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STATE  
OF ISRAEL  
PUBLIC  
COMPLAINTS  
COMMISSIONER  
ANNUAL  
REPORT 19  
SELECTED  
CHAPTERS  
JERUSALEM  
1991





STATE OF ISRAEL  
PUBLIC COMPLAINTS COMMISSIONER

# ANNUAL REPORT 19

(1989/90)

SELECTED CHAPTERS TRANSLATED FROM  
THE ORIGINAL HEBREW

JERUSALEM, 1991

### **TRANSLATOR'S NOTE**

In the interest of style and brevity, the statutory name "Public Complaints Commissioner" is referred to as the "Commissioner" and her staff as the "Commissioner's Office".

The working year of the Commissioner corresponds to the Hebrew calendar, which starts approximately in September of each year.

The Nineteenth Annual Report of the Public Complaints Commissioner, submitted to the Knesset, contains a limited selection from thousands of complaints investigated during the Hebrew year 5750 (1989/1990). Nevertheless, it is possible to glean from these selections the varied subject matter which the Commissioner's Office has handled. The complaints chosen highlight numerous characteristics distinguishing both the complainants and the agencies against whom complaints were submitted.

Once again, the investigation of complaints reveals cases of improper administration, overly rigid attitudes, unjust acts, and even violations of the law, as manifested in the relationship between the citizen and the public service. From the standpoint of the complainants, the present report also contains examples of complaints submitted not by the "little man", but rather by commercial entities who base their complaints on matters arising in a business-related dispute. This serves as testimony to the fact that these entities also view the Commissioner's Office as the proper channel for deciding their disputes with governmental agencies.

At times the governmental agency operates with excess "efficiency", while ignoring the rights of the citizen. This type of "efficiency" finds expression in those cases in which governmental authority was executed without conducting the requisite, initial investigation into the limits of such authority, so that appropriate caution could be taken not to overstep these limits. Thus it happened that a citizen was billed without legal authority to do so and a lien was placed on the assets of another individual on the basis of a demand for the payment of taxes without first conducting a suitable investigation into the facts. Similarly, in another instance, possessions were seized and detention was executed without a basis at law.

The Legislature recently broadened the authority of the Commissioner with the aim of expanding the circle of workers meriting protection from harrassment or unjustified dismissal. The specific legislative act, Amendment No. 15 of the State Comptroller Law, grants special protection to internal auditors from injury inflicted by their employers in reaction to acts performed in fulfilling their function as auditor.

However, there is a thorn in this bed of roses. On the one hand, the employer-employee relationship has consistantly merited a special status,

derived from the fact that a personal service contract, which must be founded on trust, is not given to specific performance. On the other hand, the need exists to encourage a position safeguarding the regularity and moral standards of the administration, without causing harm to the worker who so acts, whether out of his personal conscience or as part of his function as internal auditor. Finding a balance between these two aims – as in the case of balancing conflicting principles, which not infrequently occupies the High Court of Justice – is one of the difficult assignments which the Commissioner is called upon to handle.

In this report are two complaints of workers, who were dismissed from their positions due to their disclosure of acts of corruption in the entities at which they worked; these complaints were found to be justified. In both instances, the Commissioner made use of the authority granted her under section 45C of the State Comptroller Law and ordered the employers to reinstate the workers to their former positions.

Particularly at the present time, when tens of thousands of immigrants are arriving in Israel who require aid and assistance at an intensified pace, a special request is being made of the governmental entities to offer a shoulder and lend an ear to the wishes and desires of all who require their services.



**Miriam Ben-Porat**  
State Comptroller  
and Public Complaints  
Commissioner  
Jerusalem, April 1991.

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## **GENERAL SURVEY**

### **1. AMENDMENTS TO THE STATE COMPTROLLER LAW**

On March 28, 1990, Amendment No. 15 of the State Comptroller Law took effect, bringing an expansion of the authority of the Public Complaints Commissioner in addition to that already established by Amendment No. 11 of the Law. Amendment No. 11 had provided a special arrangement, in sections 45A – 45E of the State Comptroller Law, to protect an employee of an agency subject to state inspection, who uncovers acts of corruption in the agency at which he is employed.

The innovation of the most recent amendment is the expansion of this special arrangement through its application to the internal auditor of an agency subject to state inspection; the internal auditor is protected in fulfilling his function as auditor, even if the faulty conduct which he uncovers does not constitute actual acts of corruption.

Given the importance of the role of internal auditor, the legislator felt it necessary to strengthen his position by granting him a certain degree of security in his work, this in order to enable him to fulfill his function in the proper fashion. To this end, the legislator made an addition to section 45A of the Law, authorizing the Commissioner to grant protection to the internal auditor of an agency subject to state inspection. The amended section 45A now provides that an internal auditor, harmed by his superior because of actions taken in his role as auditor, may submit a complaint to the Commissioner, and the Commissioner may issue any order viewed as appropriate for protecting the rights of the internal auditor.

### **2. DATA ON THE NUMBER OF COMPLAINTS AND THEIR OUTCOME**

1. In the Hebrew year 5750 (1989/1990), the Commissioner's Office received 6,415 direct complaints. This is an increase of 3.7 percent over the previous year when 6,185 complaints were received; the average increase per month is actually 12.4 percent when taking into account that the previous Hebrew year was a leap year having one extra month. In addition to these direct complaints, the Commissioner's Office received

copies of complaints which had been sent to other bodies. As is customary in the Commissioner's Office, information contained in the copies of complaints, which concerned bodies subject to state inspection, was forwarded to the appropriate unit in the State Comptroller's Office.

As in previous years, the various branch offices of the Commissioner's Office also handled oral complaints (see ahead, section 3).

In the Hebrew year 5750, the handling of 6,421 cases was completed:

(a) Of 4,068 cases whose substance was dealt with, 1,503 cases (37%) were found justified (in 5749 – 43%).

(b) 997 cases were halted at various stages of the investigation, without substantive disposition. For the most part they were cases where the problem was solved in the course of the investigation, or where the complainant did not reply to questions posed by the Commissioner's Office.

(c) 1,356 cases could not be investigated because they did not meet the criteria set by sections 36 and 37 of the State Comptroller Law, or because they fell into the category of items mentioned in sections 38 and 39 of that same law.

At the end of the year 5750, 2,832 cases were left open (at the end of 5749 – 2,838).

2. For data on the breakdown of complaints by various bodies, see table 1.

Table 2 presents a breakdown of complaints into major categories: Social Welfare, Local Authorities, Behaviour towards the Public, Telephone and Postal Services, Taxes, Rights of Workers.

### 3. BRANCH OFFICES HANDLING ORAL COMPLAINTS

The Commissioner's Office has five branch offices which receive oral complaints (Jerusalem, Tel Aviv, Haifa, Beer-Sheba, and Nazareth). Their activities have been described in detail in prior annual reports of the Commissioner. When the Commissioner's Office was first established, the role of these branch offices was to record complaints submitted orally, as

required by section 34 of the State Comptroller Law. However, it soon became apparant that these offices could not serve the needs of the public by merely recording the complaints; in fact it was necessary to offer additional assistance to the complainants. Experience has since demonstrated that these branch offices are often able to act quickly and effectively in solving the problem at hand through a shortened form of investigation; this is particularly true in urgent matters which necessitate immediate handling but do not require a lengthy factual investigation or complex legal analysis.

#### 4. INTERNATIONAL CONTACTS

1. In March 1990, Dr. Söderman, the Parliamentary Ombudsman of Finland and his aids, visited Israel while on a tour of the Finnish military units serving in the Middle East. During their visit to Jerusalem, Dr. Söderman and his aids accompanied by Mr. Korvenheimö, the Ambassador of Finland, met with the State Comptroller of Israel and Public Complaints Commissioner Justice Miriam Ben-Porat, and senior personnel in her office, and discussed a variety of issues of mutual interest.
2. In October 1990, Justice Miriam Ben-Porat visited Berne and took part in a working session on financial auditing with her counterpart, the Swiss State Comptroller Dr. Schlaeppi. She also met with the recently appointed Director of the Organization for the Audit of the Administration on behalf of the Federal Government, Dr. Hahnloser.
3. In October 1990, the Second Conference of European Ombudsmen convened in Italy (Trento and Bolzano) and in Austria (Innsbruck). The topic for discussion was a comparative study of the various ombudsman institutions in Europe. Justice Miriam Ben-Porat attended on behalf of Israel, and was accompanied by Mrs. Mirella Bamberger, senior assistant to the Public Complaints Commissioner.
4. After the conference, Justice Miriam Ben-Porat met in Rome with her Italian counterpart, the President of the Court of Accountancy Dr. Carbone, as well as with the President of the Court of Appeals Dr. Brancaccio and the Deputy President of the Constitutional Court Professor Gallo. At these meetings ideas were freely exchanged, and topics of common interest were discussed.

## **SUMMARIES OF SELECTED CASES**

## MINISTRY OF FINANCE

### SUPERFLUOUS LIEN ARISING FROM VAT DEBT

1. The complainant, the director of an industrial company in Kiryat Malachi, submitted a complaint to the Commissioner's Office in July 1989, stating that a division of the Judgment Execution Office, acting on behalf of the Value Added Tax (VAT) authorities, executed a lien, without justification, in the company's office on June 24, 1989. The complainant claimed that the party executing the lien demanded the immediate payment of an amount in excess of NIS 20,000, or the imposition of a lien on company assets for that amount. At the time the complainant argued to no avail that the debt actually owed was much smaller than the amount demanded to be paid, and that in any case the entire matter was in discussion before the VAT authorities. In the process of the execution of the lien, an electric typewriter and computer equipment were taken.

The complainant added that after the lien was executed, a call was placed to the VAT district office in Ashdod protesting the event. The district manager stated that upon payment of a check postdated for July 5, 1989, he would be willing to return the company's equipment. With no other choice available, the complainant agreed, and soon after providing the check, the equipment was returned.

2. The investigation of the complaint revealed:

(a) Section 4 of the Tax (Collection) Ordinance provides:

"Where any amount has been duly assessed upon any person in respect of any tax and such person fails to pay the amount within fifteen days after it has become payable by him, and after service upon him of a written demand, calling upon him to pay the sum due and unpaid, a collection officer shall issue a warrant to a tax collector commanding him to demand immediate payment of the sum due, and in default of payment, to levy it by the seizure and sale of the movable property of the person by whom it is payable in the manner herinafter mentioned."

(b) In March 1989, the VAT district office in Ashdod assessed the company for the following amounts: a base tax amount of NIS 6,828; linkage and interest costs amounting to NIS 5,397; and a fine amounting

to NIS 6,132; the total amount owed was NIS 18,357. Pursuant to the Value Added Tax Law, the company was required to pay the debt within 30 days after notice of such debt was provided, but the complainant did not act in a timely manner.

(c) On May 2, 1989, the company was sent a demand for payment of the debt in accordance with aforesaid section 4, and thus began the collection proceedings against the company.

(d) On May 7, 1989, the company's accountant submitted a check in the amount of NIS 12,225 (the base amount and linkage and interest charges) to the VAT district office in Ashdod. The accountant requested that the entire fine be cancelled in light of the difficult financial situation of the company.

(e) The VAT district office deposited the check into its bank account on May 11, 1989, without commenting on the request to cancel the fine. On May 19, 1989, the office issued a lien order against the company for NIS 20,168, namely the full amount of the original debt of NIS 18,357, plus linkage and adjustments based on the cost of living index published on May 15, 1989.

(f) On June 13, 1989, the VAT district manager sent a letter to the company's accountant and commented for the first time on the request to cancel the fine. He stated that an answer would be given "before the end of the month."

(g) Less than two weeks later, on June 26, 1989, the lien was imposed as detailed earlier, after payment was demanded for a sum in excess of NIS 20,000.

(h) The VAT district manager claimed that only upon receiving the complainant's telephone call did he realize that a mistake had been made in the amount of the debt which the tax collector demanded to be paid. Since at the time a decision had not yet been made regarding cancellation of the fine, the manager found it appropriate, in his own words, to condition the freeing of the assets on the payment of a postdated check to ensure future payment of the debt.

(i) The complainant and the tax authorities disagree as to whether a warning had been given prior to the imposition of the lien. The district manager claims that a written warning was posted outside the

complainant's office on June 16, 1989 since the office itself was closed. The complainant maintains that no warning reached the company.

(j) Shortly after the complaint was submitted to the Commissioner's Office, the tax authorities decided to cancel the fine as the company had requested.

**3. The Commissioner ruled that the complaint was justified.**

(a) Upon payment of the amount of NIS 12,225, the greatest portion of the debt had been cleared, and the remaining debt consisted only of the fine of approximately NIS 6000 which the company had requested be cancelled. Without first having considered this request to cancel the fine, it was not justified to begin proceedings for the collection of the debt, which to a large extent had already been paid.

The claim of the district manager that on May 19, 1989, the date on which the lien order was given, the payment of NIS 12,225 had not yet been registered in the computer, is unacceptable as his very office received and deposited the company's check to the credit of the company in the VAT bank accounts. Therefore, the VAT's actions can only be explained by their failure to follow-up on the processing of the check.

(b) Even after the NIS 12,225 payment was registered in the computer, the VAT office did not bother to adjust the amount of the debt recorded in the lien documents which continued to appear as a sum in excess of NIS 20,000.

The law with respect to collection requires, that after the start of collection proceedings, the agency must verify the amount of the debt outstanding in order to ascertain whether the debtor had in the interim paid all or part of the debt and to correct accordingly the lien documents. The Commissioner noted before the tax authorities that the lien, as it related to sums already paid, was unlawful, and that the conduct of those in the VAT district office violated both the provisions of the law and the rules of procedure of the Customs and VAT Department.

(c) The Commissioner is of the opinion that under the circumstances of the case, the execution of the lien was totally inappropriate. As stated earlier, the VAT district manager had notified the company that a decision would be made on the request to cancel the fine "by the end of the month"; the imposition of the lien only a few days before the handing

down of this decision should not have taken place and contradicts the principles of proper administration.

In light of the aforesaid, the Commissioner concluded that the district manager had acted improperly in conditioning the release of the lien on payment of a postdated check. Upon receiving the complainants telephone call at the time of the imposition of the lien, it was his duty to instruct that the lien be released immediately and without preconditions.

4. The Commissioner brought to the attention of the head of the Customs and VAT Department the improper acts which the investigation had revealed.

5. The head of the Customs and VAT Department notified the Commissioner that he accepts the findings and conclusions of the investigation and agrees that the lien proceedings were without basis. He expressed his regret over the events which had occurred.



## MINISTRY OF LABOR AND SOCIAL WELFARE

### STUDENT AT AGE OF COMPULSORY EDUCATION EXPELLED FROM SCHOOL

1. (a) The complainant is a resident of Bat Yam. Her son, at the age of compulsory education, studied in the ninth grade of a vocational school under the supervision of the Ministry of Labor and Social Welfare. The principal of the school informed the complainant on several different occasions that her son was often absent from class and during school hours would frequent the coffee house located nearby. The conduct of the son did not improve, and in January 1990, the principal expelled him from the school, with assurances given by the school advisor that he would be placed in an alternative educational framework.

(b) In her complaint of April 1990 to the Commissioner's Office, the complainant noted that her son had not been placed in any educational institution as had been promised by the school advisor.

2. The State Education (Transfer) Regulations, 5719-1959 (hereafter: the Regulations), deal with the transfer of students from one educational institution to another. The Regulations apply primarily to official institutions, and in certain limited instances also to "recognized" institutions (that is - institutions declared as "recognized" by the Minister of Education and Culture). However the school at which the complainant's son studied, which is under the supervision of the Ministry of Labor and Social Welfare, has neither the status of an official institution nor a recognized institution, (in as much as the Minister of Education and Culture never declared it as such), and therefore the Regulations do not apply to this school.

In addition, the school itself is not located in the municipality of which the complainant is a resident (Bat Yam) but rather is within the Tel Aviv - Jaffa municipal boundaries.

3. The investigation of the complaint revealed:

(a) The rules of the Ministry of Labor and Social Welfare provide that a student may be expelled from an educational institution under its supervision upon authorization by the Ministry supervisor responsible for that institution.

(b) In light of the absences of the complainant's son from class and his irregular behavior as described earlier, the school's supervisor decided to authorize expelling the son, "but subject to his placement within the municipal authority". As the investigation revealed, this condition was not met.

(c) In response to an inquiry made by the Commissioner's Office, the Ministry of Labor and Social Welfare stated that the division which is responsible for supervising schools "does not operate within the framework of the Compulsory Education Law with respect to youth aged 14" (the age of the complainant's son at the time he was expelled).

This response of the Ministry is difficult to comprehend, as the Compulsory Education Law, 5709 – 1949, is applicable to students between the ages of 5 and 15, whether they study in schools under the supervision of the Ministry of Education and Culture or whether in schools under the supervision of the Ministry of Labor and Social Welfare.

(d) In the process of the investigation, the principal of the school in question was also approached for comment. She noted that she had offered the complainant several possibilities for the placement of her son in a different school, but these were not acceptable to the complainant.

(e) The investigation also revealed that the Bat Yam municipality in which the complainant lived, attempted to arrange placement of her son at three different schools. No additional attempts were made when these efforts failed.

4. Since none of the above entities was willing to assume full responsibility and ensure compliance with the terms set by the supervisor, the son remained outside an educational framework from January 1990, the time at which he was expelled from the school in Jaffa, until October of that year when he was placed in a school in Bat Yam after the Commissioner's Office intervened.

**5. The Commissioner ruled that the complaint was justified.**

It is a grave situation when a student of compulsory education age remains, for many months, outside an educational framework.

The Commissioner cited before the Ministry of Labor and Social Welfare the need to issue clear and direct instructions to schools under its supervision and to the division of the Ministry responsible for supervision of these schools, stating unequivocally that no student of compulsory education age may be expelled from a school until an alternative educational framework has been found for him. In the case at hand, the supervisor did in fact condition the expulsion of the student on his placement in the local authority's school system; however, the school ignored this condition and similarly the Ministry of Labor and Social Welfare did not require the principal to return the student to class until his placement in another institution had been arranged.

6. The Ministry of Labor and Social Welfare informed the Commissioner that it had adopted the instructions issued by the Ministry of Education and Culture on the subject of expelling students. These instructions were brought to the attention of both the principal of the school involved, as well as the division responsible for supervising Ministry schools.

7. The Commissioner instructed that the matter be brought to the attention of the unit in the State Comptroller's Office responsible for auditing the Ministry of Labor and Social Welfare.

## MINISTRY OF TRANSPORT

### UNDERTAKING NOT TO DRIVE IS NOT DISQUALIFICATION

1. In a traffic accident which occurred on April 3, 1986, the complainant, the driver of the vehicle, was seriously injured and his wife was killed. On June 10, 1986, the police disqualified the complainant from carrying a driver's license for 90 days, and took away his license. When criminal proceedings were initiated against the complainant, he requested from the Attorney General a stay in court proceedings. On March 26, 1987, the Attorney General granted the complainant's request in light of the tragic circumstances of the accident, and "since the accused (the complainant) undertook not to drive and not to request a driver's license for a period of not less than three years (from March 2, 1987)." The complainant notified the Licensing Department of this undertaking on March 2, 1987.

In November 1988, the Licensing Department notified the complainant that according to the information in the Department's computer, a temporary driver's license had been issued to him on September 22, 1987 for a period of three months, and that this information, at first glance, indicates a departure from the 'undertaking which he gave to the Attorney General. Therefore, it would be necessary to calculate the three year period of the undertaking starting from December 31, 1987, the expiration date of the temporary licence issued to him, rather than from March 2, 1987 (the date of the undertaking as aforesaid), with the result that renewal of the complainant's license could not take place before December 31, 1990.

The complainant explained to the Licensing Department that he had received a temporary license in September 1987 as claimed, but without any request or other intervention on his part to receive the said license. He added that from the date of the accident, he had not driven at all and had not breached his undertaking with the Attorney General.

The Legal Adviser for the Ministry of Transport responded to the attorney representing the complainant as follows:

"When a person is involved in the disqualification process, the Licensing Department does not take the initiative to mail him a drivers license, and this is true even after the disqualification has

ended; rather, the citizen, in general, must present the Licensing Department with court authorization and request the renewal of his license... . The Licensing Department does not mail, at its own initiative, temporary licenses to individuals' homes. Therefore, at face value, the factual claims of your client (that he didn't request a license – editor's note) do not appear correct.”

2. In November 1989, the complainant turned to the Commissioner's Office and requested the Commissioner's intervention.

The complainant submitted with his complaint letters which he had received from the Licensing Department, whose contents strengthen his claim that the temporary license was mailed to him solely at the initiative of the Licensing Department:

(a) A letter dated September 21, 1987, notifying the complainant that according to the results of his medical examination, he is fit to drive a motor vehicle. At the bottom of the letter was noted: “License attached.” The complainant clarified that he underwent a medical examination at the Department's request and noted that a license was in fact attached to this letter.

(b) A letter dated May 2, 1988, bringing to the complainant's attention that his license had expired on June 15, 1987, and that the Traffic Regulations do not permit renewal of a license which expired more than a year before, unless the driver undergoes certain tests and examinations.

The complainant believes, based on the content of these letters, that the Licensing Department did not pay due attention to his letter of March 2, 1987 in which he notified the Department as to his undertaking with the Attorney General.

The complainant also claimed that the Licensing Department erred in terming his case one of disqualification within the meaning of the Traffic Ordinance and that, in fact, it was a case of an undertaking governed by the Laws of Contract.

3. The Licensing Department argued its previously stated position before the Commissioner's Office. The Legal Adviser for the Ministry of Transport explained that in his opinion, the significance of the undertaking is in fact disqualification within the meaning of the Traffic Ordinance and its related regulations.

**4. The Commissioner ruled that the complaint was justified.**

(a) The complainant was not disqualified to carry a driver's license, neither by a judicial body nor by the Licensing Department or any other authority, and therefore the provisions of the Traffic Ordinance and related regulations, which concern disqualification, are not applicable.

The general rule is that an administrative authority may not place limitations on the citizen unless empowered to do so by law. Since the complainant was not disqualified within the meaning of the Traffic Ordinance, the Licensing Department has no authority to require him to be bound by the provisions of the Ordinance.

(b) At hand is simply the decision of the Attorney General, empowered by section 231 of the Criminal Procedure Law, 5725-1965, to stay the proceedings against the complainant. This decision was based in part on the undertaking of the complainant not to drive his car for three years, beginning on March 2, 1987 and ending on March 2, 1990, and similarly not to request a license during this period.

(c) For the sake of clarity and proper procedure, the complainant notified the Licensing Department of his undertaking with the Attorney General without any obligation at law to do so. If the complainant is in breach of this undertaking, it is the Attorney General who is authorized under law to consider renewing the judicial proceedings. In other words, the matter falls solely within the responsibility and authority of the Attorney General, and not within the responsibility of the Licensing Department.

(d) There is no concrete evidence that the complainant breached his undertaking. The position of the Licensing Department that it is not customary for a license to be sent without first receiving a request is a general claim requiring verification with respect to the specific case at hand, particularly since the complainant made an initial showing that the sending of the license to him in September 1987 was at the initiative of the Licensing Department.

Under these circumstances, the burden of proof passes to the party claiming that the complainant actually requested the license. Without proof to the contrary, the complainant is viewed as having fulfilled his undertaking.

(e) In any event, the Licensing Department is not authorized under law to delay the renewal of the complainant's driver's license with the claim that he breached his undertaking.

The Licensing Department is authorized to require a driver requesting renewal of his license to undergo testing and examinations if his license had expired more than a year before he submitted his request. This represents the full extent of the Licensing Department's authority vis a vis the complainant.

5. The Commissioner instructed the Licensing Department that the Department was not authorized at law to delay the renewal of the complainant's license, and that the renewal would have to be permitted, subject to compliance with the testing and examination requirements as aforesaid.

6. The Licensing Department acted in accordance with the Commissioner's ruling.

## ISRAEL POLICE FORCE

### DEGRADING METHOD OF QUESTIONING

1. (a) The complainant entered a complaint before the Ministry of Police on February 3, 1988 in which she claimed that she was questioned at the Kfar Saba police station in a degrading and shameful manner. She also claimed that no reason was given for her questioning, and that her repeated requests to be informed of the grounds of the investigation went unanswered. According to her complaint, the investigator asked her embarrassing, intimate questions and required her to write a letter three times in her own handwriting, the contents of which he dictated to her. The letter contained loathsome, pornographic language replete with vulgar descriptions of sexual conduct. It was not explained to her why all this was necessary.

After the fact it became clear that the reason for her questioning was a complaint submitted by her neighbor to the police in which she was suspected of having sent a pornographic letter under her neighbor's name.

(b) In her complaint to the Commissioner's Office in August 1988, the complainant claimed that there was no justification for the degrading questioning described earlier; in her words, the questioning led to her emotional breakdown. Moreover, in her impression, the police did not intend to conduct a serious and thorough investigation. As a result, she turned to the Commissioner's Office.

2. The investigation of the Commissioner's Office revealed:

(a) On January 12, 1988, the neighbor of the complainant submitted a complaint to the police station in her neighborhood. In the complaint the neighbor stated that a few days earlier she had received by mail a letter from a young man responding to an offer which he claimed had been made by her to engage in sexual relations. She telephoned the young man at the number listed in the letter, and he explained that he had received a letter from her by mail and was responding to it. In accordance with her request, he sent her the letter which was replete with obscene sexual descriptions, including an offer to engage in sexual relations.



(b) In her statement to the police, the neighbor expressed her suspicion that the complainant had sent the letter to the young man because of a disagreement between herself and the complainant as to the building quality of the apartment house in which they lived, and charges which the complainant had made against her (i.e. the neighbor's) husband who was the contractor responsible for construction of the building.

(c) In order to perform a handwriting comparison, the neighbor's husband provided the police with a letter written by the complainant in 1986.

(d) As a result of the complaint which the complainant had submitted to the Ministry of Police, the investigator involved in the case was summoned for questioning during an internal police investigation. In his statement before the complaints officer who conducted the police investigation, he emphatically denied the complainant's charges. According to his version, he did not ask any intimate questions. He maintained that before taking the complainant's statement, he clarified what she was suspected of, and only after requested that she write down what he dictated to her. The investigator also claimed that he had presented the complainant with the letter which she was suspected of having written, a fact which was omitted in her complaint to the police.

(e) In reference to an inquiry made by the Commissioner's Office, the officer of the Complaints Division at the national headquarters of the Israel Police Force emphasized the importance attached to the suspect's own writing, several different times, of the contents of the document under examination.

The officer of the Complaints Division added:

"In essence the dictation of the letter to the complainant is an objective act and if this harmed her because she is "thin-skinned", it is regretful." (Involved is a complainant, born in 1946, mother of children).

The officer of the Complaints Division informed the Commissioner's Office that on April 4, 1989 the handwriting sample was forwarded to the Department for Criminal Identification which determined that there was no common identity between the handwriting of the complainant and the handwriting of the author of the pornographic letter.

(f) In the course of the investigation by the Commissioner's Office, the head of the documents laboratory at the Department for Criminal Identification stated that according to the professional guidelines of the laboratory, it is preferable that a person suspected of having written a document write in his own handwriting the exact contents of that document. The fact that the letters of the two handwritten documents follow the same order, makes it easier to compare them. He also explained why it is important for the suspect to write the same text several times.

Nevertheless, the head of the laboratory noted, it is possible to waive this requirement when the text of the document under inspection might harm the sensitivities of the suspect; in such a case it is possible to suffice with the writing of any text.

3. The Commissioner determined:

(a) The writing of a loathsome, pornographic letter, may also harm those who are not "thin-skinned" or overly sensitive. The reading of such a document, found in the investigation file, is not comparable to the dictation of such a document several times to the suspect. This act indicates a lack of sufficient sensitivity towards the suspect, and causes the questioning to be shameful and degrading.

(b) The police investigator should have refrained from any possible injury to the complainant. It is fitting that the investigator first verify, with the appropriate parties in the police department – particularly the professionals at the Department for Criminal Identification – whether the writing of a letter with its precise language is essential, or whether under the particular circumstances and after consideration of the text of the letter, it is possible to waive this requirement and suffice with the writing of a different text.

(c) The police must refrain as far as possible from causing harm to the party being questioned, particularly when there is no real evidence against that party and only mere suspicions exist. This was the case in the complaint at hand.

4. With respect to the other claims of the complainant – as aforesaid, the investigator emphatically denied that he had asked intimate questions and had refused to explain the basis for the questioning. In the absence of

support for the version of the complainant, the Commissioner did not find it possible to establish findings in these areas.

5. The Commissioner determined that the dictation of the pornographic letter without prior consultation with the appropriate police professionals constitutes a faulty practice. The need to correct this practice was cited before the Israel Police Force.

6. The Israel Police Force announced that it would act in accordance with the determinations of the Commissioner and instruct its investigators that they must first consult with the professionals at the Department for Criminal Identification before questioning suspects in similar incidences.

#### FAULTY HANDLING OF A COMPLAINT CHARGING VIOLENCE

1. (a) The complainant, an 80 year old resident of Haifa, submitted a complaint to the Commissioner's Office on February 2, 1990 against the police. He claimed that on May 27, 1989 he left his home with his wife for his son's wedding celebration. In a slow and cautious manner, he drove his car out from the driveway and entered the stream of traffic. After travelling approximately 50 meters, he discerned a man (hereafter: "the suspect") standing in the middle of the road signalling him to stop. The suspect ran over to him and angrily shouted, "You almost killed me." He then pounded his fist on the hood of the car, denting it, and hit his fist on the rear windshield, shattering the windshield and breaking the car's wipers. The complainant noted that he didn't react to these violent actions, but rather proceeded on a bit further in his car, stopped and recorded the license number of the suspect's car.

(b) The complainant added that the following day he telephoned the police and entered a complaint about the incident. After a short while, two policemen from the Haifa station arrived at his home and recorded his statement.

After some time had passed, the complainant called the police station and spoke with an officer of the rank of chief inspector (hereafter: "Chief Inspector D"). He was told that the suspect had been summoned but failed to appear and that the issuance of a summons order was under consideration.

After much time elapsed without any update, the complainant once again called the police. He spoke with Chief Inspector D who informed him that the suspect had come to the station and that apparently the case did not involve a hooligan, but rather a highly respected individual who was an accountant. In light of the positive impression which the suspect had made, Chief Inspector D decided to close the file on the basis of a lack of public interest. In retrospect it became clear to the complainant that Chief Inspector D had not questioned the suspect but rather his father in whose name the car was registered. As a result of this conversation with Chief Inspector D, the complainant wrote to him on August 14, 1989 and requested that the police continue their investigation. When no reply was received, the complainant turned to the District Attorney responsible for the Haifa district and requested her involvement.

(c) The District Attorney advised the complainant on January 1, 1990 that she had requested the file from the police. After reviewing its contents, she returned it to the police with instructions to complete the investigation which had been defective and failed to include testimony which should have been obtained.

(d) In his complaint, the complainant stated that he suspects that someone in the police force is attempting to prevent bringing the suspect to trial. He also stressed that it was made very clear to him that the suspect had filed a complaint against him to the police based on a traffic violation and that if the suspect should be brought to trial, he would have to face a trial too. The complainant remarked that the above appeared to be a veiled threat, and that he saw no connection between his complaint and the suspect's claim that he had committed a traffic violation.

2. The investigation by the Commissioner's Office revealed the following findings:

(a) The police investigation file includes the statement of the complainant, from May 28, 1989, in which he provides details of the incident and notes the license number of the car driven by the suspect.

(b) The report of the same date, written by the police investigator who recorded the complainant's statement, contains a description of the damage to the complainant's car based on first hand observation by the investigator.

(c) On May 30, 1989, Chief Inspector D instructed an investigator of the rank of staff sergeant major (hereafter: "Sergeant Major") "to summon the suspect and file charges against him plus 3004 plus bail" Sergeant Major then mailed a notice to the car's registered owner requesting his appearance. The notice did not arrive at its intended destination and was returned to the station. Sergeant Major then mailed two additional notices on two separate occasions to the same address. When the notices failed to be answered, Chief Inspector D instructed another investigator of the rank of staff sergeant major (hereafter: Sergeant Major M) to proceed with an order summoning the suspect to appear.

(d) In a notation made by Sergeant Major M on July 16, 1989, she states that she located the correct address of the car's registered owner, and in a telephone conversation with him he explained that the car was in the possession and use of his son. Sergeant Major M reached the suspect's home and requested that he come in for questioning. She commented to the Commissioner's Office that her counterpart (Sergeant Major) had exhibited little desire or initiative in locating the correct address of the suspect, a task which she succeeded in doing quickly and with little difficulty.

(e) The suspect was requested by Sergeant Major M to appear on July 17, 1989 and did so. In his statement before the police, he claimed:

"On May 27, 1989, I was riding down the street... (and) I saw a car... whose reverse lights were lit. I slowed down and I must note that the street is a one-way street. Cars were parked on the left side, and without any warning, signalling or motioning by the woman who stood on the side of the car, the driver of the car began to back out. This caused me to swerve from the lane and stop the car a distance of centimeters from the car parked on the left side of the street ... I exited my car and waved my arms in order to stop the car (of the complainant) at which time his wife entered the car. I asked the driver: Do you know you almost killed me? ... . The driver's answer was: You won't teach me how to drive. Out of my fierce anger I hit the edge of the car's windshield with my hand and I went in the direction of my car to get a piece of paper and a pencil. At the same time, the driver began to drive away, and again without signalling. I stood with my body before his car and the driver proceeded to drive slowly and injured my knee, something which

made me very angry, and out of my fierce anger I hit the car's hood; all the while the driver continued on so that the next blow was on the arm of the wipers and this caused the windshield to shatter. The next day, after I calmed down, I went to the Police Traffic Bureau in order to report the incident. While waiting, Examiner L., who knows me from his prior place of work, saw me and asked me why I was waiting. I told him about the incident and he said that I have nothing to complain about or report on, but that when a complaint will be filed against me, I will have this version of the incident... . I was truly injured, but I didn't require medical treatment."

(f) On July 18, 1989, based on the aforesaid statement of the suspect, Sergeant Major M entered the following in the police daily records:

"A case of confrontation between drivers arising from a dispute as to the right-of-way and a traffic violation by the complainant which almost caused the suspect to be involved in an accident. When he exited his car to note this and requested the complainant's registration and other information, the complainant proceeded to drive away slowly and injured the suspect's knee. He then hit his fist on the car's hood, which caused the shattering of the windshield by virtue of the wiper smashing it so that there was no element of malice on the part of the suspect in causing the damage. Moreover, the suspect went to the Traffic Bureau to report the incident, and they refused to take his statement. I recommend closing the matter (without a trial-editor's note)."

Sergeant Major M was asked by the Commissioner's Office to explain the basis for her notations that the complainant refused to pass on registration information and that the Traffic Bureau refused to take the suspect's complaint. With respect to the first notation, she stated that the suspect had orally made certain statements which he did not include in his official statement. She responded concerning the second notation that it was known to her that examiners in the Traffic Bureau often attempt to evade handling complaints, and it is customary for them to advise people not to file complaints.

(g) Chief inspector D and Sergeant Major M were also asked whether they didn't have some doubts as to the accuracy and reliability of the

suspect's claims concerning his knee injury and the response of the examiners at the Traffic Bureau. The knee injury was raised by the suspect only at the time of his questioning, some two months after the event, and no effort was made by the police to verify the suspect's account of what happened at the Traffic Bureau. Chief Inspector D responded that he assumed that the suspect had told the truth concerning the complainant's driving which endangered his life and injured his knee. Sergeant Major M explained that she assumed that the examiner would not remember the event, and that in any event she could not engage in such a broad inspection of a matter of the type at hand.

Chief Inspector D added that in his opinion, the case did not concern a hooligan, but rather a mature and well-respected individual (birth year 1944), having no prior convictions, whose conduct was a reaction to careless driving which had endangered his life. For this reason he felt that it was fitting to place the file in storage, given the lack of public interest.

(h) The investigation file was in the archives when the District Attorney for the Haifa District requested it for review as stated earlier.

(i) Chief Inspector D noted in the police daily records on September 7, 1989 that the investigations file had accidentally been placed together with files meant for storage, and thereby was sent to the archives.

(j) On September 13, 1989, after the file was located and the handling of the matter reactivated, Chief Inspector D wrote to the officer in charge of the Investigations Division at the police headquarters for greater Haifa, as follows:

"1. The suspect was questioned and testified that the complainant struck him with his car and injured him.

2. In my opinion, it is fitting to file charges against the complainant for assault and careless driving which almost caused an accident."

(k) The District Attorney requested to study the file a second time, and on January 10, 1990, upon returning the file, noted that the investigation was not being conducted properly, particularly from the standpoint of collecting evidence and verifying testimony. She also pointed out that Chief Inspector D's recommendation to file charges against the complainant did not seem to have a basis in the evidence at hand.

(l) As a result of the District Attorney's instructions, an additional statement of the suspect was taken on February 4, 1990, in which he identified a man who told him that his wife was a witness to the accident in which the complainant nearly ran him down. In their statements given to the police, both the man and his wife refuted the suspect's said statement.

(m) In a conversation on February 27, 1990 between the suspect and an investigator of the Commissioner's Office, the suspect stated that he went to the Traffic Bureau not necessarily to complain, but rather to inform them of the occurrence. Upon requesting advice from the examiner whom he recognized, he was told not to enter a report, but rather to wait for the other side to bring a complaint.

Concerning the actual occurrence, the suspect requested to clarify that the vehicle did not strike his knee but rather came in contact with him, without causing any injury or pain. He added that afterwards he went to the right side of the vehicle and forcefully hit upon the hood. When the complainant continued to drive, he angrily struck the wipers and windshield and broke them. According to the suspect, he lost control of his mental faculties and reacted in a moment of anger.

The examiner at the Traffic Bureau, whose name had been provided by the suspect, informed the investigator of the Commissioner's Office that he did not know the suspect and did not recall the event having taken place.

(n) In a conversation with Chief Inspector D on March 6, 1990, the investigator of the Commissioner's Office was informed that in a subsequent session of questioning the suspect stated that he had erred in the name of the examiner previously given and provided the name of another examiner who had left the police force five months earlier, was located abroad and was unavailable for questioning.

Chief Inspector D made it clear that he saw no reason to question the suspect further on the knee injury he had claimed, and that the issue was one for the court to determine.

(o) The officer at the Police Investigations Division told the Commissioner's Office that in the case at hand, the Criminal Procedure Law gives the investigator discretion to decide whether the file should be



closed due to a lack of public interest. Even if the police were to close its investigation, the complainant would still be entitled under law to bring a civil suit for damages against the suspect or submit against him a private criminal complaint.

The officer added that the general police policy, in cases of damage arising from a dispute as to the right-of-way, is to view the event as having limited significance and not to open a criminal file against a suspect with no criminal past. In his opinion, the decision of Chief Inspector D from a procedural standpoint was not faulty.

**3. The Commissioner ruled that the complaint was justified.**

(a) The findings of the investigation indicate that the handling of the complaint by the police officers was negligent.

(1) The original complaint was based on the violent behaviour of the suspect and the damage caused to the complainant's car which justified immediate, constant and concerted action on the part of the police to locate the suspect and question him.

As stated earlier, for approximately two months, the police limited their activities to the occasional mailing of a summons, each time to the same address without even verifying the address.

(2) The subsequent police handling of the matter was also negligent. The fact that the investigation file was accidentally mixed with those earmarked for storage (as the police investigators themselves claim) indicates carelessness in fulfilling their assignments.

Had it not been for the repeated inquiries of the complainant and the District Attorney, the file would have been unintentionally abandoned among the documents in storage.

(3) Even after the District Attorney returned the file to the police for the first time in September 1989, the investigators did not act to intensify the investigation in line with the recommendations of the District Attorney, and the matter was given attention only after the District Attorney once again intervened.

(b) In their recommendations, the police investigators presented findings which had no basis. Some of these findings were not supported by the material obtained during the investigation while others stood in

direct contradiction to the testimony found in the file. For example, Sergeant Major M recorded that the complainant refused to provide the suspect with registration information and that the Traffic Bureau refused to file the suspect's complaint.

(c) The investigators failed to verify the truth of the statements made by the suspect but rather viewed these statements as fact, justifying bringing the complainant to trial. Logic dictates that had the suspect been injured as claimed, he would not have waited as he did until the filing of a complaint against him, and similarly the examiner at the Traffic Bureau would not have advised against filing a complaint as the suspect claimed he did. During the investigation by the Commissioner's Office, the suspect recounted a version of events different from that which he had told to the police.

(d) The findings indicate that Chief Inspector D did not attach sufficient significance to the violent behaviour of the suspect at the time of the incident. One may assume that for this reason the investigation was not conducted with proper diligence, and the incident was classified as one of property damage caused by a disagreement, about which the complainant may bring a civil suit for money damages or file a private criminal complaint. The above reasoning of the police also explains why the decision to place the file in storage due to a lack of public interest was not considered faulty.

(e) The Commissioner, in accordance with the principle supported by caselaw, is careful not to substitute her discretion in place of the discretion of the police. The police investigators have broad discretion as to how to conduct an investigation and whether to close a file. Mere differences in perception are not justification for the involvement of the Commissioner.

However, the above principle is not applicable in the case of discretion which is faulty to the core and unreasonable to an extreme. The findings of the Commissioner's Office indicate that the decision by the police investigators to place the file in storage due to a lack of public interest was in fact faulty and highly unreasonable, and this not necessarily because of inappropriate criteria or considerations.

In the case at hand, the proper weight was not given to the seriousness of the suspect's conduct. Moreover, there were no special circumstances,

personal or otherwise, to support the conclusion of a lack of public interest.

Rather, the decision of the police to place the file in storage was founded on findings made without a proper basis, as explained above in paragraph 3(b), and faulty conclusions. Among such erroneous conclusions is the statement made by Sergeant Major M that the conduct of the suspect did not constitute a maliciously motivated criminal act, since, in her opinion, the element of intent was lacking. Yet, even the claim made by the suspect that he acted out of anger or in reaction to the complainant's traffic violation is not sufficient to negate the element of intent or malice required to establish the criminal act.

(f) The complainant raised the possibility that the police had acted with intentional bad faith in conducting their investigation. The carelessness and lack of concerted effort on the part of the police, in and of themselves, are insufficient to support such a claim, and no basis was found to substantiate the complainant's concern.

**4. Therefore, the Commissioner cited the following findings before the Police Commissioner:**

(a) Chief Inspector D did not demonstrate a sufficient level of involvement and close follow-up activity in the handling of the file in order to ensure an intensive and reliable investigation as warranted by the seriousness of the incident. He failed to execute proper supervision and did not verify that the investigation was being conducted properly. As a result, the investigation was characterized by negligence.

(b) Sergeant Major M, who was placed in charge of the investigation, did not act in a reliable fashion to verify the different versions of testimony given. Her investigation was faulted by a lack of precision and proper attention for detail, and resulted in findings which had no real basis.

5. The Police Commissioner responded that he accepted the Commissioner's findings, and that on the basis of the points raised, Chief Inspector D and Sergeant Major M had been transferred to other divisions. In addition, the dismissal of Sergeant Major M is under consideration.

The Police Commissioner also noted that the investigation file had been completed and transferred to the legal division in order to bring the suspect to trial.

## LOCAL AUTHORITIES

### AGE LIMITATION IN PUBLIC TENDERS

1. In 1989, the Netanya municipality issued a public tender for the position of secretary/accountant in the Department of Engineering and Infrastructure. One of the conditions specified by the municipality was that the age of the applicant not exceed 45 years old. At the time of the publication of the tender, the complainant was 48 years old. He refrained from taking part in this tender since a year and a half before, his application in an identical tender had been disqualified solely because of his age.

In April 1989, the complainant submitted a complaint to the Commissioner's Office concerning the age restriction placed on applicants taking part in the tenders as aforesaid.

2. Pursuant to the Municipalities Regulations (Tenders for Hiring Workers), 5740-1979, an obligation exists to issue a tender for the hiring of workers. The Regulations provide that the tender must specify the skills required for the position, but say nothing with regard to a restriction on age.

3. In response to inquiries made by the Commissioner's Office, the municipality explained that all its public tenders contain a maximum age limitation of 45 years old. The municipality reasoned that a worker under 45 years old is likely to devote many years to his position, and make a significant contribution to his work.

The tender under consideration, for the position of secretary/accountant, required inter alia "education of at least 12 years, preferably academic education."

4. The Commissioner ruled that the complaint was justified.

In the Commissioner's opinion, too great weight was placed in the tender on the age of the applicant in comparison to the weight which should have been given to the educational requirements for such a senior position. This is particularly true in light of the special emphasis which the Municipalities Regulations place on the educational requirements for senior positions.

The very age limitation (until 45 years old) set by the municipality in its public tenders is a condition which fails the test of reasonableness, fairness and equality since it limits, without justification, the opportunity for the public at large to participate in the tenders. It should be noted that there is no guarantee that an applicant, under 45 years old, who is hired by the municipality will remain at his position until retirement age, as the municipality has assumed. Moreover, this condition limiting the applicant's age infringes upon the principle of equality with respect to the broad spectrum of potential applicants who have passed the age of 45.

5. Therefore, the Commissioner cited before the Netanya municipality that future public tenders should not include a condition limiting age, unless after careful and serious consideration of the particular case it is found that the qualities and characteristics of the specific position justify a limitation of this type.

6. The municipality notified the Commissioner's Office that it would act in accordance with the Commissioner's ruling.

#### INVITATION FOR PROPOSALS TO DESIGN A MUSEUM

1. The complainant is a company dealing in the planning and organization of exhibitions. In July 1989, the company submitted a complaint to the Commissioner's Office claiming improprieties in the process by which the Ashdod municipality chose a party to model and design the municipal museum. The complainant based its claim of improprieties on the following reasons:

(a) At the end of October 1988, the director of the municipal museum requested that the complainant submit within two weeks a proposal for the modeling and design of a building designated for the museum. As a basis for the preparation of the proposal, the complainant was given a formal plan prepared jointly by the Ministry of Education and Culture and the museum board, which included guidelines as to the identity and aims of the museum. According to these guidelines, the museum must present specific topics distinguishing the city of Ashdod from the standpoint of its archeology, ethnicity, etc.

(b) Within the two week limitation, the complainant submitted its proposal which included: a model, a cost estimate, and a timetable. The

proposal was submitted before the museum director, the city deputy engineer, and the museum architect who then announced that the project had been temporarily suspended. After more than a month had passed, on December 14, 1988, the complainant was invited to submit his proposal before the museum committee, which included the said three members.

(c) At this meeting the complainant discovered that the municipality had approached others to submit proposals with respect to this project, and that they had been given over a month to formulate their proposals, while the complainant had received only two weeks.

(d) In June 1989 the municipality notified the complainant that its proposal had not been chosen.

(e) Another company, whose proposal was chosen, had suggested making a substantial change in the content of the formal plan, by focusing on the Philistines, a topic which does not depict Ashdod in particular. In the opinion of the complainant, it was not acceptable to have chosen a proposal basing itself on a change in the very plan which was supposed to be the basis for the preparation of all proposals.

(f) The complainant claimed that the process by which the committee had made its decision was flawed. Therefore, the complainant requested that the Commissioner's Office disqualify both the entire process leading up to the decision and the decision itself.

## 2. The investigation of the Commissioner's Office revealed:

(a) Regulation 3(8) of the Municipalities (Tenders) Regulations, 5748 - 1987 provides:

"3. The municipality is permitted to enter into a contract without a tender if the contract is one of the following types of contracts:

.....

(8) A contract for the performance of professional work requiring special knowledge and expertise, or a special relationship of trust, such as: works of planning, supervision, measurement, assessment, and similar types of work;"

In other words, the planning and design for which the municipality invited proposals, does not require a tender under law.

## **EL AL ISRAEL AIRLINES LTD.**

### **EXEMPTION FROM BAGGAGE CHARGE ON A TRANSATLANTIC FLIGHT WITH A STOPOVER IN EUROPE**

1. According to the customary rules of the company El Al Israel Airlines Ltd. (hereafter: "El Al"), a passenger flying from Europe to Israel is entitled to take, without charge, baggage weighing not more than 20 kilograms. Baggage whose weight exceeds 20 kilograms is subject to a charge for excess weight. In the case of a transatlantic flight — for example, a flight from the United States to Israel — the passenger is permitted to take, without charge, two pieces of luggage, each not to exceed 32 kilograms, and one piece of hand luggage having the dimensions of the area under the seat in front of him. This rule also applies to a passenger on a transatlantic flight with a stopover in Europe.

2. On November 22, 1988, the complainant flew on an El Al flight from the United States to Israel with a one day stopover in London. He maintains that his baggage on the flight from the United States to London consisted of two suitcases, each not exceeding 32 kilograms, and one piece of hand luggage of the proper dimensions. At check-in for the continuation flight from London to Israel, the El Al worker regarded his baggage as baggage of a passenger flying from Europe to Israel, rather than as baggage of a passenger on a transatlantic flight, and instructed the complainant to present all three pieces of luggage to be weighed. The weight of the three pieces was 40 kilograms, and the complainant was required to pay a charge of \$260 on behalf of 20 kilograms of excess weight. The complainant explained to the El Al worker that he was on a transatlantic flight, and therefore had not exceeded the weight limitations, but the worker did not listen, and he was forced to pay the baggage charge.

Upon arrival in Israel, the complainant requested that El Al reimburse him for the baggage charge paid. El Al refused, explaining that the charge related not to the two suitcases, but rather to the hand luggage which the company claimed weighed more than 20 kilograms.

In June 1989, the complainant turned to the Commissioner's Office and disputed the explanations of El Al. He claimed that the hand luggage



weighed only about 4 kilograms, and that he was charged in fact for excess weight based on the rules applying to a flight between Europe and Israel.

3. The investigation revealed that El Al workers in London were not aware of the rules applying to a transatlantic flight with a stopover in Europe.

After the Commissioner's office notified El Al of the results of its investigation, El Al acknowledged the validity of the complainant's claim, and returned to him the amount which he had paid, together with interest and linkage differentials.

4. In order to prevent a reoccurrence of such an incident, the Commissioner cited before the company the need to distribute guidelines to El Al personnel in Europe detailing the special baggage rules applying to a transatlantic flight with a European stopover.

5. El Al acted in accordance with the Commissioner's recommendations.

# ISRAEL RAILWAYS

## TERMINATING EMPLOYMENT DUE TO EXPOSURE OF CORRUPTION

1. The complainant, an employee of Israel Railways, submitted a complaint in May 1989 to the Commissioner's Office.

The complaint related to the Railways' decision to bring about his early retirement, in accordance with section 18 of the State Service (Benefits) Law (Consolidated Version), 5730-1970. The complainant also disputed the Railways' directive that he transfer to a different position, and until such transfer, use his vacation days for a leave of absence.

The complainant claimed that the Railways' decisions came about because he had reported to his superiors about acts of corruption in the unit at which he worked, including charges made by a female employee of sexual harrassment by the director of the unit.

2. The investigation of the Commissioner's Office revealed:

(a) The complainant, born in 1926, began working at Israel Railways in 1951. He was employed at several positions in administration and personnel, and between 1981 and 1988 served in the position of assistant to the district engineer.

In 1988, the Railways was reorganized into two main geographical regions. On January 21, 1988, the complainant was appointed department director in one of these regions. (The title of the position was later changed to branch director).

(b) In a letter dated April 13, 1989, the Railways informed the complainant about the decision of the Director General to bring about his early retirement, a decision which required the approval of the State Service Commissioner under sections 82.23 and 82.52 of the State Service Regulations, (since the complainant was between the ages of 60 and 65). The Director General sought the approval of the State Service Commissioner and the Director General of the Ministry of Transport to implement the decision.

The letter to the complainant stated that the decision was based on his poor job performance, failure to carry out the instructions of his superior

(the director of the region) and a lack of integration into the workings of the region.

In a telephone conversation on March 24, 1989, the complainant was directed to take a leave of absence using his vacation days.

3(a) On July 21, 1989 the Public Complaints Commissioner issued a temporary order pursuant to her authority under section 45C(a) of the State Comptroller Law (Consolidated Version), 5718-1958. This order directed that the Israel Ports and Railways Authority, Israel Railways, and the State Service Commission immediately curtail every act and procedure and refrain from taking any further step towards the removal of the complainant.

In addition, the Commissioner ordered that the complainant be returned to the very position at which he had previously served, and that the directive as to his vacation leave be cancelled. The Commissioner directed that the order remain in force until replaced by another order or directive.

(b) In a letter to the Commissioner's Office dated July 27, 1989, the Director General claimed that the reinstatement of the complainant in his former position would seriously impair the functioning of the region. Therefore he requested that the order be annulled, or in the alternative altered so that the complainant could be reinstated in a different position (whose work conditions and benefits would not be inferior to those of the position he had left).

After consideration of the Director General's request, the Commissioner decided to permit the placement of the complainant in a new position having at least the same stature and work benefits of his former position.

The Director General and the complainant agreed that he would serve temporarily (until the conclusion of the investigation by the Commissioner's Office) as assistant to a branch director in the other region.

4. Sections 45A - 45E of the State Comptroller Law govern the case at hand, since the following conditions are met:

(a) The complainant, in good faith and in accordance with proper procedure, reported acts of corruption in the entity at which he worked.

(b) The steps taken against the complainant by his superiors – early retirement, transfer from his position and forced vacation leave – came in reaction to his exposure of the acts of corruption.

5. **The Commissioner ruled that the complaint was justified.** The Commissioner concluded that the decision to bring about the complainant's early retirement, to transfer him from his position, and to require his vacation leave, came in reaction to his exposure of corruption in the unit at which he worked.

The Commissioner arrived at this conclusion based on the following reasons:

(a) The investigation revealed that during his 40 years of employment, the complainant was considered a good worker, as evidenced also by his advancement from position to position.

(1) In an application submitted by the complainant in June 1987, to serve in a vacant senior position, the director of the region who was also the complainant's direct superior, wrote: "Outstanding organizational skills, broad knowledge in personnel matters, and good public relations".

(2) This appointment as branch director on January 21, 1988 was based in part on the recommendations of his superiors.

(3) On June 14, 1988, the complainant's superiors submitted a formal request to shorten the time period for raising his job rank. The request was based on his work excellence, and in fact resulted in a higher job rank for the complainant.

(b) In the course of the investigation, the Director General claimed that in March 1989 it was already clear to the Railways' management, including the Director General himself, that the complainant had failed totally at his work, and the decision to transfer him from his position had already been formulated.

This claim has no basis in fact. A meeting took place between the Director General and the complainant on March 17, 1989 at which the complainant requested a recommendation for obtaining a higher job rank. As a consequence of this meeting, the assistant of the Director General wrote on March 20, 1989:

"There is no problem at all with sending on the request for a higher rank, except that this requires a letter of recommendation from the director of the region ... .

Upon receipt of the recommendation... the request will be handled by the Director General."

(c) On March 22, 1989, the complainant notified his superior on the Railways' management that he had a written complaint by a female worker claiming sexual harrasment by the unit's director.

That same day the complainant's superior informed him that the Director General had decided to terminate his services, and recommended that he leave on his own accord.

The superior verified the complainant's claim, that during the three preceeding months, the complainant had reported to him on improper conduct by the unit's director, including the matter of sexual harrasment.

The investigation revealed that on that very same day – March 22, 1989 – the superior discussed the subject of the early retirement of the complainant with the State Service Commission.

(d) The Railways'personnel file on the complainant contains a letter written by the director of the region to the Director General on March 22, 1989, stating that the complainant lacks the ability to be branch director, both because of the size of the region and because of inadequate skills from the standpoint of human relations and administrative ability. The letter contains a request by the director to transfer the complainant.

The circumstances surrounding the writing of this letter are unclear. The director of the region claimed that the Director General requested that he write the letter, after the worker's committee made inquiries to the Director General concerning the termination of the complainant's employment. This claim was not substantiated in the course of the investigation. The letter had no stamp or other marking to indicate that it was ever received in the Director General's office, and contained no comments or notations by the Director General.

No documentation was found in the said file concerning the decision of the Director General to terminate the complainant's services, or any discussion of this matter occurring on or before March 22, 1989.

(e) The proximity in time between the notification by the complainant of the charges of sexual harrassment on the basis of the female worker's written complaint and the notification given the complainant concerning termination of his employment, both occurring on the very same day, strengthens the chain of proof that a close connection exists between the two.

6. The process of events, as described earlier, leads to the conclusion that it was not the quality of job performance which caused the Railways' management to seek the complainant's early retirement, but rather his notification of corruption within Israel Railways.

7. The Commissioner weighed the claims of the Railways' management concerning the sphere of relations surrounding the complainant in the region at which he worked and became convinced that returning the complainant to his former position could impair the proper functioning of the region.

8. On the basis of the above, the Commisioner decided on August 10, 1990 to issue the following order:

#### "ORDER

Having been convinced that a direct causal connection exists between the notification by the complainant of acts of corruption within Israel Railways and the procedures taken to cause his early retirement, transfer him from his position, and require his vacation leave, I hereby order, pursuant to my authority under section 45C of the State Comptroller Law (Consolidated Version), 5718-1958, as follows:

(a) The decision to cause the early retirement of the complainant is null and void, and all procedures taken in this regard have no effect.

The complainant shall continue to be employed by Israel Railways and the Israel Ports and Railways Authority, and to maintain the status of a formal employee of Israel Railways and the Israel Ports and Railways Authority with respect to every right and liability of an employee under every law, agreement, custom and binding rule.

(b) After giving due consideration to the proper functioning of the region of Israel Railways, and because the position of branch director in the region requires close contact, a relationship of trust and a good working relationship between the director of the region and his deputy and the branch director, Israel Railways is not required to reinstate the complainant in his former position, and may place him in a comparable, suitable position providing that his job rank, salary, and other rights of any nature, are not impaired, including his right to any payment to which he would have been entitled had he continued to serve in the position of branch director of the region.

The place of work shall be established through coordination with the complainant."

## APPENDICES



**Table 1: Breakdown of Complaints by Agencies Complained Against, 1989-90**  
(September 30, 1989 – September 19, 1990)

Agency	New Cases	Case Disposed of During Report Year (Including Cases Received Previously)		
	Number of Complaints	Number of Complaints	Case Subjects Resolved Substantively	Complaints Found Justified
Prime Minister's Office	7	9	3	—
Ministry of Finance*	477	508	496	214
Income Tax	208	228	234	128
Property Tax and Compensation Fund	102	97	100	27
Land Improvement Fund	35	45	43	12
Customs and Value Added Tax	50	58	50	14
Civil Service Commission	10	12	10	3
Ministry of the Environment	5	6	5	4
Ministry of Energy and Infrastructure	8	9	8	3
Ministry of Defence*	111	114	76	23
Rehabilitation Department	75	79	55	19
Israel Defence Forces	112	108	24	9
Ministry of Construction and Housing	201	186	172	50
Ministry of Health	177	191	139	49
Ministry of Religious Affairs	60	58	29	8
Ministry of Foreign Affairs	5	2	3	—
Ministry of Education and Culture	169	164	81	31
Ministry of Agriculture	43	42	26	7
Ministry of Science and Technology	2	—	—	—
Ministry of Justice*	247	264	144	70
Courts Administration	76	80	30	21
Execution Offices	68	73	39	9
Ministry of Labor and Social Welfare*	160	163	129	29
Labor	54	50	39	9
Social Welfare	33	24	20	6
Employment Services	51	68	51	8
Ministry of Police*	468	462	285	103
Israel Police Force	427	420	265	97
Prison Service	39	40	19	6
Ministry of the Interior	122	128	95	45
Ministry of Immigrant Absorption	51	44	28	9
Ministry of Transport*	118	123	104	37
Bureau of Licenses	54	52	54	26
Ministry of Tourism	13	10	8	3

Table 1: Breakdown of Complaints by Agencies Complained Against, 1989-90  
(September 30, 1989 - September 19, 1990) (continued)

Agency	New Cases	Case Disposed of During Report Year (Including Cases Received Previously)		
	Number of Complaints	Number of Complaints	Case Subjects Resolved Substantively	Complaints Found Justified
Ministry of Industry and Commerce	33	31	27	12
Ministry of Communication	23	19	15	7
Bezek, Israel Communications Co. Ltd.	346	372	301	163
Postal Authority	98	87	81	43
Bank of Israel	52	44	45	13
National Insurance Institute	386	374	291	108
Israel Lands Administration	126	128	110	37
Broadcasting Authority	188	219	165	125
Local Authorities**	1,353	1,317	984	340
City of Jerusalem	148	156	113	25
City of Tel Aviv-Jaffa	164	138	108	29
City of Haifa	121	122	92	34
City of Bnei Brak	55	56	44	23
City of Ramat Gan	50	54	46	15
City of Petach Tikvah	46	35	33	11
City of Holon	44	45	41	19
City of Hertzlia	31	32	19	5
City of Rehovot	30	19	8	3
Others	664	660	480	176
Other Bodies*	583	595	504	114
Amidar Housing Company	129	153	151	11
Electric Company	65	62	58	15
Kupat Cholim	50	50	39	14
Others	339	330	256	74
Bodies Not Subject to Ombudsman Inspection***	671	641	30	9
<b>Total</b>	<b>6,415</b>	<b>6,418</b>	<b>4,408</b>	<b>1,665</b>

\* Detailed data have been presented only on units particularly subject to complaint.

\*\* Data have been presented only on local authorities against whom 30 or more complaints were filed.

\*\*\* There were some 32 complaints which, because of their public interest, were followed up by way of the supervisory bodies which dealt with the areas concerned.

**Table 2: Breakdown of Complaints by Major Categories, 1989-90**  
(September 30, 1989 - September 19, 1990)\*

Category	Cases Disposed of in Report Year (Including Cases Received Previously)			
	New Cases	Total	Disposed of Substantively	Found Justified
<b>A. Welfare Services</b>	<b>1,482</b>	<b>1,433</b>	<b>1,076</b>	<b>281</b>
1. Housing	406	385	347	77
Improvement of Housing Conditions	88	85	77	16
Building Defects	64	74	69	21
Mortgages and Apartment Prices	87	91	84	12
Immigrant Housing	61	29	18	5
Savings Funds and Eligibility for Loans	48	57	53	11
2. Welfare	155	151	130	17
3. Education	232	211	122	28
Matriculation Exams	39	28	13	6
Professional Training	34	28	20	4
Tuition Fees	39	24	16	3
Higher Education	25	15	9	1
4. Handicapped Persons	210	218	136	46
5. National Insurance (Social Security)	280	275	209	72
6. Health (Hospitals, etc.)	199	193	132	41
<b>B. Services Provided by Local Authorities</b>	<b>696</b>	<b>667</b>	<b>445</b>	<b>192</b>
Hazards and Nuisances	204	197	135	80
Building Licences	220	234	142	54
Roads, Sidewalks and Garbage Removal	52	48	39	15
Business Licences	29	27	13	4
Parking Fines	105	95	70	22
<b>C. Provisions of Services</b>	<b>632</b>	<b>628</b>	<b>467</b>	<b>246</b>
Non-Response to Letters	367	393	292	174
Behaviour of Public Officials	95	83	54	15
<b>D. Telephone and Postal Services</b>	<b>410</b>	<b>440</b>	<b>295</b>	<b>183</b>
Telephone Installation and Repair	159	166	124	91
Bills and Credits	140	157	75	40
Postal Service	76	67	55	30

**Table 2: Breakdown of Complaints by Major Categories, 1989-90**  
(September 30, 1989 - September 19, 1990)\* (continued)

Category	Cases Disposed of in Report Year (Including Cases Received Previously)			
	New Cases	Total	Disposed of Substantively	Found Justified
<b>E. Taxes and Levies</b>	<b>909</b>	<b>946</b>	<b>778</b>	<b>319</b>
1. Income Tax	179	204	182	97
2. Property Tax	98	97	92	24
3. Customs	24	24	20	6
4. Value-Added Tax	20	30	23	4
5. Land Improvement Tax	24	34	32	8
6. Radio and T.V. Licence Fees	139	159	117	101
7. Refunds	52	40	32	10
8. Local Taxes and Levies	352	324	246	61
Water Bills	89	72	55	15
Local Property Taxes	193	188	146	36
Road Paving Levies	20	26	19	3
<b>F. Workers' Rights</b>	<b>390</b>	<b>387</b>	<b>237</b>	<b>7</b>
Salaries and Wages	66	30	29	17
Dismissals and Severance Pay	75	71	42	5
Tenders and Employment	90	56	42	15
Pensions and Transfer Payments	28	20	16	8
<b>G. Miscellaneous</b>	<b>2,287</b>	<b>2,390</b>	<b>1,110</b>	<b>369</b>
1. Police	415	397	231	81
Handling of Complaints	145	129	81	20
Police Behaviour and False Arrests	86	105	31	11
Traffic Offenses	144	132	100	38
2. Transportation	164	190	152	52
Public Transportation	68	72	52	20
3. Inspection of Goods and Services	40	41	33	11
4. Acquisition and Expropriation of Land	84	74	64	18
5. Fees for Leasing and Sub- Leasing Public Land	75	65	51	14
<b>Total**</b>	<b>6,806</b>	<b>6,891</b>	<b>4,408</b>	<b>1,665</b>

\* The figures listed for the major categories and numbered sub-categories refer to the main subjects of complaints. Some of the complaints in each such category or sub-category could not be aggregated into one of the listed sub-categories and do not appear in the table. The numbers appearing in the various sub-categories do not therefore add up to the totals in each main category.

\*\* The total number of subjects of complaints is greater than the number of complaints received because many letters of complaint referred to two or more grievances.

**BASIC LAW: THE STATE  
COMPTROLLER**

**STATE COMPTROLLER LAW  
5718 – 1958  
CONSOLIDATED VERSION**

## **BASIC LAW: THE STATE COMPTROLLER**

Passed by the Knesset on February 15, 1988

### **STATE COMPTROLLER LAW, 5718 – 1958**

(Consolidated Version)

The original State Comptroller Law, 5709–1949, was passed by the Knesset on May 18, 1949. It was amended in 1952, in 1954, and in 1958. The amended law was then consolidated in 1958.

The following version contains the following amendments: State Comptroller (Amendment) Law, 5722–1961; State Comptroller (Amendment No. 2) Law, 5722–1962; State Comptroller (Amendment No. 3) Law, 5724–1964; Holders of Public Office (Benefits) Law, 5729–1969; State Comptroller (Amendment No. 5) Law, 5731–1971; State Comptroller (Amendment No. 6) Law, 5732–1972; State Comptroller (Amendment No. 7) Law, 5734–1974; State Comptroller (Amendment No. 8) Law, 5735–1975; State Comptroller (Amendment No. 9) Law, 5738–1978; Police Ordinance (Amendment No. 7) Law, 5740–1980; State Comptroller (Amendment No. 11) Law, 5741–1981; State Comptroller (Amendment No. 12) Law, 5744–1983; State Comptroller (Amendment No. 13) Law, 5744–1984; State Comptroller (Transitional Provisions) Law, 5748–1988; State Comptroller (Amendment No. 15) Law, 5750–1990; State Comptroller (Amendment No. 16) Law, 5751–1991.

## BASIC LAW: THE STATE COMPTROLLER

- |   |                               |
|---|-------------------------------|
| 1. State audit is vested in the State Comptroller.  | Substance                     |
| 2. (a) The State Comptroller shall inspect the economy, the property, the finances, the obligations and the administration of the State, of Government offices, of all enterprises, institutions, or corporations of the State, of local authorities, and of the other bodies or institutions made subject by law to the inspection of the State Comptroller. | State Audit                   |
| (b) The State Comptroller shall examine the legality, moral integrity, orderly management, efficiency and economy of the inspected bodies, and any other matter which he deems necessary.   |                               |
| 3. A body subject to the inspection of the State Comptroller shall at his request, without delay, provide the State Comptroller with information, documents, explanations, or any other material which the Comptroller deems necessary for the purposes of inspection.  | Duty to provide information   |
| 4. The State Comptroller shall investigate complaints from the public about bodies and persons, as provided by or under law; in this capacity the State Comptroller shall bear the title 'Commissioner for Complaints from the Public'.   | Complaints from the public    |
| 5. The State Comptroller shall carry out other functions as provided by law.  | Other Functions               |
| 6. In carrying out his functions, the State Comptroller shall be responsible only to the Knesset and shall not be dependent upon the Government.  | Responsibility to the Knesset |
| 7. (a) The State Comptroller shall be elected by the Knesset in a secret ballot; the election procedures shall be prescribed by law.  | Election and term of office   |
| (b) The term of office of the State Comptroller shall be five years.  |                               |
| 8. Every Israeli citizen, resident in Israel, is eligible to be a candidate for the office of State Comptroller; additional qualifications may be prescribed by law; a person who has served two consecutive terms as State Comptroller shall not be a candidate for election to the next consecutive term.   | Eligibility                   |
| 9. The State Comptroller-elect shall make and sign before the Knesset the following declaration of allegiance:<br><br>'I pledge myself to bear allegiance to the State of Israel and to its laws, and faithfully to carry out my functions as State Comptroller'.   | Declaration of Allegiance     |
| 10. The budget of the State Comptroller's Office shall be determined by the Finance Committee of the Knesset, upon the proposal of the  | Budget                        |

State Comptroller, and shall be published together with the budget of the State.

- |  |   |
|--|---|
| Salary and benefits                                | 11. The salary of the State Comptroller and other payments payable to him during, or after, his term of office, or to his survivors after his death, shall be determined by law or by a resolution of the Knesset or of a committee of the Knesset authorized by the Knesset for this purpose.            |
| Contact with the Knesset and submission of reports | 12. (a) The State Comptroller shall maintain contact with the Knesset, as prescribed by law.<br><br>(b) The State Comptroller shall submit to the Knesset reports and opinions within the scope of his functions and shall publish them, in the manner and subject to the restrictions prescribed by law. |
| Removal from office                                | 13. The State Comptroller shall not be removed from office except by resolution of the Knesset carried by a two thirds majority of those voting; procedures for removal from office shall be prescribed by law.   |
| Acting Comptroller                                 | 14. If the State Comptroller is unable to carry out his functions, an acting Comptroller shall be appointed, in a manner and for a period prescribed by law.  |

STATE COMPTROLLER LAW, 5718-1958  
(Consolidated Version)

Chapter One

THE COMPTROLLER

- |                         |  |
|-------------------------|--|
| Election of Comptroller | 1. (a) The State Comptroller (hereafter – the Comptroller) shall be elected by the Knesset in a secret ballot, at a session convened exclusively for that purpose.<br><br>(b) The candidate for whom a majority of Members of the Knesset vote is elected; if no candidate receives such a majority a second ballot shall be held; if again no candidate receives such a majority – another ballot shall be held; in the third and every subsequent ballot, the candidate who received the smallest number of votes in the previous ballot, shall no longer be a candidate; the candidate who receives a majority of the votes of the Members of the Knesset present and voting in the third or subsequent ballots – is elected; if two candidates receive an equal number of votes, the ballot shall be repeated. |
| Date of election        | 2. (a) The election of the Comptroller shall take place not earlier than ninety days and not later than thirty days before the expiration of the serving Comptroller's term of office; if the office of the Comptroller falls vacant before the expiration of his term, the election shall be held within forty-five days from the day the office fell vacant.   |



(b) The Chairman of the Knesset, in consultation with his deputies, shall set the date of the election and shall give notice of it in writing to all the Members of the Knesset at least twenty days before the election.

(c) If the date of election falls at a time when the Knesset is not in session, the Chairman shall convene the Knesset for the election.

3. (a) When the date of the election has been set, ten or more Members of the Knesset may nominate a candidate; the nomination shall be in writing and shall be delivered to the Chairman of the Knesset not later than ten days before the date of the election; the candidate's consent, in writing or by telegram, shall be attached to the nomination; no Member of the Knesset shall sponsor the nomination of more than one candidate.

Nomination of  
candidates

(b) The Chairman of the Knesset shall notify all Members of the Knesset, in writing, not later than seven days before the date of the election, of every candidate nominated and of those Members of the Knesset who nominated him, and shall announce the names of the candidates at the opening of the election session.

4. Repealed.

4A. Repealed.

5. Repealed.

6. The Comptroller shall carry on his activities in contact with the State Audit Affairs Committee of the Knesset (in this Law referred to as 'the Committee') and shall report to the Committee on his activities whenever he thinks fit or is required to do so by the Committee.

The  
Committee

7. (a) During his term of office, the Comptroller shall not be actively engaged in politics and shall not –

Prohibited  
activities

(1) be a member, or a candidate for membership of the Knesset, or of the council of a local authority;

(2) be a member of the management of a body of persons carrying on business for purposes of profit;

(3) hold any other office or engage, either directly or indirectly, in any business, trade or profession;

(4) participate, either directly or indirectly, in any enterprise, institution, fund or other body holding a concession from or assisted by the Government or in the management of which the Government has a share or which has been made subject to the control of the Government or the inspection of the Comptroller, and shall not benefit, either directly or indirectly, from the income thereof;

(5) buy, rent or hire, accept as a gift, use, or hold in any other manner, any State property, whether immovable or

movable, or accept from the Government any contract or concession or any other benefit, in addition to his remuneration, except land or a loan for the purpose of settlement or housing.

(b) A person who has been Comptroller shall not, for three years from the expiration of his tenure, be a member of the management of a body of persons carrying on business for purposes of profit and being an inspected body within the meaning of section 9(3), (5), (6), (7) or (8).

Termination  
of tenure  
of office

8. (a) The Comptroller's tenure of office expires –
- (1) upon expiration of his term of office;
  - (2) upon his resignation or death;
  - (3) upon his removal from office.

Removal  
of the  
Comptroller  
from office

8A. (a) The Knesset shall not remove the Comptroller from office, except upon the demand of at least twenty Members of the Knesset, submitted in writing to the Constitution, Law and Justice Committee of the Knesset, and upon the proposal of that Committee.

(b) The Constitution, Law and Justice Committee of the Knesset shall not propose removing the Comptroller from office before he has been given an opportunity to be heard.

(c) The proceedings of the Knesset under this section shall be held at a session, or successive sessions, devoted exclusively to this matter; the proceedings shall begin not later than twenty days after the decision of the Constitution, Law and Justice Committee; the Chairman of the Knesset shall notify all the Members of the Knesset, in writing, at least ten days in advance, of the date on which the proceedings are to begin; if that date falls when the Knesset is not in session, the Chairman shall convene the Knesset to hold the proceedings.

## Chapter Two

### SPHERE OF INSPECTION

Inspected  
bodies

9. The following bodies (hereafter referred to as 'inspected bodies') shall be subject to the inspection of the Comptroller:

- (1) every Government office;
- (2) every enterprise or institution of the State;
- (3) every person or body holding, otherwise than under contract, any State property or managing or controlling any State property on behalf of the State;
- (4) every local authority;

(5) every enterprise, institution, fund or other body in the management of which the Government has a share;

(6) every person, enterprise, institution, fund or other body made subject to inspection by law, by decision of the Knesset or by agreement between him or it and the Government;

(7) every enterprise, institution, fund or other body in the management of which one of the bodies enumerated in paragraphs (2), (4), (5) and (6) has a share; but the inspection of such a body shall not be actually carried out unless and in so far as the Committee or the Comptroller so decides;

(8) every enterprise, institution, fund or other body assisted, either directly or indirectly, by the Government or by one of the bodies enumerated in paragraphs (2), (4), (5) and (6) by way of a grant, a guarantee or the like; but the inspection of such a body shall not be actually carried out unless and in so far as the Committee or the Comptroller so decides.

10. (a) Within the scope of his functions the Comptroller shall, as far as necessary, examine –

Extent of  
inspection

(1) (a) whether every expenditure has been incurred within the limits of the legal appropriation and for the purpose for which it has been assigned;

(b) whether the income has been received in accordance with law and is authorized by law;

(c) whether there are sufficient vouchers in respect of all expenditure and income;

(d) whether every act within the sphere of his inspection has been done in accordance with law and by the person competent to do it;

(e) whether the keeping of accounts, the drawing-up of balance-sheets, the checking of the cash-in-hand and the stock, and the voucher system are efficient;

(f) whether the method of keeping moneys and safeguarding property is satisfactory;

(g) whether the state of the cash-in-hand and the stock tallies with the accounts.

(2) whether the inspected bodies within the meaning of section 9 (1), (2), (4) and (5) have operated economically, efficiently and in a morally irreproachable manner; this examination shall also comprise bodies supervised under section 9 (6) unless the law, decision or agreement referred

to in that paragraph otherwise provides, and bodies inspected under section 9(7) and (8) if and to the extent that their inspection thereof is actually carried out;

(3) any such other matter as he may deem necessary.

(b) The Committee may, upon the proposal of the Government or the Comptroller, prescribe from time to time, in respect of an inspected body or an item of its budget, special or limited forms of inspection.

### Chapter Three

#### INSPECTION PROCEDURE

Inspected body  
to submit  
report,  
balance-sheet,  
survey and  
information

11. (a) An inspected body shall, within such time as the Comptroller may prescribe, but not later than four months after the expiration of its financial year, submit a report on its income and expenditure during that year.

(b) The Comptroller may require of an inspected body, within such time as he may prescribe –

(1) a balance-sheet showing its assets and liabilities as at the expiration of the year;

(2) a detailed survey factually describing the economic and administrative operations carried out by the body during that year.

(c) The report and balance-sheet shall be accompanied by any such document as the Comptroller may require for the purpose of verification.

(d) The Comptroller may require a report and balance-sheet as aforesaid of any enterprise, institution, fund or other body which is an inspected body within the meaning of section 9(7) or (8) even though the inspection thereof, in respect of the year to which the report or balance-sheet relates, may not have been actually carried out.

(e) Repealed.

Minister of  
Finance to  
submit com-  
prehensive  
report and  
balance-sheet  
of the state

12. The Minister of Finance shall, within such time as the Comptroller may prescribe, but not later than six months after the expiration of the financial year of the State, submit a comprehensive report on the income and expenditure of the State during that year together with any document which the Comptroller may require for the verification of the report; moreover, the Minister of Finance shall, within such time as the Comptroller may prescribe, but not later than nine months after the expiration of the financial year of the State, submit a balance-sheet showing the assets and liabilities of the State as at the expiration of that financial year, together with any document

which the Comptroller may prescribe for the verification of the balance-sheet.

13. The following provisions shall apply to inspected bodies within the meaning of section 9 (5), (7) and (8) (in this section referred to as 'associations') in addition to the other provisions of this Law and the provisions of any other law:

Inspection of  
associations

(1) the Comptroller may, after consultation with the Minister of Finance, lay down directives for associations with regard to their accounting system and the drawing up of their balance-sheet;

(2) the Comptroller may lay down directives for the auditor who audits the accounts of an association with regard to the scope and mode of the checks to be carried out by him, and of his report, in respect of that association, and with regard to the circumstances under which he is to report direct to the Comptroller;

(3) the Comptroller may require every association to draw up an annual plan of operations, based on the financial-economic situation during the current year and containing a forecast of its future financial and economic operations, and to submit that plan to him within such period as he may prescribe; he may also lay down directives for the drawing up of the said annual plan.

14. (a) Where an inspection has revealed defects which have not been explained, or infringements of any law, of the principles economy and efficiency or of moral standards, the Comptroller shall communicate to the inspected body the results of the inspection and his demands for the rectification of the defects and, if he deems it necessary to do so, shall bring the matter to the knowledge of the Minister concerned and of the Minister of Economy and Planning.

Modes of  
dealing with  
results of  
inspection

(b) Where an inspection has revealed defects or infringements which the Comptroller, in view of their bearing upon a fundamental problem or in the interests of upholding moral standards or for any other reason, deems worthy of consideration by the Committee prior to the submission of a report under section 15 or 20, he shall submit a separate report to the Committee; and upon his doing so, the Committee may, of its own motion or upon the proposal of the Comptroller, decide upon the appointment of a commission of enquiry; if the Committee so decides, the President of the Supreme Court shall appoint a commission of enquiry to investigate the matter; the provisions of the Commissions of Enquiry Law, 5729-1968 shall apply, mutatis mutandis, to the commission of enquiry.

(c) Where an inspection has revealed that an inspected body has operated in a manner arousing suspicion of a criminal act, the

Comptroller shall bring the matter to the knowledge of the Attorney General.

#### Chapter Four

#### REPORTS AND OPINIONS OF THE COMPTROLLER

Comptroller's  
report on  
Government  
offices and  
State  
institutions

15. (a) Upon completion of the inspection of the annual accounts of the inspected bodies within the meaning of section 9 (1) and (2), but not later than ten-and-a-half months after the expiration of the financial year of the State, the Comptroller shall present a report for the consideration of the Minister of Economy and Planning, specifying all the bodies inspected and their principal units.

(b) In a report under subsection (a) the Comptroller shall summarize his activities in the field of inspection and –

- (1) specify any infringement of moral standards;
- (2) specify any such defect and any such infringement of a law or of the principles of economy and efficiency as in his opinion deserve to be included in the report;
- (3) make recommendations for the rectification and prevention of the defects.

Observations  
by Minister of  
Economy and  
Planning and  
presentation  
to Knesset

16. The Minister of Economy and Planning shall make his observations within twelve weeks from the day on which he receives the report, and upon the expiration of that period the report shall be laid on the table of the Knesset.

Safeguarding  
security and  
foreign  
relations  
of the State

17. (a) Within the twelve weeks referred to in section 16, the Committee may, upon the proposal of the Comptroller, decide that certain parts of the report shall not be laid on the table of the Knesset if it deems it necessary to do so in the interests of safeguarding the security of the State or in order to avoid an impairment of its foreign relations or its international trade relations.

(b) The provisions of sections 15 and 16 shall apply also to such part of the report as deals with the Defence Establishment, but the Comptroller shall submit that part to the Committee at the same time as he submits it to the Minister of Economy and Planning, and the Committee, after consultation with the Comptroller and having regard to the necessity of safeguarding the security of the State and of avoiding an impairment of its foreign relations, shall decide whether to lay the whole of that part of the report on the table of the Knesset or to dispense with the tabling of certain chapters thereof.

(c) Having regard to the necessity of safeguarding the security of the State, the Comptroller may, if the Government so requests on grounds which he is satisfied are reasonable, give a limited report, or refrain from giving a report, on a branch or unit inspected by him; the Comptroller shall intimate to the Committee, orally and in such form as he may think fit, on what unit or branch inspected by him, he has given a limited report or refrained from giving a report.

18. (a) Where the report has been laid on the table of the Knesset, the Committee shall, within three-and-a-half months, consider it and submit its conclusions and proposals for the approval of the Knesset; but it may submit its conclusions and proposals in two parts, the first within the said period, the second within a further four-and-a-half months. The time between terms of the Knesset shall not be included in computing the periods referred to in this subsection.

Procedure  
in the  
Committee  
and in the  
Knesset

(b) If the Committee does not submit its conclusions and proposals or part thereof within three-and-a-half months as aforesaid, the Knesset shall consider the report; but the Committee may, until the expiration of the further four-and-a-half months, submit for the approval of the Knesset conclusions and proposals as to any matter in the report which has not yet been considered by the Knesset.

(c) The conclusions and proposals of the Committee in respect of those parts of the report which in pursuance of section 17 (a) or (b) have not been laid on the table of the Knesset shall also not be laid on the table of the Knesset and shall be deemed to have been approved by the Knesset.

18A. (a) For the purpose of preparing the conclusions and proposals of the Committee in accordance with sections 18 and 20 with respect to a certain inspected body, the chairman of the Committee may invite any person, who held office or fulfilled a function in the inspected body during the period covered by the Comptroller's report, to appear before the Committee in order to respond to the report in regard to matters with which the said person is connected; he may also invite any person who holds such office or fulfills such a function at the time or who held such office or fulfilled such a function in the past in order to respond to the report; the chairman of the Committee must invite such a person if he is requested to do so by the Committee or by at least three of its members; in this subsection, "held office or fulfilled a function", in an inspected body — including the exercise of a power with respect to it by law, or by virtue of being a member of its management or an employee.

Appearance  
before the  
Committee

(b) Whenever a person who was invited according to subsection (a) did not appear, the Committee may, by a majority of its members, demand that he appear before it, as aforesaid; the

demand shall be in writing, signed by the chairman of the Committee, and attached to it shall be a copy of the Comptroller's report or that part of it to which the demand is directed; the demand shall be submitted at least ten days before the time stipulated for his appearance.

(c) A person required to appear before the Committee by invitation or demand shall submit to it, at least two days before the time stipulated for his appearance, a written summary of his response, together with copies of the documents which he intends to submit to the Committee.

(d) Any person who received a demand to appear as aforesaid in subsection (b) and did not do so, and did not show a justifiable reason for such, is liable to a fine.

(e) A demand to appear according to this section shall not be sent to —

(1) The President of the State or the Speaker of the Knesset;

(2) In a matter under judicial consideration — a person holding judicial office.

Comptroller's  
report on  
balance-sheet  
of the State

19. The Comptroller shall submit the report on the balance-sheet showing the assets and liabilities of the State for the consideration of the Minister of Finance within three months after the submission of the balance-sheet by the Minister of Finance, and shall lay it on the table of the Knesset at the same time as the report under section 15.

Comptroller's  
report on  
other  
inspected  
bodies

20. (a) Upon completion of the inspection of the inspected bodies within the meaning of section 9(3),(4), (5), (6), (7) or (8), the Comptroller shall prepare a report on the result of such inspection.

(b) The Comptroller shall forward each report on the inspection of an inspected body within the meaning of section 9 (4) to the head of the local authority inspected, together with copies for all the members of such local authority; a copy of the report shall be forwarded by the Comptroller to the Committee, to the Minister of Economy and Planning and to the Minister of the Interior.

(c) Each report on the inspection of an inspected body within the meaning of section 9(3), (5), (6), (7) or (8) shall be forwarded by the Comptroller to the Committee; a copy of the report shall be forwarded by the Comptroller to the Minister of Economy and Planning, to the Minister concerned and to the inspected body.

(d) After publication under section 27 of a report forwarded to the Committee under subsection (b) or (c) or of an opinion under



section 21, the Committee may lay its conclusions and proposals as to the report or opinion on the table of the Knesset and, if it deems it necessary to do so in view of the special importance of the matter, may ask the Knesset's approval for such conclusions and proposals.

21. The Comptroller shall, if requested to do so by the Knesset, the Committee or the Government, prepare an opinion as to any matter within the scope of his functions. Opinion

## Chapter Five

### THE COMPTROLLER'S OFFICE

22. (a) The staff of the Comptroller's Office shall have the same status as other State employees, but as regards the receipt of instructions, and as regards dismissals, it shall be under the sole authority of the Comptroller. Staff of the Comptroller's Office

(b) The prohibitions applying to the Comptroller under section 7 (a) shall apply also to such members of the staff of his Office as are employed in inspection work; a staff member as aforesaid who leaves his post shall not, save with the approval of the Comptroller, be employed by an inspected body within two years from the day of leaving.

(c) In carrying out his functions, the Comptroller may, to the extent that he deems it necessary to do so, avail himself of the assistance of persons who are not members of the staff of his Office.

23. The staff of the Comptroller's Office and any person with whose assistance the Comptroller carries out his functions shall keep secret any information obtained by them in the course of their work and shall give a written undertaking to such effect upon starting work. Duty of secrecy

24. The budget of the Comptroller's Office shall be determined by the Finance Committee of the Knesset, upon the proposal of the Comptroller, and shall be published together with the budget of the State. The Finance Committee may, upon the proposal of the Comptroller, approve changes in the budget of his Office. Budget of the Office

25. After the expiration of the financial year, the Comptroller shall submit the financial report of his Office for the approval of the Committee. Financial report to Committee

## Chapter Six

### MISCELLANEOUS PROVISIONS

Powers of  
commission  
of enquiry

26. The Comptroller and any person appointed by him for that purpose with the approval of the Committee shall, *mutatis mutandis*, have all the powers referred to in sections 8 to 11 and 27 (b) and (d) of the Commissions of Enquiry Law, 5729-1968.

Publication

27. (a) Reports of the Comptroller and an opinion under section 21 may be published at the expiration of the financial year in which they were given: provided that the Comptroller, the Minister of Economy and Planning or the Committee may permit them to be published before then.

(b) Notwithstanding the provisions of subsection (a), the Committee may, having regard to the necessity of safeguarding the security of the State or in order to avoid an impairment of its foreign relations or its international trade relations, decide, after consultation with the Comptroller, that the whole or a part of any report or opinion as aforesaid shall not be published.

(c) At the expiration of every financial year, the Comptroller shall lay on the table of the Knesset a list of the reports and opinions given by him during the financial year and permitted for publication under the provisions of this section.

(d) In this section, 'report' does not include the annual report under section 15.

Penalties

28. (a) The following are liable to imprisonment for a term of one year or to a fine of 600 pounds\* or to both such penalties:

(1) a person who publishes the annual report or a part thereof or of the contents thereof before it is laid on the table of the Knesset;

(2) a person who publishes any report or opinion or a part thereof or of the contents thereof in contravention of the provisions of section 27;

(3) a person who without obtaining the Comptroller's permission publishes the results of an inspection carried out by the Comptroller.

(b) The provisions of this section shall not release a person from criminal responsibility under any other law.

Acting  
Comptroller

29. If the Comptroller is temporarily unable to carry out his functions, the Committee shall appoint an Acting Comptroller for a period not exceeding three months; the Committee may extend the

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\* updated periodically.

appointment for additional periods, provided that the sum total of all the periods served by the Acting Comptroller shall not exceed six months; if the Comptroller is unable to carry out his functions for a period of six consecutive months, he shall be considered to have resigned.

30. (a) No reports, opinions or other documents issued or prepared by the Comptroller in the discharge of his functions shall serve as evidence in any legal or disciplinary proceeding.

Material not  
to serve as  
evidence

(b) A statement received in the course of the discharge of the Comptroller's functions shall not serve as evidence in a legal or disciplinary proceeding, other than a criminal proceeding in respect of testimony on oath or affirmation obtained by virtue of the powers referred to in section 26.

## Chapter Seven

### INVESTIGATION OF COMPLAINTS FROM THE PUBLIC

31. Repealed.

32. (a) The Commissioner for Complaints from the Public (hereafter in this translation - 'the Commissioner') shall carry out his functions with the assistance of a special unit in the State Comptroller's Office, to be known as the Office of the Commissioner for Complaints from the Public. The Director of the Commissioner's Office shall be appointed by the Committee upon the proposal of the Commissioner and shall be directly responsible to him. The duty of announcing the vacancy under section 19 of the State Service (Appointments) Law, 5719-1959 shall not apply to the appointment of the Director of the Commissioner's office.

Unit for  
investigation  
of complaints

(b) If the post of Director of the Commissioner's Office falls vacant or if the Director is for any reason unable to carry out his functions, the Commissioner may entrust the carrying out of such functions to another person for a period not exceeding three months.

33. Any person may submit a complaint to the Commissioner.

Complaint  
by whom

34. A complaint submitted in writing or taken down according to the complainant's oral statement shall be signed by the complainant and shall indicate his name and address.

Modes of  
submitting  
a complaint

35. A complaint by a prisoner, within the meaning of the Prisons Ordinance (New Version), 5732-1971 shall be submitted in a closed envelope, and the Commissioner of Prisons or a person empowered by him in that behalf shall forward it unopened to the Commissioner.

Complaint  
by prisoner

Complaint  
against whom

36. A complaint may be submitted against one of the following:

- (1) an inspected body within the meaning of paragraphs (1) to (6) of section 9;
- (2) one of the bodies referred to in paragraphs (7) and (8) of section 9, to the extent that the Committee or the Commissioner has decided that this chapter shall apply in respect thereof and notice to such effect has been published in Reshumot;
- (3) an employee, office-holder or bearer of any function in any such body as referred to in paragraphs (1) or (2) of this section.

Complaint  
about what

37. The subject of a complaint may be –

- (1) an act directly injurious to, or directly withholding a benefit from, the complainant and –
- (2) if the complainant is a Member of the Knesset – also an act directly injurious to, or directly withholding a benefit from, another person,

such act being contrary to law or done without lawful authority or contrary to good administration or involving a too inflexible attitude or flagrant injustice; for this purpose, 'act' includes an omission or delay in acting.

Complaints  
not to be  
investigated

38. The following complaints shall not be investigated:

- (1) a complaint against the President of the State;
- (2) a complaint against the Knesset, a Committee of the Knesset or a Member of the Knesset in respect of an act done in, or for the purpose of, the discharge of his functions as a Member of the Knesset;
- (3) a complaint against the Government, a Committee of Ministers or a Minister as to his activity as a member of the Government, except his activity as the person in charge of a Ministry or sphere of activity;
- (4) a complaint against a judicial act of a court or a judge, of a tribunal or a member thereof or of a committee constituted by enactment or a member thereof;
- (5) a complaint as to a matter pending in a court or tribunal or in which a court or tribunal has given a decision with regard to the substance thereof;
- (6) a complaint by a person serving on regular service, or on active service in the reserves, under the Defence Service Law (Consolidated Version), 5746–1986 with regard to service arrangements, terms of service, or discipline;

(7) a complaint by a police officer or prison officer with regard to service arrangements and terms of service or discipline in the Israel Police or the Prison Service;

(8) a complaint by a State employee, or by an employee of a body referred to in section 36, in a matter relating to his service as an employee; but there shall be investigated an act alleged to be contrary to the provisions of any law or regulations, the State Service Regulations, a collective agreement or general arrangements prescribed on behalf of the State Service Commissioner or, in the case of a body referred to in section 36, similar general arrangements.

39. The following complaints shall not be investigated unless the Commissioner finds that there is a special reason justifying the same:

Complaints only to be investigated for special reason

(1) a complaint in a matter, other than of the class of matters referred to in section 38 (5), in which a decision has been given against which a contestation, objection or appeal can be, or could have been, filed under any law;

(2) a complaint filed after a year has elapsed from the date of the act to which it relates or the date on which such act became known to the complainant, whichever is later.

40. (a) When a complaint has been filed, the Commissioner shall open the investigation thereof unless it appears to him that it does not comply with section 34, or that it does not come within the scope of section 36 or 37, or that it should not be investigated for one of the reasons enumerated in sections 38 and 39, or that it is vexatious or intended merely to annoy.

Opening of investigation

(b) In the cases referred to in subsection (a), the Commissioner shall notify the complainant in writing that he will not deal with the complaint, stating his reasons.

41. (a) The Commissioner may investigate a complaint in any manner he thinks fit and shall not be bound by rules of procedure or rules of evidence.

Modes of investigation

(b) The Commissioner shall bring the complaint to the knowledge of the person or body complained against and, if such person is an employee as specified in section 36(3), also to the knowledge of his superior (hereafter referred to as 'the superior') and shall give him, it or them a suitable opportunity to answer it. The Commissioner may require the person or body complained against to answer the complaint within the period specified in his request.

(c) The Commissioner may hear the complainant, the person or body complained against and any other person if he deems it useful so to do.

(d) For the purpose of the investigation, the Commissioner may require any person or body to give him, within such period and in such manner as he shall prescribe in the request, any information or documents likely, in his opinion, to assist in the investigation of the complaint. A person or body required to deliver information or a document as aforesaid shall comply with the request. The provisions of this subsection shall not derogate from the provisions of sections 47 to 51 of the Evidence Ordinance (New Version), 5731-1971.

Discontinuance of investigation 42. The Commissioner may discontinue the investigation of a complaint if he is satisfied that one of the grounds justifying the non-opening of an investigation exists or that the matter to which the complaint relates has been rectified or that the complainant has withdrawn the complaint. In this case, he shall notify the complainant, the person or body complained against and the superior, in writing, that he has discontinued the investigation, stating his reasons.

Consequences of investigation 43. (a) Where the Commissioner finds that the complaint is justified he shall notify the complainant, the person or body complained against, and, if he so deems fit, the superior, to such effect, stating his reasons. He may set out a summary of his findings in his reply, and may point out, to the person or body complained against and to the superior, the need to rectify a defect revealed by the investigation and how and by what time it is to be rectified.

(b) The person or body complained against or the superior shall, within the time referred to in subsection (a), inform the Commissioner of the steps which have been taken. If he or it fails to do so, or if the information does not satisfy the Commissioner, the Commissioner may bring the matter to the knowledge of the Minister concerned or of the Committee.

(c) Where the Commissioner finds that the complaint is not justified, he shall notify the complainant, the person or body complained against and, if he so deems fit, the superior, to such effect, stating his reasons. He may set out a summary of his findings in his reply.

(d) Where the investigation of complaint gives rise to the suspicion that a criminal offence has been committed, the Commissioner shall bring the matter to the knowledge of the Attorney-General; and he may do so where the investigation of a complaint gives rise to the suspicion that a disciplinary offence has been committed under any law.

Restrictions on notification 44. (a) A notification by the Commissioner under section 43 (a) or (c) shall not contain or disclose any material or information which in the opinion of the Prime Minister or the Minister of Defence is a matter of State security or which in the opinion of the Prime Minister or the Minister of Foreign Affairs is a matter of foreign relations or international trade relations of the State.

(b) Where it appears to the Commissioner that his notification is likely to contain or disclose any material or information as referred to in sub-section (a) and neither the Prime Minister nor the Minister of Defence or the Minister of Foreign Affairs has expressed an opinion as specified in that sub-section, the Commissioner shall ask the opinion of the Prime Minister or the Minister of Defence or the Minister of Foreign Affairs, as the case may be, before making his notification.

(c) The Commissioner shall be exempt from stating his findings or reasons –

(1) where the complaint relates to an appointment to a particular post or the assignment of a particular function;

(2) where in his opinion the material or evidence may unlawfully prejudice the right of any person other than the complainant;

(3) where in his opinion the disclosure of the material or evidence will involve the disclosure of a professional secret, or of secret information, within the meaning of any law.

45. (a) The decisions and findings of the Commissioner as to a complaint –

Rights and relief

(1) shall not grant to the complainant or any other person any right or relief in any court or tribunal which he did not previously have;

(2) shall not prevent the complainant or any other person from exercising any right or applying for any relief to which he is entitled; but where a time-limit is set thereof by any enactment, the submission or investigation of the complaint shall not entail an extension of time.

(b) No court shall entertain an application for relief against the decisions or findings of the Commissioner in the matter of a complaint.

45A. Notwithstanding anything contained in section 38(8) –

Complaint by public servant who has exposed acts of corruption

(1) a complaint by an employee referred to in section 36(3), other than a police officer, prison officer or soldier (such an employee hereafter in this chapter referred to as 'the employee'), about an act referred to in section 37 by which his superior reacted to his reporting, in good faith and in accordance with proper procedure, any acts of corruption committed in the body in which he is employed, shall be investigated under the provisions of this chapter, subject to sections 45B to 45E.

(2) a complaint by an employee, who is an internal auditor in a body referred to in section 36(1) or (2), other

than a police officer, prison officer or soldier, relating to his removal from that post or to an act contrary to the provisions of any law or regulations, the State Service Regulations, a collective agreement, or general arrangements prescribed on behalf of the State Service Commissioner, or similar general arrangements, which is directly injurious to or directly withholds a benefit from the complainant and which was committed by his superior in reaction to his activities in fulfilling his function as internal auditor – shall be investigated under the provisions of this chapter, subject to sections 45C to 45E.

Complaint  
only to be  
investigated  
for special  
reason

45B. Where the Commissioner finds that there is a reason justifying it, he may investigate a complaint under section 45A even if the employee reported the acts of corruption otherwise than in accordance with proper procedure.

Relief

45C. (a) The Commissioner may make any order he deems right and just, including a provisional order, to protect the rights of the employee, having regard to the proper functioning of the body in which he is employed.

(b) Where the complaint relates to the dismissal of the employee, the Commissioner may order revocation of the dismissal or the award of special compensation to the employee, in money or in rights.

(c) The Commissioner may order the transfer of the employee to another post in the service of his employer.

(d) An order under this section shall be binding on any superior of the employee and on the employee himself, and a person who contravenes it commits a disciplinary offence.

Reconsideration

45D. The Attorney-General may request the Commissioner to reconsider a decision given under section 45C. The State Service Commissioner may so request in the case of a complaint by a State employee; in the case of a complaint by someone who is not a State employee, the head of the inspected body may also so request.

Submission  
of complaint  
otherwise  
than in good  
faith

45E. The submission of a complaint under section 45A or 45B otherwise than in good faith, or vexatiously, shall be a disciplinary offence.

Report

46. (a) The Commissioner shall each year submit to the Knesset, at the beginning of its session, a report on his activities, containing a general survey and an account of the handling of selected complaints.



(b) The Commissioner may, prior to the submission of the annual report, submit to the Knesset a special report.

(c) When a report has been tabled in the Knesset, the Committee shall consider it and shall submit to the Knesset its conclusions and proposals for approval.

(d) A report under this section shall not be published before being tabled in the Knesset.

(e) The provisions of section 44 shall also apply, mutatis mutandis, to a report under this section.

47. (a) Sections 22, 23, 26, 28 and 30 shall apply, mutatis mutandis, for the purposes of this chapter. Application of provisions

(b) The provisions of this chapter shall not derogate from the power of the State Comptroller to make use in his other activities of material which reached him in connection with a complaint, whether or not he has investigated it.

