court;

(2) the designation of the accuser;

(3) the name and address of the accused;

(4) a concise statement of the charge;

(5) the place and time at which the accused is to attend;

(6) a concise statement of the provisions of sections 123 and 128.

Notice of postponement.

97. Where the time for the commencement or continuation of the trial has been postponed, the court shall notify the time fixed by it to the prosecutor, in writing, and shall serve written notice thereof upon the accused and his defence counsel unless it has notified such time to them orally at the hearing.

Form of summons.

98. Written notice and a summons under this article shall bear the signature of a Judge, a registrar or a court official and the seal of the court.

Warrant to compel attendance.

99. The court may, at any time, issue a warrant to compel the attendance of the accused if it considers that it is necessary so to do in order to ensure his attendance at the trial at the time fixed.

Applicability of other sections.

100. The provisions of sections 22 to 26 shall apply *mutatis mutandis* to a warrant to compel the attendance of the accused.

Delivery of summons at time of arrest.

101. Whosoever arrests a person under a warrant to compel attendance shall deliver to him a summons, or a notice under section 97, or a copy thereof, together with a copy of the warrant.

Release on bail.

102. In a warrant to compel attendance, the court may direct a commissioned officer of police to release the accused on bail, as shall be specified in the warrant. An instrument of bail issued in the presence of the officer shall be forwarded to the court which issued the warrant. The provisions of sections 43 to 49 shall apply *mutatis mutandis* to the bail.

Bringing to court.

103. A person arrested under a warrant to compel attendance and not released under section 102 shall be brought without delay before the court, which shall order his arrest or release him on bail.

Seizure of property of absconding accused.

104. (a) Where the accused has absconded or is concealing himself and cannot be found, the court may, on the application of an attorney of the State Attorney's Office and if, in its opinion, the accused's attendance may be ensured thereby, order the seizure of any of the accused's movable or immovable property, the entry of an attachment thereof in the Land Register or the appointment of a receiver thereof and may direct what shall be done therewith and with the proceeds thereof so long as the order is in force.

(b) An order under this section shall not affect the right of a creditor to proceed against the property to which it relates.

(c) Where an order under this section has been made, any person who is a dependant of the accused and whose livelihood may be impaired by the seizure of the property may apply to the court to revoke or vary the order.

Article Seven: Summoning of Witnesses and Production of Documents

Interpretation.

105. In this article, "documents" includes other exhibits.

Summons to witness.

106. (a) On the application of a party, the court shall summon any person to testify at the trial unless it is of the opinion that the summoning of that person will not help to clarify any matter relevant to the case. The court may also summon a witness on its own motion.

(b) A witness shall be summoned by serving a written summons upon him or by the court notifying him orally at the hearing.

Form and contents of summons.

107. A written summons to a witness shall bear the signature of a Judge, a registrar or an officer of the court and the seal of the court and shall contain –

(1) the name of the court;

(2) the designation of the parties;

(3) the name and address of the person summoned;

(4) the place and time at which the person summoned is to attend;

(5) a concise statement of the provisions of sections 111 and 113.

Order to produce documents and exhibits.

108. The court may, on the application of a party or on its own motion, order a witness who has been summoned or any other person to produce to it, at the time fixed in the summons or order, such documents as are in his possession and are specified in the summons or order.

Summoning persons present in court.

109. The court may order a person before it to testify or to produce documents to it at such time as it may fix. Any such person shall be deemed to be a person on whom a summons or order to produce documents has been served.

Witness unable to attend.

110. If the court is satisfied that a witness is unable to attend at its place of sitting, it may take his evidence elsewhere.

Enforcement of summons or order.

111. Where a person, having been summoned to testfy, fails to attend, or having been ordered to produce documents, fails to do so, the court may issue a warrant to compel his attendance. Sections 22 to 26 and 101 to 103 shall apply *mutatis mutandis* to such a warrant.

Ordering security, arrest and restraint from leaving the country.

112. Where a person has been summoned to testify or ordered to produce documents, and the court has reason to believe that he will not attend or will not produce the documents, the court may –

(1) order him to furnish security and, if he fails to do so, order his arrest;

(2) make any such order as it may think fit with a view to ensuring his attendance or the production of the documents, including an order for the deposit of his passport or the prohibition of his leaving Israel.

The provisions of sections 37, 38 and 43 to 49 shall apply *mutatis mutandis* to an order to furnish security and an order under this section.

Fine or imprisonment for non-compliance.

113. Where a person, having been summoned to testify fails to attend or, having been ordered to produce documents, fails to do so, the court may, even in his absence, impose on him a fine of 20 shekalim, and if he fails to attend or to produce the documents after being again summoned or ordered, it may impose on him imprisonment for a term of one month or a fine of 40 shekalim in respect of each additional failure to comply.

Reconsideration.

114. Where under section 113 imprisonment or a fine has been imposed upon a person in his absence, the court may, on his application, reconsider the penalty and may mitigate or quash it, and it shall quash it if satisfied that the applicant failed to attend or to produce the documents for reasons beyond his control.

Notice to president of appellate court.

115. A decision imposing imprisonment or a fine under section 113 or a decision under section 114 shall forthwith be notified by the court, in writing, to the president of the appellate court, and the president or another Judge of the appellate court may rescind or mitigate the order.

Article Eight: Preservation of Evidence

Receipt of documents and exhibits.

116. In this article, "taking of testimony" includes the receipt of documents and other exhibits.

Immediate taking of testimony.

117. Where an information has been filed with a court, the court may, on the application of a party, take the testimony of a person forthwith if it considers that his testimony is material to the clarification of the charge and that there is reasonable cause for believing that it will not be possible to take it in the course of the trial or if it apprehends that pressure, threats, intimidation, force or the promise of a benefit may keep the witness from giving truthful testimony in the course of the trial. Where an investigation of an offence has been opened but an information has not yet been filed, a Magistrates' Court or District Court may do as aforesaid on the application of a prosecutor or of a person likely to be charged with the offence.

Presence of parties.

118. Testimony as referred to in section 117 shall be taken in the presence of a prosecutor and of the accused or the person likely to be charged with the offence, unless the court, for special reasons which shall be recorded, decides to take it in the absence of the accused or the person likely to be charged with the offence.

Procedure in taking testimony.

119. (a) The procedure in summoning witnesses and taking their testimony shall, as far as possible, be the same as that obtaining at the trial, and the provisions of sections 135 to 139 shall apply, *mutatis mutandis*, to the record.

(b) An objection to a question and other submissions made during the taking of the testimony shall be entered in the record and shall be decided upon by the court before which the testimony is adduced as evidence.

Signing of record.

120. The record of the taking of the testimony shall be read to the witness and, upon his confirmation thereof, shall be signed by him and by the Judge. If the witness refuses to confirm or sign the record, a note to that effect shall be made therein.

Testimony as evidence at the trial.

121. Testimony taken under section 117 shall be treated as evidence taken in the course of the trial, but the court may authorise the summoning of the witness for further testimony if he can be brought to court and one of the following is the case:

(1) the accused has not had an opportunity to examine the witness;

(2) the accused was not given a reasonable opportunity to appoint a defence counsel for himself in order that the same might be present at the taking of the testimony and examine the witness, or a defence counsel was not appointed for him where it was obligatory to appoint one;

(3) the court, for reasons which shall be recorded, considers that it is necessary so to do in the interest of ascertaining the truth and the just handling of the case.

Testimony taken in absence of party.

122. Where testimony taken under this article is admitted although a party has not had an opportunity to examine the witness, the court shall take this fact into account in weighing the evidence.

Article Nine: Written Admission

Written admission.

123. Until the commencement of the trial, the accused may, by written notice to the court, admit all or part of the facts alleged in the information and allege additional facts. The court shall serve a copy of the admission upon the prosecutor.

Written admission not to prevent preliminary pleadings.

124. A written admission shall not debar the accused from making preliminary pleadings or admitting facts or alleging additional facts in the course of the trial.

Chapter Five: Trial Proceedings

Article One: Date of Trial

Continuity of trial.

125. So long as the taking of evidence has not begun, the court may from time to time postpone the commencement or continuation of the trial, as may be necessary. When the taking of evidence has begun, the trial shall continue

day after day until its termination unless the court, for reasons which shall be recorded, considers such to be wholly impossible.

Article Two: Presence of Parties

Presence of accused.

126. Save as otherwise provided in this Law, no person shall be criminally tried in his absence.

Presence of representatives of body corporate.

127. Where a body corporate or body of persons is accused, the trial may only be held in the presence of a person duly empowered to represent the body corporate or body of persons: Provided that a body corporate or body of persons may be tried in the absence of a representative if the conditions set out in section 128 are fulfilled. For the purposes of sections 99, 140, 161, 189 and 192, a representative as aforesaid shall be deemed to be an accused person; and service of a document upon the body corporate or body of persons shall be deemed to be service upon the representative.

Trial where accused is absent at opening thereof.

128. Where the accused has been summoned for the commencement of the trial and does not attend, he may be tried in his absence –

(1) if he is charged with a contravention or misdemeanour and, having admitted in writing all the facts alleged in the information, has not, in his written admission, alleged additional facts which are *prima facie* capable of altering the outcome of the trial;

(2) if, having requested that the trial be held in his absence, he is represented thereat by a defence counsel, and the court is of the opinion that a trial in his absence will cause no injustice to him:

Provided that the court may, at any stage of the trial, order the attendance of the accused.

No sentence of imprisonment in absence of accused.

129. Where the accused has been tried in his absence under section 128(1), the court shall not sentence him to imprisonment, other than imprisonment for non-payment of a fine, unless he has first been given an opportunity to state his arguments as to the penalty in accordance with section 192.

Trial where accused has not appeared for continuation thereof.

130. (a) A person accused of a contravention or a misdemeanour who, having been summoned for the continuation of his trial, does not attend may be tried in his absence if the summons was by notice of the court at the time of the proceedings, or was served upon him in writing by delivery into his hands or the hands of his defence counsel, indicating that if he did not attend the court would be at liberty to try him in his absence. The provision of section 237(b) shall not apply to delivery for the purposes of this section.

(b) The court shall not try an accused person in his absence if it has been proved to its satisfaction, by notice in advance, that the accused is unable to attend for reasons beyond his control.

(c) Where an accused person has been convicted in his absence under this section, the court may only sentence him in his presence and after he has been given an opportunity to state his arguments as to the penalty, as provided in section 192. The summons to the hearing concerning the sentence shall set out the fact and time of his being convicted in his absence and the time of the hearing concerning the sentence.

(d) Where proceedings in the absence of the accused have been taken under this section, then, in the further course of the proceedings, so long as the arguments in the matter of the penalty have not been concluded, the accused may -- even during the proceedings and orally -- request that the proceedings taken in his absence, including the finding, be quashed and the matter reheard.

(e) Where the accused appears during the trial, the court shall explain to him his right under subsection (d). If he appears after conviction, the court shall read the finding to him before explaining to him his right.

(f) The court shall accede to the accused's request if it is satisfied that there was reasonable cause for his non-attendance.

(g) The court may quash proceedings as aforesaid, or part thereof, at the request of the accused even where it is not satisfied that there was reasonable cause for his non-attendance if it considers it just so to do. It may thereupon order the accused to pay the expenses of the witnesses who appeared in the proceedings taken in his absence.

Notice of proceedings to absent accused.

131. The provisions of sections 126 to 130 shall not derogate from the power of the court to remove from the courtroom an accused person who disturbs the proceedings; but the proceedings taken in his absence shall be brought to his notice in such manner as the court may prescribe.

Trial *in absentia* for health reasons.

132. (a) The court is competent to direct that the whole or part of the proceedings shall be in the absence of the accused if his defence counsel so requests and the court is of the opinion that proceedings in the presence of the accused may injure his physical or mental health.

(b) Proceedings for the purpose of a decision under subsection (a) may be taken in the absence of the accused, and they may be taken *in camera*.

Absence of prosecutor.

133. Where the prosecutor does not attend at the time fixed for the trial although such time has been notified to him, and the court does not see fit to adjourn the trial, the court shall proceed in the manner specified in section 94 as if the prosecutor had withdrawn the charge: Provided that the court may convict and sentence the accused for an offence disclosed by the facts which have been admitted by him or which have been proved.

Article Three: Record and Translation

Record of trial.

134. At a criminal trial, a record shall be kept which shall reflect everything that is said or happens thereat and is relevant thereto.

Taking of record.

135. The record shall be taken by the Judge, by a recorder designated by the court, by a recording device or some other mechanical appliance or by an employee of the court whom the president thereof or a Chief Judge of a Magistrates' Court, as the case may be, has approved as a stenographer, all as the court may determine; the court may, on the application of a party, permit the record to be taken by another stenographer.

Attaching documents to record.

136. The information, any documents produced and which have been admitted by the court and any other document relevant to the case shall be attached to the record and shall form a part thereof.

Rectification of record.

137. The court may, on the application of a party and after giving the other parties an opportunity to be heard, amend an entry in the record with a view to rectifying it. The court shall entertain an application for rectification as aforesaid even if it is submitted after judgment has been passed, so long as the period of appeal has not elapsed.

Entry of correction.

138. An application for rectification of a record, and every decision on such an application shall be entered in the record, and the decision shall be signed by the court.

Record to be *prima facie* evidence.

139. A record shall *prima facie* evidence of the proceedings: Provided that in an appeal in the same matter the accuracy of the record shall not be challenged, and no evidence of an error therein shall be introduced, save with the permission of the appellate court.

Translator for the accused.

140. Where it appears to the court that the accused does not know Hebrew, it shall appoint a translator for him or itself act as a translator.

Evidence other than in Hebrew.

141. Evidence presented, with the permission of the court, otherwise than in Hebrew or some other language familiar to the court and the parties shall be translated by a translator, and testimony given as aforesaid shall be entered in the record in Hebrew translation unless the court otherwise directs. The entry of the translation in the record shall be *prima facie* evidence of the matters translated.

Remuneration of translator.

142. The remuneration of a translator shall be paid out of the Treasury unless the court otherwise directs.

Article Four: Opening of Trial

Commencement of trial.

143. At the commencement of the trial, the court shall read the information to the accused and, if it deems it necessary so to do, shall explain its contents to him: Provided that the court may refrain from doing so in respect of an accused person represented by a defence counsel if the latter notifies it that he has read the information to the accused and explained its contents to him and if the accused confirms the notification. The statements of the accused and the defence counsel shall be entered in the record.

Agreement as to facts and evidence.

144. After the commencement of the trial and at every stage of the proceedings, the court may – if the accused is represented by a defence counsel – summon the accused and his defence counsel and the prosecutor in order to ascertain whether they agree upon points of fact and upon the admissibility of documents and exhibits, including the submission thereof otherwise than by means of witnesses.

Explanation of rights of accused as to his defence.

145. In the course of the trial, the court shall, if it deems it necessary so to do, explain to the accused the rights given him in regard to his defence.

Plea of disqualification.

146. (a) After the commencement of the trial and before any other submission, a party may request that a particular Judge disqualify himself from sitting in the case. Where a Judge has been replaced under section 233, a party may set up a plea of disqualification against the other Judge at the commencement of the first hearing after the replacement.

(b) Where a plea of disqualification is set up against any Judge, that Judge shall decide thereon forthwith, before any other decision.

(c) Where a party is unable to set up a plea of disqualification at the stage indicated in subsection (a), he may do so at a later stage, provided that he does so immediately after the ground for disqualification becomes known to him.

Appeal against decision on plea of disqualification.

147. (a) A party may appeal to the Supreme Court against a decision of a Judge under section 146. The appeal shall be heard by the President of the Supreme Court or by one Judge or three Judges of the Supreme Court designated in that behalf by the President.

(b) Where a party gives notice that he intends to appeal against the decision, the trial shall be discontinued and shall not be continued until the decision in the appeal unless the Judge, for reasons which shall be recorded, decides that it shall be continued.

(c) The appeal shall be submitted in writing, detailing the grounds, within five days from the day on which the decision of the Judge is notified to the party.

(d) The Judge or Judges hearing the appeal shall give the parties an opportunity to be heard, and he or they may request the Judge whose decision is appealed against to make his comments.

Restriction as to plea of disqualification.

148. A plea of disqualification shall not be heard, or serve as a ground for appeal, save in accordance with the provisions of sections 146 and 147.

Preliminary pleadings.

149. After the commencement of the trial, the accused may make preliminary pleadings, including the following:

(1) lack of local jurisdiction;

(2) lack of material jurisdiction;

(3) a defect or invalidating feature in the information;

(4) that the facts described in the information do not constitute an offence;

(5) a former acquittal or former conviction in respect of the act to which the information relates;

(6) that another criminal trial is pending against the accused in respect of the act to which the information relates;

(7) immunity;

(8) prescription;

(9) a pardon.

Hearing of preliminary pleading.

150. Where a preliminary pleading has been made, the court shall give the prosecutor an opportunity to answer it, but it may dismiss it without having done so. The court shall decide upon the pleading forthwith, unless it sees fit to postpone the decision until another stage of the trial. Where a preliminary pleading is allowed, the court may amend the information or quash the charge or, in the event of lack of jurisdiction, refer the matter to another court as provided in section 37 of the Courts Law, 5717–1957[13].

Preliminary pleadings at other stage of trial.

151. Where the accused has not made a preliminary pleading at this stage, such fact shall not debar him from making one at an another stage of the trial: Provided that no preliminary pleading under paragraph (1) or (3) of section 149 shall be so made save with the permission of the court.

Accused's answer to the charge.

152. (a) Where the charge has not been quashed in pursuance of a preliminary pleading,the court shall ask the accused to answer it. The accused

[13] *Sefer Ha-Chukkim* of 5717, p. 148; *LSI* vol. XI, p. 157.

may refrain from answering, and if he answers, he may, in his answer, admit or deny all or part of the facts alleged in the information, and he may also allege additional facts, whether or not he makes admission as aforesaid. If the accused answers in one of the aforesaid ways, the court may put questions to him, but it may only do so to the extent necessary to clarify his answer. The accused's response may be through his defence counsel.

(b) If the accused refrains from answering the charge, or the questions of the court under subsection (a), such fact may serve to add weight to the evidence of the prosecution. The court shall explain this to the accused.

(c) Unless it appears to the court that there is no room for setting up an alibi, it shall explain to the accused that if he wishes to set up an alibi – as the only plea or in addition to others – he must do so at once and that if he does not do so this may serve to add weight to the evidence of the prosecution unless it appears to the court that there is no room for such a plea.

(d) If the accused does not set up an alibi at once or if he does but does not indicate the other place, he may not produce evidence – whether by his own testimony or otherwise – to prove such plea, save with the permission of the court.

(e) The provisions of this section shall not derogate from the right of the accused under section 153 to withdraw the admission that he was at the place where the offence was committed or affect the onus of proof resting on the prosecution.

Withdrawal of admission.

153. (a) Where the accused has admitted a fact, either by written admission before the trial or in the course of the trial, he may at any stage of the trial withdraw the whole or part of the admission if the court permits him to do so for special reasons which shall be recorded.

(b) Where the court permits the accused to withdraw his admission after the finding has been given, it shall quash the finding to the extent that it is based on the admission and shall resume the hearing if the circumstances so require.

Effect of fact admitted.

154. A fact admitted by the accused shall be regarded as proved in relation to him unless the court sees fit not to accept the admission as evidence or the accused withdraws it under section 137.

Judgment in the matter of accused person who has made admission.

155. (a) Where of several accused persons charged under one information some have admitted facts sufficient to convict them and some have not, the court shall not sentence the accused persons who have made admissions as aforesaid before the trial of the others is terminated:

Provided that –

(1) where an accused person has made an admission as aforesaid and the prosecutor or defence counsel announces that he will be called to testify at the trial of the other accused persons he shall not testify before he has been sentenced;

(2) under special circumstances, which it shall record, the court may sentence an accused person who has made an admission as aforesaid before the trial of the other accused persons is terminated.

(b) For the purposes of this section, sentencing includes the making of a probation order without a conviction and the making of a community service order without a conviction.

Article Five: Hearing

Case for prosecution.

156. Where the accused has not admitted facts sufficient to convict him of the charge or one of the charges contained in the information or where he has made an admission as aforesaid but the court has not accepted it, the prosecution shall present its evidence of the facts in respect of which no admission has been accepted, and it may, before doing so, make an opening statement.

Close of case for prosecution.

157. Upon completing his evidence, the prosecutor shall state that the case for the prosecution is closed.

Acquittal for lack of *prima facie* evidence.

158. Where the case for the prosecution is closed without a *prima facie* case against the accused having been made out, the court shall acquit the accused, either on his plea or on its own motion, after enabling the prosecutor to be heard in the matter; the provisions of sections 182 and 183 shall apply also to an acquittal under this section.

Case for defence.

159. Where the accused has not been acquitted under section 158, he may present the evidence of the defence, and he may, before doing so, make an opening statement.

Sequence of opening statements and presentation of evidence by several accused.

160. Where several accused are charged in one information, then, unless the court, on the application of a party, otherwise directs, they shall first make their opening statements in the order in which they are named in the information and thereafter present their evidence in the same order.

Alternatives open to accused.

161. (a) The accused may –

(1) testify as a witness for the defence, in which case he may be cross-examined; or

(2) refrain from testifying.

(b) The court shall explain to the accused that he may act as indicated in subsection (a) and the effect of his refraining from testifying under section 162.

(c) An accused person who elects to testify shall do so at the commencement of the hearing of the evidence of the defence: Provided that the court may, on his application, permit him to do so at another stage of the case for the defence.

Silence of the accused.

162. The accused's refraining from testifying may serve to add weight to the evidence of the prosecution, as well as to corroborate such evidence where it requires corroboration: Provided that it shall not serve as corroboration for the purposes of section 11 of the Law of Evidence Amendment (Protection of Children) Law, 5715–1955[14].

Restriction on examination of accused.

163. An accused person who has elected to testify shall not, on cross-examination, be questioned as to his prior convictions unless he has testified to his good character or, either in the case for the defence or on cross-examination of witnesses for the prosecution, has produced other evidence thereof.

Close of case for defence.

164. Upon completing his evidence, the accused shall state that the case for the defence is closed.

Additional evidence by prosecutor.

165. The court may permit the prosecutor to present evidence to rebut contentions arising out of the evidence of the defence and which the prosecutor could not have foreseen or to prove facts the admission of which the accused has withdrawn after the close of the case for the prosecution.

Rebuttal of additional evidence.

166. If the prosecutor has presented additional evidence, the accused may present evidence to rebut it.

Evidence on behalf of the court.

167. When the parties have completed their evidence, the court, if it deems it necessary so to do, may, on the application of a party or on its own motion, direct the summoning of a witness – even though his testimony may already have been heard by the court – and the presentation of other evidence.

Rebuttal of evidence presented on behalf of the court.

168. Where evidence has been presented under section 167, the parties may, with the permission of the court, present evidence to rebut it.

Summing-up as to charge.

169. Upon the completion of the evidence, or where an admission of facts has been accepted and no evidence presented, the prosecutor, and after him the accused, may make a summing-up with regard to the charge.

[14] *Sefer Ha-Chukkim* of 5715, p. 96; *LSI* vol. IX, p. 102.

Accused unfit to stand trial.

170. (a) Where under section 6(a) of the Treatment of Mentally Sick Persons Law, 5715–1955[15], or section 19B (1) of the Welfare (Treatment of Retarded Persons) Law, 5729–1969[16], the court decides that an accused person is not fit to stand trial, it shall discontinue the proceedings against him; but if the defence counsel asks that the question of the accused's guilt be investigated, the court shall investigate it, and it may do so on its own motion for special reasons which shall be recorded.

(b) If upon termination of the investigation the court finds it unproven that the accused committed the offence or finds that he is not guilty, otherwise than by reason of non-responsibility due to mental illness, it shall acquit the accused; if the court sees no reason for acquitting the accused, it shall discontinue the proceedings against him, and it may do so even before termination of the investigation.

(c) A decision of the court under subsection (b) shall be open to appeal.

Accused again fit to stand trial.

171. Where a person is brought to trial under section 17(b) of the Treatment of Sick Persons Law, 5715–1955, the court may receive evidence given during an investigation under section 170 without hearing it again. However, a party may subject a witness to cross-examination or further cross-examination, and the accused may request that his witnesses be heard again; where this is not possible, the court shall take this fact into account in weighing the evidence.

Article Six: Procedure in Examination of Witnesses

Witnesses not to testify in one another's presence.

172. A witness, other than the accused, who has not yet testified shall not be present when the testimony of another witness is being taken; however, a witness who has heard the testimony of another witness shall not for that reason alone be disqualified for testifying.

Warning of witness.

173. Before taking his testimony, the court shall warn the witness, and sections 4 and 5 of the Rules of Evidence Amendment (Warning of Witnesses and Abolition of Oath) Law, 5740–1980, shall apply.

Examination of witness by parties.

174. A witness shall first be examined by the party who called him; the opposite party may then cross-examine him, and thereafter the party who called him may re-examine him; the court may permit a party to put an additional question to the witness even after the close of his examination as aforesaid.

Examination by court.

175. Upon the completion of his examination by the parties, the court may

[15] *Sefer Ha-Chukkim* of 5715, p. 121; *LSI* vol. IX, p. 132.
[16] *Sefer Ha-Chukkim* of 5729, p. 132; *LSI* vol. XXIII, p. 144.

examine the witness. The court may also put a question to the witness during his examination by the parties in order to clarify a point arising therein.

Further examination by parties.

176. Where the court has examined a witness, each party may examine him again in order to clarify a point which arose in his examination by the court.

Witnesses at the trial of several accused.

177. Where several accused are charged in one information, then, unless the court, on the application of a party, otherwise directs, the examination of witnesses shall proceed in the following manner:

(1) a witness for the prosecution shall be cross-examined by the accused persons in the order in which they are named in the information;

(2) a witness for the defence shall first be examined in chief by the accused person who called him and thereafter by the other accused persons in the order in which they are named in the information; on re-examination, the order shall be reversed.

Witness for the prosecution who has not been called to testify.

178. Where the prosecutor has refrained from calling a witness described in the information as a witness for the prosecution, and the witness is called by the accused, the court may permit the accused to conduct the examination-in-chief of that witness as if it were a cross-examination and may determine the order of his examination by the other parties.

Hostile witness.

179. Where the court declares that a witness called by a party is a witness hostile to that party – whether because his testimony in court conflicts with his testimony during the police investigation or for any other reason – it may permit that party to conduct the examination-in-chief of that party as if it were a cross-examination and may determine the order of his examination by the other parties.

Right of cross-examination in certain cases.

180. Where the court has reason to believe that a witness of one of the accused will give testimony unfavourable to another accused, it may permit the latter to cross-examine that witness before the prosecutor does so unless that witness has already been examined by him in chief.

Evidence on behalf of court.

181. Where a witness is called on the court's own motion under section 167, the court shall give the parties an opportunity to cross-examine him in such order as it may determine.

Article Seven: Judgment

Finding.

182. Upon the termination of the hearing, the court shall, by reasoned decision in writing (hereinafter referred to as "the finding"), decide to acquit the accused or, if it finds him guilty, to convict him. The court shall read the finding, including the reasons, in public, shall sign it and shall date it as of the day of the reading. Instead of reading the finding, the court may

deliver a copy thereof to the accused and explain the main points of the contents thereof in public. Where the court acquits the accused, it shall first announce the acquittal.

Reasons in case of acquittal.

183. Notwithstanding the provisions of section 182, where the court has announced the acquittal of the accused, it may –

(1) set out the reasons forthwith or within thirty days from the date of the announcement;

(2) read the reasons in public or, with the consent of the parties, serve the same upon them in writing within thirty days of the reading of the judgment.

Conviction of an offence on facts not alleged in information.

184. The court may convict the accused of an offence of which he is shown to be guilty by the facts proved before it even though those facts are not alleged in the information, provided the accused has been given a reasonable opportunity to defend himself; but it shall not, on such a conviction, impose a heavier penalty than could have been imposed if the facts alleged in the information had been proved.

Conviction of offence not within jurisdiction.

185. For the purposes of section 184, it shall be immaterial that the offence disclosed is not within the material jurisdiction of the court: Provided that if a felony is disclosed in a court not competent to deal with it, the court shall refer the matter to a District Court, which shall deal with it as if it had been originally brought before it; and it may deal with it from the stage which the previous court had reached.

Conviction of several offences.

186. The court may convict the accused of each of the offences of which he is shown to be guilty by the facts proved before it, but it shall not punish him more than once for the same act.

Evidence for determination of penalty.

187. Where the court has convicted the accused, the prosecutor may produce evidence in the matter of the penalty, including evidence of previous convictions of the accused.

Modes of proof.

188. (a) A copy of the record kept by the police of court decisions relating to the accused in criminal matters, except an acquittal, may be admitted as evidence for the purposes of section 187 in addition to any other valid mode of proof –

(1) where the proceedings are conducted in the presence of the accused – if a copy of the record has been submitted to the court and the accused does not deny its contents;

(2) where the proceedings are conducted in the absence of the accused – if a copy of the record has been served upon him on behalf of the prosecutor and he does not notify the court in writing,

within seven days of the day on which the copy reached him, that he denies its contents.

(b) In the case of any of the offences enumerated in the First Schedule, a copy of a list kept by the Ministry of the Minister charged with the implementation of the law creating the offence may, on the conditions set out in subsection (a), be also submitted as evidence.

Alternatives open to accused in the matter of the penalty.

189. Where the prosecutor has completed his evidence in the matter of the penalty or has not presented any such evidence, the accused may proceed with regard to the penalty as provided in section 161 or make a statement without being examined, and he may also present evidence in mitigation.

Additional evidence for determination of penalty.

190. Before passing sentence, the court may, after giving the accused an opportunity to be heard in the matter, order that he be examined by a physician or other expert; and the court may order any other investigations which it deems expedient in determining the penalty.

Disclosure of report and results of examinations and investigations.

191. A copy of the report of a probation officer received under sections 37 and 38 of the Penal Law, 5737–1977, and of the results of any other examinations and investigations shall be delivered to the prosecutor and to the defence counsel, if any, and the court shall hear any argument as to anything contained therein. But the court may order that a copy as aforesaid be delivered also to the accused and, on the reasoned proposal of the probation officer or on its own motion, may, for special reasons, order that the whole or part of the contents shall not be disclosed to the parties.

Summings-up in the matter of the penalty.

192. Upon the completion of the proceedings referred to in sections 187 to 191, the prosecutor, and after him the defence counsel and the accused, may state their arguments in the matter of the penalty.

Sentence.

193. Upon the completion of the arguments in the matter of the penalty, the court shall pass sentence. The court shall read the sentence in public, shall sign it and shall date it as of the day of the reading.

Saving of laws.

194. The provisions of this article shall not derogate from the provisions of any law by which it is permitted not to convict the accused even though his guilt has been proved or not to impose a penalty on him even though he has been convicted.

Judgment.

195. The finding and the sentence together constitute the judgment.

Explanation as to right of appeal.

196. Upon completing the reading of the sentence, the court shall explain to the accused his right to appeal against the judgment and shall notify him of the period for the filing of appeal.

Chapter Six: Appeal

Interpretation.

197. In this chapter, "the court below", in relation to a further appeal, includes the court from which the original appeal was made.

Filing of appeal.

198. An appeal, whether by the accused or by the prosecutor, shall be by filing notice of appeal with the court appealed to (in this chapter referred to as "the court"), either directly or through the court whose judgment is appealed against.

Period of appeal.

199. The period for the filing of appeal is forty-five days from the date of judgment or, where the finding is given without reasons, from the date when the reasons are given. Where leave to appeal is required, the application therefor shall be filed within the same period, and notice of appeal shall be filed within thirty days from the date on which leave is granted.

Period of appeal where judgment given in absence of accused.

200. Where the judgment, the reasons or leave to appeal is or are given in the absence of the accused, the period referred to in section 199 shall, in respect of the accused, begin on the day which the judgment, reasons or leave is or are served upon him.

Extension of times.

201. The court may, on the application of the appellant, permit the appeal to be filed after the period stated in section 199 or 200 has elapsed.

Automatic appeal.

202. A judgment imposing the penalty of death shall be the subject of appeal proceedings even if the accused has not appealed against it.

Grounds of appeal.

203. Where the notice of appeal does not state or sufficiently specify the grounds of appeal, the court may direct the appellant to submit grounds, or more detailed grounds, within such time as it may prescribe. If he fails to do so, the court may, at the beginning of the hearing of the appeal, dismiss the appeal for lack of grounds.

Amendment of notice or grounds of appeal.

204. At any stage of the appeal, the appellant may, with the permission of the court, amend the notice of appeal or the grounds thereof.

Hearing of appeal on application for leave.

205. The court may deal with an application for leave to appeal as if it were a notice of appeal.

Withdrawal of appeal.

206. An appellant may withdraw his appeal. However, when the parties have completed their contentions, he shall not do so save with the permission of the court.

Joinder of appeals.

207. Where appeals by more than one party have been filed against a judgment, they shall be joined and heard together: Provided that the court may hear them separately.

208. An appeal shall be heard in the presence of the parties: Provided that if a party, having been summoned, does not attend, the court may hear the appeal in his absence.

Hearing in presence of parties.

209. At the commencement of the hearing of the appeal and before any other submission, a party may request that a particular Judge disqualify himself from sitting in the case. The provisions of sections 146 to 148 shall *apply mutatis mutandis* to a plea of disqualification under this section.

Plea of disqualification on appeal.

210. (a) In an appeal, the appellant shall be heard first and after him the respondent; the appellant may then reply to the contentions of the respondent.

Sequence of contentions in appeal.

(b) Where appeals by an accused person and by a prosecutor have been joined, the accused shall be heard first unless the court otherwise directs. Where appeals by several accused have been joined, the court shall determine the order in which they are to be heard.

(c) The court may permit each party to present additional contentions or to reply additionally to the contentions of another party.

(d) Where the court is asked to decide on the punishment of the accused, the accused's defence counsel, and after him the accused, shall always be entitled to address the court last before the termination of the hearing.

211. The court may, if it considers it necessary to do so in the interest of justice, take evidence or direct the court below to take such evidence as it may direct.

Taking evidence.

212. From the evidence which was before it and before the court below, the court may draw conclusions different from those drawn by the court below, or it may decide that such evidence provides no basis for the latter's conclusions.

Different conclusions.

213. In its judgment, the court may –

Powers of court of appeal.

(1) allow the whole or part of the appeal and vary the judgment of the court below or quash it and give another judgment instead or remit the case, with directions, to the court below; or

(2) dismiss the appeal; or

(3) give, in respect of the judgment, any other decision which the court below would have been competent to give.

214. Where a case has been remitted to the court below, the latter may, subject to the directions of the appellate court, use the evidence taken by it originally without taking it again.

Evidence in case remitted.

Dismissal of appeal although contention allowed.

215. The court may dismiss the appeal even though it has allowed a contention that has been submitted if it is of the opinion that no miscarriage of justice has been caused.

Conviction of different offence.

216. The court may convict the accused of an offence of which he is shown to be guilty by the facts proved, even though it is different from that of which he was convicted by the court below and even though those facts were not alleged in the court below, provided the accused has been given a reasonable opportunity to defend himself However, the court shall not impose a heavier penalty than could have been imposed if the facts alleged in the information had been proved.

Condition for increase of penalty.

217. The court shall not increase the penalty imposed on the accused except where the leniency of the sentence was appealed against.

Reading of judgment in appeal.

218. The court shall read the judgment, including its reasons, in public, shall sign it and shall mark it with the date of the reading. Instead of reading the judgment, the court may deliver a copy thereof to the accused and explain the main points of the contents thereof in public. Where the court acquits the accused or dismisses an appeal against his acquittal, it shall announce the fact at the beginning of the reading and it may –

(1) set out the reasons forthwith or within thirty days from the date of the reading;

(2) read the reasons in public or, with the consent of the parties, serve the same upon them in writing within thirty days after the reading of the judgment.

Explaining right of further appeal.

219. Where the judgment in an appeal is subject to a further appeal, the court shall, upon completing the reading, explain to the accused his right of further appeal and shall notify him of the periods prescribed therefor.

Other directions.

220. Besides as prescribed in this chapter, the court may, *mutatis mutandis*, issue any direction which the court below would have been competent to issue under any law.

Chapter Seven: Special Procedure for Finable Offences

Determination of finable offences.

221. (a) The Minister of Justice may determine that an offence against a particular provision, other than a felony, shall be a finable offence either generally or on such conditions or with such restrictions as he may determine. If the offence is created by or under any Law with the implementation of which another Minister is charged, a determination as aforesaid by the Minister of Justice shall require the consent of that Minister (hereinafter referred to as "the Minister-in-charge").

(b) Where the Minister of Justice determines that a particular offence shall be a finable offence, he shall determine the amount of the fine, and he may determine a different amount for a recurrent or further offence committed by the person concerned or having regard to the circumstances under which the offence was committed:

Provided that the fine shall not exceed the amount prescribed for it in the enactment creating the offence or 2,500 shekalim in respect of a first offence and 5,000 shekalim in respect of a recurrent or further offence, whichever is less.

(c) A determination by the Minister of Justice under this section shall require the approval of the Constitution, Legislation and Juridical Committee of the Knesset.

Option of fine.

222. Where a police officer or a person empowered in that behalf by the Minister of Police or the Minister-in-charge, or an employee of a local authority empowered in that behalf by the head of the authority, as the case may be, has reason to believe that a particular person has committed a finable offence, he may deliver to him a summons in prescribed form. In the summons, the person summoned shall be charged with that offence and shall be given the option of paying a fine of the prescribed amount instead of being tried for that offence.

Payment of fine.

223. (a) A person to whom a summons has been delivered under section 222 may, within fifteen days from the date of delivery, pay the fine specified therein into the clearing account specified therein.

(b) Where a person has paid the fine as provided in subsection (a), he shall be deemed to have pleaded guilty in court and been convicted and to have undergone his punishment.

Non-payment of fine.

224. Where a person has not paid the fine as provided in section 223, the summons delivered to him shall be deemed to be a court summons issued and delivered under Article Six of Chapter Four. If the person is convicted of the offence in court and sentenced to a fine, the fine shall not be less than the amount specified in the summons unless the court considers that special circumstances justify a reduction of the amount.

Information in the case of a finable offence.

225. (a) The designation of an offence as a finable offence shall not derogate from the power of a prosecutor to file an information in respect of such offence where the fine has not yet been paid as provided in section 223 and he is of the opinion that the circumstances of the offence necessitate a trial.

(b) In the case of an offence under the Municipalities Ordinance[17], the Local Councils Ordinance[18] or one of the enactments specified in the Schedule to the Municipal Courts Ordinance[19], a direction to file an information may also be given by the head of the local authority, a deputy head of the local authority empowered in that behalf by the council thereof or another employee of the local authority empowered in that behalf by the council thereof either generally or in respect of particular offences.

Inapplicability of Youth Law.

226. The Youth (Trial, Punishment and Modes of Treatment) Law, 5731–1971[20], except Chapter Five thereof, shall not apply to proceedings under this chapter.

Scope of application.

227. The power under section 221 shall not apply to offences which may be designated as finable offences under another Law, but the provisions of sections 222 to 226 shall apply to such offences.

Option of trial.

228. (a) Where a police officer or a person empowered in that behalf by the Minister of the Interior or the Minister of Transport has reason to believe that a person has committed a finable offence, being a traffic offence within the meaning of the Traffic Ordinance[21], he may deliver to him a payment-of-fine notice. The notice shall be on the prescribed form and shall specify the offence and the amount of the fine prescribed for it.

(b) A police officer or a person empowered in that behalf as stated in subsection (a) shall not deliver to a person a payment-of-fine notice but shall deliver to him a court summons if he has reason to believe that the offence was committed under aggravated circumstances as referred to in section 29 of the Traffic Ordinance.

(c) The Minister of Justice may, with the approval of the Constitution, Legislation and Juridical Committee of the Knesset, designate by order further finable offences in respect of which the option of a trial shall exist, and the provisions of sections 229 and 230 shall apply to them *mutatis mutandis*.

(d) Sections 222 to 225 shall not apply to offences dealt with by this section.

Payment of fine.

229. (a) A person to whom a payment-of-fine notice has been delivered shall, within thirty days from the date of service, pay the fine specified in the

[17] *Dinei Medinat Yisrael (Nusach Chadash)* No. 8, p. 197; *NV* vol. I, p. 247.
[18] *Dinei Medinat Yisrael (Nusach Chadash)* No. 9, p. 256; *NV* vol. I, p. 315.
[19] *Laws of Palestine* vol. II, p. 1015 (English Edition).
[20] *Sefer Ha-Chukkim* of 5731, p. 134; *LSI* vol. XXV, p. 128.
[21] *Dinei Medinat Yisrael (Nusach Chadash)* No. 7, p. 173; *NV* vol. I, p. 222.

notice into the account specified therein unless, within those thirty days, he notifies, in the manner prescribed by regulations, that he wishes to be tried for the offence.

(b) Where a person does not pay the fine in time and does not notify that he wishes to be tried for the offence, he shall pay the fine twice over. It six months have passed without his having paid, the provision of section 67 of the Penal Law, 5737–1977, shall apply to the double fine. The fine shall be collected as provided in section 70 of the Penal Law, 5737–1977.

(c) A person who has paid the fine shall be deemed to have pleaded guilty in court and been convicted and to have undergone his punishment.

Summons.

230. A person who notifies under subsection 229 (a) that he wishes to be tried for the offence shall be sent a court summons. The court may, for reasons which shall be recorded, hold the trial even if the notification is made out of time.

Chapter Eight: Miscellaneous Provisions

Stay of proceedings.

231. (a) At any time after the filing of the information and before the finding, the Attorney-General may, by reasoned notice in writing to the court, stay the proceedings. Where notice as aforesaid has been given, the court shall discontinue the proceedings.

(b) The Attorney-General may delegate to a Deputy Attorney-General, either generally or in respect of particular classes of matters or a particular matter, his power to stay proceedings under subsection (a) where the charge is an offence other than a felony.

Resumption of proceedings.

232. Where proceedings have been stayed under section 231, the Attorney-General may, by written notice to the court, reopen them so long as, in the case of a felony, five years or, in the case of a misdemenour, one year have or has not elapsed since the date on which they were stayed. Where notice as aforesaid has been given, the court shall resume the proceedings, and it may continue them from the stage which they had reached before the discontinuance. Proceedings which have been stayed a second time shall not be reopened.

Continuance of trial before other Judge.

233. So long as the taking of evidence has not begun, another Judge may continue the trial from the stage which his predecessor had reached. Where the taking of evidence has begun and for any reason whatsoever a Judge is unable to complete the trial, another Judge may continue the trial from the stage which his predecessor had reached, and he may, after giving the parties and opportunity to be heard, treat the whole or part of the evidence taken by his predecessor as if he himself had taken it, or take it again.

Change in composition of bench.

234. The provisions of section 233 shall also apply, *mutatis mutandis*, where the court consists of three or more Judges.

Powers of Judge and Presiding Judge.

235. Where the court consists of three or more Judges, every power vested in the court by this Law – including the power to do any act which the court is required to do – shall, so long as the court has not been constituted, vest in every Judge of the court and shall, when the court has been constituted but is not sitting, vest in the Presiding Judge. An act under section 15, 83, 105(a), 135, 140, 143, 145, 196 or 219 shall be done by the Presiding Judge even when the court is sitting.

Death of accused.

236. Upon the death of a person, any criminal proceedings against him shall cease.

Service of documents.

237. (a) Where a document is to be served upon a person under this Law, service shall be effected in one of the following ways:

(1) by delivery into his hands or, if he cannot be found at his place of residence or business, into the hands of a member of his family who lives with him and appears to have completed his eighteenth year or, in the case of a body corporate or a body of persons, by delivery at its registered office or into the hands of a person duly authorised to represent it;

(2) by posting a registered letter, with certificate of delivery, to the address of the person, body corporate or body of persons; the court may regard the date of the certificate of delivery as the date of service.

(b) Delivery of the document into the hands of the accused's defence counsel or delivery thereof at the office of the defence counsel into the hands of his clerk, or the posting of a registered letter, with certificate of delivery, to the address of the office of the defence counsel, shall be deemed to be service upon the accused unless the defence counsel notifies the court, within five days, that he is unable to bring the document to the knowledge of the accused.

(c) Where the court is satisfied that service under this section was not effected owing to refusal to accept the document or letter or to sign the certificate of delivery, it may deem the document to have been duly served.

(d) Where the court is satisfied that it is impossible to serve the document as provided in subsection (a) or (b), it may direct that it be served in one of the following ways:

(1) by affixing a copy thereof in the courthouse in a conspicuous position, or at the addressee's last known place of residence or business;

(2) by publishing a notice in *Reshumot* or in a daily newspaper;

(3) in such other manner as it may think fit.

Defects not impairing validity of proceedings.

238. A technical flaw in the drawing up of a document drawn up under this Law shall not impair the validity of proceedings thereunder. However, where the court apprehends that an injustice may thereby be caused to the accused, it may adjourn the hearing to another date or issue any other direction in order to allay that apprehension.

Summonses in cases of minor offences.

239. In respect of offences under the Traffic Ordinance or the regulations made thereunder, the Municipalities Ordinance or the Motor Vehicles Insurance Ordinance (New Version), 5730–1970[22], or any other enactment designated in that behalf by the Minister of Justice with the approval of the Constitution, Legislation and Juridical Committee of the Knesset, the Minister of Justice may, by regulations, enact rules as to the filing of charges and service of documents even in deviation from the provisions of this Law.

Special rules of procedure in cases of traffic offences.

240. (a) In respect of offences under the Traffic Ordinance or the regulations made thereunder or the Motor Vehicles Insurance (New Version), 5730–1970, which did not cause a road accident in which a person sustained actual injury, offences defined as finable offences and offences under any other enactment designated in that behalf by the Minister of Justice with the approval of the Constitution, Legislation and Juridical Committee of the Knesset, the Minister of Justice may prescribe by regulations, generally or subject to restrictions –

(1) that an accused person who has not attended in court and has not given notice under section 123 shall be deemed to have admitted all the facts alleged in the information and may be tried in his absence;

(2) that the court may sentence an accused person as referred to in paragraph (1) in his absence, provided that it does not in his absence impose on him a penalty of imprisonment, other than imprisonment for non-payment of a fine;

(3) that an accused person who gives notice under section 123 may request in such notice that the court sentence him also for other offences he admits having committed, and if he is convicted, in his absence, on his admission of the offence with which he is charged, the provisions of section 39 of the Penal Law, 5737–1977, shall apply.

[22] *Dinei Medinat Yisrael (Nusach Chadash)* No. 15, p. 320; *NV* vol. II, p. 74.

(b) A convicting judgment given under regulations pursuant to subsection (a) (1) may, on the application of the convicted person filed within fifteen days from the day on which the judgment is served on him, be quashed by the court which gave it, and the court may quash it at any time on the application of a prosecutor filed with the consent of the Attorney-General.

Investigators and prosecutors under other enactment.

241. (a) The provisions of this Law shall not derogate from the power of a person competent under another enactment to investigate the offence or conduct the prosecution.

(b) An investigator as aforesaid shall transmit the investigation material to the District Attorney: Provided that if the enactment designates another person as competent to conduct the prosecution of the offence, he shall transmit the investigation material to such other person.

Power of District Attorney.

242. Every power vested by this Law in a District Attorney may be exercised by the State Attorney or a Deputy State Attorney, and the State Attorney may, with the approval of the Attorney-General, confer any such power on another attorney of the State Attorney's Office.

Saving of laws.

243. Unless otherwise expressly provided, the provisions of this Law shall not derogate from the provisions of the Courts Law, 5717–1957.

Implementation and regulations.

244. (a) The Minister of Justice is charged with the implementation of this Law and may make regulations as to any matter relating to its implementation.

(b) The Minister of Justice may, in consultation with the Minister of the Interior, make rules for the coordination of the activities of the State Attorney's Office and the Police.

Commencement.

245. This version shall come into force on the 10th Tammuz, 5742 (1st July, 1982).

FIRST SCHEDULE
(Sections (b) and 188(b))

1. Offences under the Commodities and Services (Control) Law, 5718–1957[23], committed in respect of foodstuffs;
2. offences under the Public Health (Food) Ordinance, 1935[24];
3. offences under the Standards Law, 5713–1953[25], committed in respect of foodstuffs.

[23] *Sefer Ha-Chukkim* of 5718, p. 24; *LSI* vol. XII, p. 24.

[24] *P.G.* of 1935, Suppl. I, p. 56 (English Edition); *Sefer Ha-Chukkim* of 5739, p. 50 – *LSI* vol. XXXIII, p. 53.

[25] *Sefer Ha-Chukkim* of 5713, p. 30; *LSI* vol. VIII, p. 24.

SECOND SCHEDULE
(Sections 64 and 68)

1. Offences under sections 189, 190, 192, 194, 223, 334, 336 opening passage, 379, 380, 428 opening passage, 447 unless the offence is committed while the offender is carrying a firearm or cutting weapon, 452, 494 and 496 of the Penal Law, 5737–1977;
2. offences under section 11 of the Abatement of Nuisances Law, 5721–1961[26];
3. offences under section 3 of the Copyright Ordinance[27];
4. offences under section 3 of the Merchandise Marks Ordinance[28];
5. offences under section 23(1) of the Consumer Protection Law, 5741–1981, being infringements of section 17 or 18 of that Law or of an order under the said section 17;
6. offences under section 60 of the Trade Marks Ordinance (New Version), 5732–1972[29];
7. offences involving a transfer of possession, assistance in obtaining possession, or obtaining possession, under section 108 of the Tenants' Protection Law (Consolidated Version) 5732–1972[30];
8. offences under the Knesset Elections Law (Consolidated Version), 5729–1969[31];
9. offences under the Local Authorities (Elections) Law, 5725–1965[32];
10. offences under the Public Bodies (Election) Law, 5714–1954[33];
11. offences under the Telegraphic Press Messages Ordinance[34];
12. offences under the Protection of Privacy Law, 5741–1981[35];

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[26] *Sefer Ha-Chukkim* of 5721, p. 58; *LSI* vol. XV, p. 52.
[27] *Laws of Palestine* vol. I, p. 389 (English Edition); *Sefer Ha-Chukkim* of 5713, p. 38 – *LSI* vol. VII, p. 30.
[28] *Laws of Palestine* vol. II, p. 916 (English Edition).
[29] *Dinei Medinat Yisrael (Nusach Chadash)* No. 26, p. 511; *NV* vol. II, p. 292.
[30] *Sefer Ha-Chukkim* of 5732, p. 176; *LSI* vol. XXVI, p. 204.
[31] *Sefer Ha-Chukkim* of 5729, p. 103; *LSI* vol. XXIII, p. 110.
[32] *Sefer Ha-Chukkim* of 5725, p. 248; *LSI* vol. XIX, p. 261.
[33] *Sefer Ha-Chukkim* of 5714, p. 110; *LSI* vol. VIII, p. 92.
[34] *Laws of Palestine* vol. II, p. 1404 (English Edition).
[35] *Sefer Ha-Chukkim* of 5741, p. 128; *LSI* vol. XXXV, p. 136.