



STATE  
OF ISRAEL  
PUBLIC  
COMPLAINTS  
COMMISSIONER  
ANNUAL  
REPORT 21  
SELECTED  
CHAPTERS  
JERUSALEM  
1994



STATE OF ISRAEL  
PUBLIC COMPLAINTS COMMISSIONER

# ANNUAL REPORT 21

(1992-1993)

SELECTED CHAPTERS TRANSLATED FROM  
THE ORIGINAL HEBREW

א781

JERUSALEM, 1994

### **EDITOR'S NOTE**

In the interest of style and brevity, the statutory name "Public Complaints Commissioner" is referred to as the "Commissioner".

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

The editor wishes to acknowledge her indebtedness in preparing this translation first and foremost to Mrs. Martha Peretz as well as to Mr. Johnathan Marcovitch, Mrs. Bracha Tal and Mr. Nissan Bar-Dayan.

**Mirella Bamberger**  
Senior Assistant to  
the Public Complaints Commissioner

November 1994

**I hereby submit** to the Knesset the Public Complaints Commissioner's Twenty First Annual Report .

Examination of its contents, and the contents of previous Reports, makes it apparent that the resolution of complaints often entails solving judicial questions; some difficult ones that have not as yet been ruled upon by the courts, and for which the Commissioner has provided a solution or an interpretation that is acceptable to her. It is understood that her ruling is binding only as long as the court has not come to another or to a contradictory conclusion.

Sometimes the claim is put forth that the Public Complaints Commissioner does not have the authority to rule on judicial matters, and that the place for their clarification is in the courts. This claim is without foundation, and because of its importance, I wish to dedicate this preface to clarify the situation:

A condition - *sine qua non* to the Commissioner's authority to investigate a complaint, is that it concerns an act that is "contrary to the law or done without lawful authority or contrary to sound administration or involving a too inflexible attitude or flagrant injustice" (Section 37 of the State Comptroller Law, 5718-1958 [Consolidated Version]). Acts that are contrary to the law or without lawful authority head the list of cases which the Commissioner will examine, and for good reason. Indeed, there is no act contrary to law that can be reconciled with sound administration or with public order. Neither the section that was quoted, nor in any other part of the State Comptroller Law, is there anything that limits or restricts the Commissioner's authority to rule on a complaint, such as the difficulty or the complexity of the judicial questions that the Commissioner may deal with in order to rule on a complaint. On the contrary, the wording of the law is general and allows for wide interpretation.

In the chapter which deals with defining the term "State Audit" (Section 2 (a) of the Basic Law: The State Comptroller) - the legislator justifiably placed the State Comptroller's obligation to examine the "legality" of the acts of the executive authority, before the obligation to examine its orderly management; an act which is contrary to the law is certainly contrary to sound administration and public order. To be precise, we are not talking about the criminality of

an unlawful action which is the subject of a complaint. That is an area that the State Comptroller, even in her role as the Public Complaints Commissioner, is not at all authorized to deal with. If the audit discovers, or if it becomes clear during the course of investigating a complaint, that an audited agency has acted in a manner that arouses suspicion of a criminal act, the Comptroller or Commissioner must bring the matter to the attention of the Attorney General, so that the latter may instruct if, and how, to deal with the matter.

In summary, if a citizen sees himself injured from an illegal act by the authorities or from an act contrary to sound public administration, he has the choice, under the existing judicial system in Israel, "to submit a petition to the High Court of Justice or submit a complaint to the Public Complaints Commissioner" (High Court of Justice 453/84, *Iturit vs. the Minister of Communications and Others*), as is explained there,

"In this matter the Israeli legislator refrained from adopting the approach of a number of states... according to which a citizen may submit a complaint to the Ombudsman only in matters which are not under judicial scrutiny..."

There is no fear that contradictory decisions on the same matter may be made, since the decisions of the Commissioner - contrary to those made by the court - are only recommendations, and the validity of the Commissioner's decision on any question ends the moment that a judicial instance gives its opinion on that question. Moreover, if the complainant turns to the courts during the investigation of his complaint, the Commissioner must stop the investigation immediately.

The setting of norms of behavior for public administration is one of the most important tasks that the legislator assigned to the Public Complaints Commissioner. It is impossible to imagine that this task can be fulfilled without solving legal questions, which determine if the complainant has the right that he claims to have, and if the authority's behavior is indeed injurious to his rights. A ruling of this sort harbors within it both factual and legal questions, however, it is clear that a norm or an interpretation determined by the Commissioner ceases to exist the moment the court decides differently or in contradiction to it.

There is no basis in the law, nor is it in the interest of the public that is in need of the services of the Public Complaints Commissioner, to restrict the Commissioner's authority to rule on legal questions that have not as yet been decided upon in the courts. It is important that the public be aware of this, so that it will turn to the Commissioner knowing that the Commissioner's authority to decide on matters presented to him is wide and includes dealing with the legal issues that the complaint involves.

A handwritten signature in black ink, appearing to read 'M. Ben-Porat', with a stylized flourish at the end.

**Miriam Ben-Porat**  
State Comptroller and  
Public Complaints  
Commissioner

## TABLE OF CONTENTS

### General Survey

The State Comptroller and the Public Complaints Commissioner .....	11
The Knesset's deliberations on the Twentieth Annual Report.....	11
Data on the number of complaints and their outcome .....	11
Branch offices handling oral complaints .....	13
International contacts.....	14

### SUMMARIES OF SELECTED CASES

#### Ministry of Finance

Paying a tax on the last day of the notice .....	19
--	----

#### Israel Defense Forces

Terminating employment due to exposure of corruption .....	21
---	----

#### Ministry of Health

A biting dog that was not brought into quarantine .....	28
---	----

#### Ministry of Education and Culture

Irregularities in a tender for the position of school principal.....	31
---	----

#### Israel Police Force

A false arrest .....	33
Incorrect information that caused the cancellation of firearms licenses .....	35

## **Local Authorities**

A Municipal Property Tax exemption on property that is uninhabitable .....	39
Using a form bearing the symbol of a municipality to collect a gardening fee .....	41
Issuing an order for temporary use of an empty plot as a parking lot - the refusal to pay Property Tax on the plot .....	42
A worker's claim that his dismissal was due to his exposing acts of corruption .....	45

## **Broadcasting Authority**

Prolonged delay in giving a reply .....	49
---	----

## **Amidar - National Company for Immigrant Housing Ltd.**

Evicting a tenant on a claim of abandonment .....	51
---	----

## **APPENDICES**

Table 1: Breakdown of complaints by agencies complained against .....	57
Table 2: Breakdown of complaints by major categories .....	59
Basic Law: The State Comptroller .....	65
State Comptroller Law, 5718 - 1958 (Consolidated Version) .....	66



## **GENERAL SURVEY**

### **1. THE STATE COMPTROLLER AND THE PUBLIC COMPLAINTS COMMISSIONER**

On June 30, 1993 the State Comptroller and Public Complaints Commissioner, Justice Miriam Ben Porat, ended her term of office.

On May 27, 1993 the Knesset reelected Justice Miriam Ben Porat for another five year term. She declared allegiance before the Knesset on June 30, 1993, in accordance with the provisions of the Basic Law: The State Comptroller.

### **2. THE KNESSET'S DELIBERATIONS ON THE TWENTIETH ANNUAL REPORT**

Pursuant to section 46 of the State Comptroller Law, 5718-1958 [Consolidated Version], (hereafter - the Law), "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... The State Audit Affairs Committee shall consider it and shall submit to the Knesset its conclusions and proposals for approval."

On August 25, 1992 the Twentieth Annual Report of the Public Complaints Commissioner was laid on the table of the Knesset.

In the State Audit Affairs Committee meeting of January 25, 1993, the subcommittee for consideration of the annual reports of the Public Complaints Commissioner was founded, under the chairmanship of Member of Knesset David Magen.

The subcommittee deliberated on the Twentieth Annual Report for thirteen sessions, between February and December 1993.

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

1. The upwards trend in the number of complaints submitted to the Public Complaints Commissioner continued during the first period covered in this Report. There was an increase of 11% in the number of complaints in the

Hebrew Year 5752 (1991/1992) as compared to the year 5751 (1990/1991). In 5753 (1992/1993), the number of complaints did not increase in comparison to 5752, and even decreased a little, but they were still more numerous than the complaints received in 5751.

In addition to these direct complaints, the Commissioner's Office received hundreds of 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 audit, 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 section 4).

(a) In the Hebrew year 5752, 7,793 complaints were received directly by the Commissioner's Office; the handling of 7,164 complaints was completed:

(1) Of 4,106 cases dealt with substantively, 1,490 cases (36%) were found justified (the same rate as in the previous year).

(2) 1,357 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.

(3) 1,701 cases could not be investigated because they did not meet the criteria set by sections 36 and 37 of the Law, or because they fell into the category of items mentioned in sections 38 and 39 of the Law.

(b) In the Hebrew year 5753, 7,292 complaints were received directly by the Commissioner's Office; the handling of 6,229 complaints was completed:

(1) Of 3,372 cases dealt with substantively, 1,205 cases (36%) were found justified.

(2) 1,036 cases were halted at various stages of the investigation, without substantive disposition.

(3) 1,821 cases could not be investigated, in light of the provisions of sections 36 to 39 of the Law.

(c) At the end of the year 5752, 3,680 cases remained open (at the end of 5751 - 3,051). At the end of the year 5753, 4,743 cases were left open.

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, Behavior towards the Public, Telephone and Postal Services, Taxes and other Levies, Rights of Workers.

#### **4. BRANCH OFFICES HANDLING ORAL COMPLAINTS**

Pursuant to section 34 of the Law, a complaint may be submitted either orally or in writing.

From the time of the establishment of the Commissioner's Office, branch offices were set up in response to the requirement of the Law that oral complaints be recorded and signed by the complainant. These branch offices operate in four cities (Jerusalem, Tel Aviv, Haifa and Beer Sheba).

The activities of these branch offices have been described in detail in prior annual reports of the Commissioner's Office. At the early stages of their operation, it became apparent that these offices could not serve the needs of the public by merely recording complaints and that in many instances it was necessary to offer additional assistance to the complainants. Experience has demonstrated that these branch offices are often able to quickly and effectively solve 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.

A branch worker meets face to face with the complainant, records the complaint as presented by him and forwards it for investigation through the regular channels. If the branch worker believes that a swift handling of the complaint might be an important factor in calming the agitated complainant, or that a speedy resolution is feasible in light of the uncomplicated nature of the complaint, then the worker, at the same time that he records the complaint, will contact the administrative division that is the object of the complaint. This method has proven itself useful for dismantling bureaucratic obstacles and achieving a swift resolution of the complaint.

When the individual desires to submit a complaint whose subject matter the Commissioner's Office is not authorized by law to investigate, the branch

worker advises the individual on how best to proceed in order to investigate, or resolve, the matter.

During the year surveyed, once again a significant number of citizens turned to the branch offices to process their oral complaints, and as in previous years, the greatest number of complainants contacted the Tel Aviv branch, which serves residents in the center of the country.

## **5. INTERNATIONAL CONTACTS**

1. During March 1992, while on a study tour in Israel, the members of the Parliamentary Petition Committee of Nord-Rein Westphalia (the committee that deals with public complaints), visited the State Comptroller and Public Complaints Commissioner's Office. The members of the committee held a work session with the State Comptroller and Public Complaints Commissioner and with senior employees of her Office, and were afforded explanations concerning the work of the Public Complaints Commissioner in Israel.
2. During July 1992, Dr. Jorge Louis Maiorano, the Attorney General and Technical Advisor to the President of Argentina, and President of the Latin American Institute of the Ombudsman, (today the Defensor Del Pueblo of Argentina), visited Israel at the invitation of the State Comptroller and Public Complaints Commissioner. The guest was given explanations concerning the activities of the Public Complaints Commissioner's Office and the system of state auditing in Israel.
3. During September 1992, while on a tour of Finnish armed forces serving the United Nations in the Middle East, Professor Pirkko Koskinen, the Finnish parliamentary Deputy Ombudsman, visited the State Comptroller and Public Complaints Commissioner, accompanied by the legal advisor for international affairs in the Finnish Ministry of Defense. The guests were afforded explanations on the activities of the Public Complaints Commissioner, from herself and senior employees in her Office.
4. In the same month, Mr Isaac Hochman, the Secretary General of the Latin American Institute for the Ombudsman, visited the State Comptroller and Public Complaints Commissioner.
5. During October 1992, the 5th International Conference of Ombudsmen took place in Vienna, Austria, with the participation of Justice Miriam Ben

Porat, Public Complaints Commissioner, and Mrs Mirella Bamberger, her Senior Assistant. The central theme of the Conference was "The Ombudsman - Idea and Reality". At this Ombudsmen Conference - as well as in others - it became apparent that there is a growing tendency for ombudsmen to act as a shield for human rights. Participating in the Conference, for the first time, were representatives from several countries that do not as yet have an ombudsman, but wish to establish such an institution in their country. Among the participants were representatives from China, Japan and Eastern Europe, as well as representatives from Latin American countries, some of which have ombudsmen and others that have not as yet established that institution.

Justice Miriam Ben-Porat described the Israeli system, whereby the Ombudsman is also the State Comptroller. In the discussion groups on the subject of freedom of information, she also described the situation in Israel and the task of the Ombudsman to defend the right of the public to know.

Following the Conference, an international seminar, sponsored by the European Institute of Ombudsmen, convened in Salzburg, Austria. Israel was represented by Mr. Avigdor Ravid, the Director General of the Public Complaints Commissioner's Office. The central theme of the seminar was "The ombudsman and the protection of human rights".

6. In November 1993, two senior officials of the Chinese State Comptroller's Office, who came to Israel for the purpose of studying state auditing, visited the Public Complaints Commissioner's Office and received explanations of its activities.

## **SUMMARIES OF SELECTED CASES**

## **MINISTRY OF FINANCE**

### **PAYING A TAX ON THE LAST DAY OF THE NOTICE**

1. The complainant filed a complaint with the Commissioner in February 1992, claiming that the Income and Property Tax Department (hereafter - the department) had unjustifiably charged him interest and linkage differentials (as compensation for inflation). Following are the details of the complaint:

(a) The complainant was served notice to pay the Land Improvement Tax due on his property. The notice stated that the last day of payment was September 15, 1991. The complainant made the payment on that day - the last day possible to pay without a penalty - in the afternoon. About two months later he received another notice from the department demanding that he pay interest and linkage differentials (hereafter - the additional payment). The explanation given for this demand was that the payment was executed late, since payments received in the bank in the afternoon are credited to the department on the following day. Having no choice, the complainant paid the additional payment.

(b) The complainant claimed that he had made the payment on time, and that there was no justification for charging him the additional payment. He requested that the Commissioner investigate the complaint and that the additional payment be returned to him, including interest and linkage differentials for the period between the day on which he paid and the day he would receive the refund.

2. (a) In reply to the Commissioner's inquiries, the department claimed that the date of payment is the day on which the bank credits the department's account, and not the day on which the payment is made in the bank.

(b) The Commissioner informed the department that its reply was not acceptable, and explained that the notice of payment due stated that the last day for execution of the payment was September 15, 1991, without mentioning any limitation to specific hours of the day. The complainant was entitled, therefore, to understand that he was allowed to make the payment any time during the hours that the bank was open to the public. The manner in which the written instructions could be understood, and in fact were understood, is binding, and not the department's intention. The

Commissioner applied the rule of interpretation, according to which a document be interpreted against the draftsman.

(c) Consequently, the department refunded to the complainant the additional payment, stating that future notifications of tax and other obligatory payments would specify that the last day of payment referred to the morning of that same day.

The department refused, however, to pay the interest and linkage differentials accruing to the refund, claiming that such payments were not made with regards to a refund made as an *ex-gratia* payment.

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

(a) As mentioned above, the complainant fulfilled his duty by paying the tax not later than the date stipulated in the tax notice. The notice did not specify that the payment could only be made in the morning, and therefore he had no reason to understand that it could not be made in the afternoon. Moreover, the bank was the department's agent, so that payment to the bank is the same as payment to the department itself. Consequently, the complainant had made the payment on time.

(b) The department had no right to demand the additional payment, and the complainant was entitled to the refund, plus interest and linkage differentials, by right and not by privilege.

4. The Commissioner instructed the department to pay interest and linkage differentials to the complainant on the additional payment unjustifiably demanded from him.

5. The department acted as was instructed.



## **ISRAEL DEFENSE FORCES**

### **TERMINATING EMPLOYMENT DUE TO EXPOSURE OF CORRUPTION**

1. In August 1991 the Commissioner received a complaint from an employee of the Israel Defense Forces (hereafter - IDF), who was employed in the testing unit of the Logistics Corp General Headquarters (hereafter - LCGHQ) regarding the decision of LCGHQ to dismiss him.

(a) He claimed that on June 28, 1991, when he returned from a leave of absence, his superior notified him that he would be dismissed because of staff reductions and the cancellation of his job category. He claimed that the cancellation of his job category - a metal worker - was just an excuse for dismissing him, the real reason being that he had reported acts of corruption occurring in his unit to his superiors.

(b) The complainant had been employed for the past 22 years as a tester in that unit, and since December 1982 had been the head of the testing staff, comprising of three workers. His unit is responsible for quality control testing of all products acquired by the Ministry of Defense in Israel and abroad, excluding combat equipment.

(c) The complainant stated that during the past years he warned his supervisor of acts, bordering on corruption, that were committed in the unit. The supervisor promised to deal with the matter, but did not do so. Consequently, in March 1990 the complainant disclosed to the head of LCGHQ (hereafter - the Officer), his suspicions that one of the employees in the unit had received a bribe. He described different acts committed by that employee, that in his opinion, were morally reproachable and contrary to regulations.

The Officer requested that he file a written report of only one of the incidents, and that he would deal with the rest of the incidents personally. The complainant acted upon his advice.

As a result of his written report, the military police opened an investigation, that ended in October 1990, the conclusion being that his suspicions were unfounded. Consequently, the Officer assembled all those involved, and in their presence, reprimanded the complainant for making a false accusation, and threatened to "deal with him personally".

(d) The complainant presented to the Commissioner a letter, signed by the Officer, written in January 1991, after that meeting, which stated:

"The Officer declares that if irregular activities are observed, they should be reported to the authorities, on condition that the observations are well founded.

The Officer denounces any unfounded report, since it may hurt an individual as well as the entire group."

2. The complainant's dismissal was not implemented. He submitted a complaint to the Defense System's comptroller, following which the Chief Attorney of the IDF (hereafter - the Chief Attorney) recommended appointing an investigating committee to examine the reason for his dismissal and his complaint of ulterior motives. At the same time, orders were given to continue the investigation of all the claims of suspicions of corruption. The Commissioner suspended her investigation as long as the investigation by the Chief Attorney continued.

(a) On April 26, 1992 the complainant applied once more to the Commissioner, stating that he received, on that day, a letter dated April 17, 1992, from the supervisor of the testing unit, notifying him of his dismissal as of April 27, 1992, that is, only one day after his having received the notice. The complainant stated again, that the decision to dismiss him was made because of the information that he provided regarding suspicions of acts of corruption, and that the cancellation of the job category to which he was assigned was only a pretext.

(b) On May 6, 1992 the Commissioner issued a provisional order in accordance with provisions of Section 45C of the State Comptroller Law. The order stated that the decision to dismiss the complainant, as stated in the letter written by the supervisor of the testing unit, would not come into effect, nor would any of the complainant's rights, or any right to which he is entitled, be injured.

The complainant was reinstated in his unit on May 11, 1992.

3. The investigation of the complaint revealed the following:

(a) During the investigation, the Commissioner examined two Military Police files, containing information regarding the investigation of the complainant's suspicions. The complainant's accusations pertained mainly to one of the workers, a tester of wood products.

(1) In the first file, the complainant reported on June 17, 1990, that in 1984 he discerned that a representative of a company that imported lumber for the Ministry of Defence, assisted the wood tester financially in purchasing an apartment. The complainant expressed his suspicions that in return, the wood tester approved a shipment of defective lumber. The complainant also reported that during a visit that he made to one of the carpentry shops in 1975, he found that the wood tester was working in that carpentry shop, making products that he was later to test, in his capacity as tester of wood products.

(2) In a second file, opened in August 1991, the complainant listed a dozen incidents, most of which occurred about six to eight years previously, in which the wood tester certified accepting supplies that were slated for rejection.

The complainant claimed that the wood tester approved a shipment of items to IDF units, in spite of serious flaws found in them. He also claimed that, for many years, the tester would systematically state that the flaws were only borderline, so that it was still possible to approve the product. He claimed that the wood tester had told him that he did so in order to have an alibi, in case complaints would be received about the products.

In that file the complainant reported that during a visit in June 1991 to a certain factory, he learned from the quality control expert of the factory, that 110 chairs, that the complainant himself had previously rejected, were sent to army warehouses. The complainant explained, that without the Officer's certification, it was forbidden to accept items that had been rejected.

The complainant added, that he was told by the quality control expert, that on a certain weekend, the factory head had invited the Officer to his home. Subsequently, the Officer's brother and sister began to work in the factory as production workers.

(3) In a statement found in that file, the internal auditor of the factory verified the complainant's claims.

(b) The Chief Attorney stated, in an opinion given in March 1992, that he had not found sufficient proof in the material submitted by the complainant to verify his suspicions. He confirmed, however, that in several cases, some employees acted in a negligent manner, but emphasized that no evidence was found of special favors having been received. As a result of his findings, the Chief Attorney gave orders to take disciplinary measures

against the employees for negligence in fulfilling their duties when certifying the acceptance of equipment without appropriate inspection procedures.

(c) The persons interrogated by the investigating committee as well as by the representative of the Commissioner, stated that they had no criticism concerning the competence or the professional qualities of the complainant.

In the periodical evaluations of the complainant during his years of employment, he received the highest possible grade. He was described as an "extremely professional worker, easy going, efficient, dedicated and loyal". Only in one evaluation given in 1990, it was stated that there was a certain decline in his performance. His supervisor wrote: "During the past year, as a result of the fact that he was not advanced to a certain position, there has been a decline in his performance. Relations with those he works with are not especially good."

(d) Relating to the reason for his dismissal, the head of the Section for Employment and Retirement of the Center for Recruitment of Army Contractors (hereafter - the Center) stated, that the complainant was hired 22 years ago as a tester of fire extinguishing equipment for the Ordnance Corps, a position characterized by the label "metal worker". Testing fire extinguishing equipment is one of the present duties of the complainant, and therefore that job label conforms with his actual duties. He added that because of staff reductions, the position of "metal worker" was cancelled in his unit back in 1986, but in spite of the cancellation, the complainant continued to be employed in his position, without fitting into any job category. In a discussion that took place in May 1991 in the Ordnance Corps General Headquarters, it was decided that since the category of "metal worker" was cancelled in his unit as far back as 1986, the employee working in that position must be dismissed immediately. The complainant was offered a job as a metal worker in a construction unit, but he refused it, claiming that the position did not conform with his occupation in practice, and he was not interested in changing his profession.

In a letter, written on August 27, 1991, the Officer, responding to the complainant's letter to the Defense system's comptroller, stated:

"... Dismissal of the employee did not stem from his exposing corruption, but rather from the restructuring of the unit and fitting people into permanent job categories... "

At the end of the letter, he said:

"This is a serious accusation, and I demand an investigation, and until then, the person who casts a suspicion on me should be suspended. If it turns out that the accusations are false, he should be subjected to a disciplinary trial."

**4. The Commissioner ruled that the complaint was justified for the following reasons:**

(a) The label "metal worker" does not adequately describe the complainant's occupation as a tester of technical equipment for the past 22 years and as the head of a testing staff of three testers for the past nine years. The investigation showed that the occupation "tester" has not been given any special label or job category, and that when the testers were placed in the unit, they were fitted into categories that happened to be vacant, even if the categories did not necessarily fit their occupation. The complainant was placed in the category of "metal worker", only because the position of metal worker was by chance vacant at the time that he was placed in the unit. The fact that he continued to work at his job for years, even after the job category "metal worker" was cancelled in 1986, only strengthens this conclusion.

(b) The necessity of an employee should be assessed in light of the tasks he actually performs. When there is no correspondence between the job label or category in which he is placed, and his work, the cancellation of the job category in itself should not bring about the dismissal of the worker. If it is necessary to reduce the staff, the decision of which worker to dismiss and which to retain should be based on relevant considerations only: the indispensability of a worker, his professional talents, the way in which he performs his duties and his seniority.

(c) The unit must ensure that the complainant is placed in a job category that correctly reflects his position and his functions, and if it did not do so - it cannot claim that the cancelling of the job category was the reason for his dismissal.

(d) It is clear that the cancellation of the position in which the complainant was placed was only an excuse for his dismissal, and at the root of the decision were other considerations.

(e) The investigation shows that there is a causal connection between the complainant's dismissal in May 1991 and between the fact that he disclosed suspicions of corruption to his superiors.

(1) The complainant's suspicions were not proven, which angered the Officer, as expressed in his letter of January 1991. The complainant stated that in the meeting which preceded the letter, the Officer said to the members of his unit that he would "deal with him personally so as to make sure that such an incident would not recur". This version corresponds to the contents of the Officer's letter, and shows that he had decided to teach the complainant a lesson because he dared to accuse employees without solid evidence.

(2) From the Officer's letter of August 1991, one also learns of his frame of mind and of his intentions to dismiss the complainant. Even though he wrote that the dismissal of the employee did not stem from his exposing corruption, but only from the restructuring of the unit and the cancellation of the job category, at the end of the letter he said:

"This is a serious accusation, and I demand an investigation, and until then, the person who cast a suspicion on me should be suspended. If it turns out that the accusations are false, then he should be subjected to a disciplinary trial."

From this we see that the Officer decided to suspend or to dismiss the complainant, because he had cast a suspicion on him and on the unit.

(f) The allegations that the complainant made to his superiors, to the police investigators and to the investigating committee, were not totally refuted. The impression received, from his detailed disclosures and from the discussions that he held with the representative of the Commission, is that his allegations were not unfounded.

(g) At any rate, in order to clarify a complaint, the Commissioner does not have to determine that the complainant's version is founded. It is important to emphasize that even though the complainant's suspicions were not verified, this does not prove that he did not act in good faith. Of course, reasonable caution should be practiced before raising suspicions against someone, and they should not be vaguely insinuating, but this requirement should not be exaggerated, in order not to discourage those workers who honestly believe that a suspicion of corruption exists in the entity in which they work. After all, suspicions are usually brought to the attention of the supervisor at first, who may demand more details, and decide if they warrant further investigation. In the case at hand, the complainant's suspicions were not completely refuted, and some of them were found to be true from a factual point of view. An employee should not have to prove his suspicions;

it is natural that suspicions be investigated and proved professionally by the police or an investigating officer. The purpose of the State Comptroller Law is to protect an employee, whose employer contrives against him as a reaction to the fact that he reported in good faith a suspicion of corruption. In order to give that protection, it is immaterial if it turns out that there is not enough evidence to prove the suspicion.

5. On the basis of the above mentioned, the Commissioner decided on January 13, 1993 to give the following order:

"Order

Having been convinced that the decision to discharge the complainant came in response to the fact that he reported, in good faith and in accordance with proper procedures, acts of corruption that were carried out in the entity in which he works, the testing unit of LCGHQ, I hereby order, pursuant to my authority under section 45C of the State Comptroller Law, 5718-1958 [Consolidated Version], as follows:

(a) The temporary order that I gave on May 6, 1992 shall be final, and accordingly, the complainant's employment as head of a staff of testers in the testing unit of the LCGHQ shall not be terminated, and he shall continue to be employed in the unit with respect to every law, agreement, custom and binding rule, and according to the regulations of the specific collective agreement pertaining to IDF employees, and any other regulations that apply to his employment.

(b) The heads of the Quartermasters Corps, LCGHQ and the Center, as well as any person in charge of the complainant, shall do all that is necessary to help the complainant carry out his work in an orderly manner, without disturbances, and according to legitimate and lawful instructions given to him by his superiors."

6. LCGHQ reported to the Commissioner that the order was implemented in its entirety.

## **MINISTRY OF HEALTH**

### **A BITING DOG THAT WAS NOT BROUGHT INTO QUARANTINE**

1. (a) The complainant informed the District Health Office in Haifa (hereafter - the Health Office) that on the previous day, a dog had bitten his son. The complainant reported the address of the dog's owners, and at a later stage, their names. At the Health Officer's request, The complainant delivered to the dog's owners a printed form to be presented when bringing the dog into quarantine. The Health Office told him that if the dog was found to be infected with rabies, he would be informed. Fifteen days after reporting the incident, the complainant received notification that the dog had not been brought into quarantine, and that he should verify whether the dog was still alive.

(b) The complainant regarded this as a serious blunder on the part of the Health Office and lodged a complaint with the Commissioner.

2. Rabies is known to be a fatal disease and is only treatable within close proximity of the time of biting.

(a) According to Section 4 of the Rabies Ordinance, 1933, the owners of an animal that bit a person are obliged to inform the nearest government physician or government veterinarian within 24 hours, and, if the biting animal was a dog, a cat or a monkey, to take it to the nearest quarantine kennels within 24 hours from the time that they were informed of the incident. This obligation on the part of the owners is not dependant on receiving a demand from the authorities.

The Ordinance empowers the authorities responsible for this matter to enter any property, building, or other place in order to ensure that the provisions of the Ordinance have been complied with. If the provisions have not been complied with, the authorities may do everything necessary to bring about the capture of the animal and to bring it into quarantine.

(b) The Rabies Regulations (Holding of Dogs, Cats and Monkeys in Quarantine Kennels), 5719-1959, specify the duty of owners to bring a dog, cat or monkey that has bitten to the nearest quarantine kennels within 24 hours of the time of the biting. The regulations state that if the owners do not comply with this regulation, the inspector may do so, at the owners' expense.



(c) According to Health Office regulations, a Health Office must send to the owners of an animal that has bitten, written notification of their duty according to the aforementioned regulations. The Office is required to simultaneously telephone the veterinarian of the Local Authority and the Veterinary Services, to notify them of the incident and to send them a copy of the notice that was sent to the owners. Where the circumstances of the bite, and the epidemiological conditions in the area in which the biting incident took place justify it, the notification of the biting incident and the owners' obligation to bring the animal into quarantine, must be delivered to the owners urgently (by telephone, telegram or by a personal visit).

3. In the past, the Commissioner investigated complaints of faulty treatment in cases where complainants informed the authorities of biting incidents.

(a) A similar case to the present one was reported in the 12th Annual Report of the Public Complaints Commissioner.

In that case the complainant was mistakenly informed that a dog that had bitten him, had been taken into quarantine. At a later stage the complainant discovered that the dog had never been taken into quarantine nor examined, ostensibly because of difficulties in locating it.

(b) The Commissioner ruled in that case, that the complaint was justified, since the explanations of the Ministry of Health, as to why the dog had not been located, were unacceptable. The Commissioner requested that the Ministry inform him of steps taken to rectify this defect.

The Ministry of Health replied that those responsible for capturing biting animals are obliged to do everything necessary to bring the biting animals into quarantine immediately. The Health Office must follow up every case, and ensure that the regulations are complied with. If the animal was not brought into quarantine within three days of the biting, the bitten person must be notified, to make sure that he receive the necessary treatment.

(c) The Knesset Committee of State Audit Affairs discussed the findings of that complaint. The committee requested that the representatives of the Ministry of Health and the Municipality who were responsible for this matter, deal severely with workers who were careless in fulfilling their duty, such as in the case brought before it, in order to prevent the recurrence of similar incidents of this nature.

4. During the inquiry into the present complaint, the Health Office informed the Commissioner of the following facts:

The Office had received a request from the dog's owners not to bring it to the quarantine kennels, but rather, to keep it at home. They had promised to inform the Health Office of the dog's condition during the ten day incubation period. The Office added that it usually refused requests of this type, but agreed in this case since the owners of the dog were new immigrants, and the fee for keeping the dog in quarantine for ten days would be difficult for them to pay. In light of this special arrangement, the Health Office did not inform the Veterinary Services of the personal details regarding the owners. However, the dog's owners did not fulfill their promise. Ten days later, the Office tried to contact them, unsuccessfully. This was the reason that the Office informed the complainant two weeks after the incident, that he should find out if the dog was still alive. Since he discovered that the dog was alive and well, it was not necessary to treat the complainant's son.

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

The Health Office had deviated from its authority, acted illegally and impeded the work of the Veterinary Services, and by so doing it had endangered the life of the boy who had been bitten by the dog.

6. This ruling by the Commissioner was brought to the attention of the head of the Public Health Services in the Ministry of Health, the Haifa District Physician and the head of the Veterinary Services in the Haifa Municipality.

7. The Haifa District Physician informed the Commissioner that he had explained the seriousness of their actions to those responsible for making the incorrect decision, and demanded that in the future they carry out the provisions of the law with due care.

## **MINISTRY OF EDUCATION AND CULTURE**

### **IRREGULARITIES IN A TENDER FOR THE POSITION OF SCHOOL PRINCIPAL**

1. (a) The Ministry of Education and Culture publicized a tender for the position of principal of a religious comprehensive public school in the southern region of the country, in the jurisdiction of a Regional Council. The complainant, a teacher in that school, submitted his candidacy for the position on July 15, 1991; he was the only candidate. On July 30, 1991 the Ministry notified him that the committee, before whom he had appeared, had not found him suitable for the position.

(b) On August 21, 1991 the complainant filed a complaint with the Commissioner against the Ministry of Education and Culture. He claimed that the committee's negative decision stemmed from the animosity of the chairman of the committee towards him, because of an incident that had occurred in the past. He also claimed that the chairman notified him that the decision was unanimously agreed upon by all the members of the committee, but that was not so. To prove this claim, the complainant submitted a letter that he received from the representative of the Teachers' Union on the committee, as well as a letter of recommendation from the inspector responsible for the school, who served as an observer on the committee.

2. (a) The Commissioner's inquiry revealed that the school in question is a comprehensive school, which includes a high school that is owned by the Regional Council. Accordingly, the tender should have been made by the Regional Council, in accordance with regulations of the Local Councils Order (Procedures for Hiring Workers) 5737-1977, and not by the Ministry of Education and Culture.

(b) The inquiry also revealed that during the deliberation on the candidacy of the complainant, the chairman submitted derogatory information about the complainant in the complainant's absence, without giving him a chance to respond to this information. This act is contrary to the rules of natural justice and also to an explicit directive of the Director General of the Ministry of Education and Culture, according to which a member of a committee who receives knowledge of past failures of a candidate, of an unsuccessful experience or of any other negative evaluation, should notify the candidate of this information and allow him to respond.

(c) The inquiry revealed that the inspector and the Union representative had expressed opinions to the complainant regarding his suitability for the position, which differed from those that they gave to the committee. Their explanations about this matter did not satisfy the Commissioner.

3. A letter that the chairman wrote to a university professor, in which he detailed the negative information leading to the rejection of the complainant's candidacy, supported the complainant's claim, that the chairman of the committee had schemed against him. This act constituted a violation of the complainant's privacy. The Commissioner remarked about this to the Ministry of Education and Culture.

Consequently, the Ministry of Education and Culture took disciplinary steps against the chairman of the committee, under the State Service (Discipline) Law, 5723-1963. It demanded that in the future he apply the regulations carefully.

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

The Commissioner instructed the Ministry of Education and Culture as follows:

(a) To consider the tender void.

(b) If the complainant would be one of the candidates in a new tender, the details of deliberations, arguments and decisions of the cancelled tender should not be revealed to committee members.

(c) In such a tender the former chairman of the committee that had rejected him in the cancelled tender, should not be included as a member of the new committee.

5. The Commissioner also pointed out to the Ministry of Education and Culture the necessity of reminding the members of the new committee, that they must allow candidates to respond to any information they receive about past failures, unsuccessful experiences or negative evaluations.

## ISRAEL POLICE FORCE

### A FALSE ARREST

1. On September 16, 1991, the complainant submitted a complaint to the Commissioner against the Police Force, claiming as follows:

(a) At the end of July 1991 the complainant was summoned to the Ramat Gan police station because of non-payment of an alimony debt to his ex-wife, in accordance with a court judgement. On July 31, 1991 the complainant reported at the police station, and was informed by the head of the Judgement Execution Unit, (hereafter - the Execution Officer), that the debt amounted to 2,653 NIS. The complainant paid the above sum later that day, and, accompanied by his wife, brought the receipt to the police station and showed it to the Execution Officer.

(b) On September 14, 1991, at 3 A.M., a police officer came to the complainant's house and ordered him to accompany him to the police station. The police officer did not have an arrest warrant, and did not even explain to the complainant the reason for this unexpected visit. In spite of this, assuming that the above mentioned debt was involved, the complainant accompanied the policeman to the police station. As a precaution, he took with him the receipt confirming payment of the debt.

Upon arriving at the police station, the complainant found that his assumption was correct. He protested to the Execution Officer about his having been falsely summoned to the police station in the middle of the night, in spite of the fact that he had paid his debt previously on July 31, 1991, and had even presented the receipt to the Execution Officer. According to the complainant, the Execution Officer denied that the receipt had been presented to him previously.

(c) The complainant requested that the Commissioner investigate his complaint, and draw the conclusions necessary to prevent the recurrence of similar incidents.

2. The Commissioner's inquiry revealed the following:

(a) Since the complainant had not made the alimony payment on time, the payment was made by the National Insurance Institute (hereafter - the Institute), under the Maintenance (Assurance of Payment) Law, 5732-1972. A warrant for his arrest was issued on June 2, 1991 by request of the Institute.

(b) On the face of the warrant form appeared a remark, according to which the debt had been paid on July 31, 1991. The remark was in the handwriting of the Execution Officer, and was signed by him without stipulating the date. It should be noted that below the line in the warrant, designated for the signature, there appears in bold faced letters "POLICEMAN, DON'T FORGET TO FILL IN THE DATE". From the remark itself, it is not possible to ascertain when the entry was made - on July 31, 1991, as the complainant claims, supported by the testimony of his wife, or after his arrest on September 14, 1991, as the Execution Officer claims.

(c) According to the complainant's version, the Execution Officer told him on July 31, 1991 - the date of payment, that everything was in order and that he should submit a copy of the receipt to the Ramat Gan branch of the Institute. An investigation by the Commissioner in the branch of the Institute showed that a copy of the receipt was indeed found in the appropriate file.

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

(a) The Execution Officer caused a false arrest to be made.

(b) The policeman who arrested the complainant, on orders of the Execution Officer, acted without a legal warrant.

4. The Police Force was instructed to take disciplinary measures against those involved in the incident.

It was recommended that the Police Force instruct policemen, responsible for carrying out arrest warrants, to adhere carefully to the regulations relating to their execution and especially to the requirement to ascertain that they have in their possession an arrest warrant before visiting the debtor.

5. The Police Force acted as instructed:

(a) The Execution Officer was severely reprimanded for causing a false arrest.

(b) The policeman who carried out the arrest without a warrant was also reprimanded, although it was taken into account that he acted on his superior's orders.

The Police Department adopted the Commissioner's recommendation to instruct the policemen to act in such a manner so as to prevent the recurrence of incidents of this sort.

## **INCORRECT INFORMATION THAT CAUSED THE CANCELLATION OF FIREARMS LICENSES**

1. The Complainant claimed that the Israel Police Force (hereafter - the police) confiscated firearms that he possessed by license and refused to return them to him.

Following are the details of the complaint:

(a) On September 3, 1989 the police confiscated a revolver and an air rifle that the complainant was licensed to hold, due to his involvement in a shooting incident. According to the complainant, he had fired his revolver in the air in self defense. In light of the incident, the police opened an investigation.

(b) On February 11, 1990, the Department of Licensing and Supervision in the Ministry of the Interior (hereafter - the department) revoked the complainant's licenses to possess firearms.

(c) The complainant requested that the police return his weapons and reinstate his licenses. The police refused to do so.

(d) In February 1991 the complainant petitioned the court to order the police to return his weapons. The police informed the court that the complainant's licenses had been revoked by the department, and therefore it was impossible to return the firearms to him. The police added that it was not opposed to handing over the weapons to any person holding a valid license.

Accordingly, the complainant requested that the department renew his licenses. However the department claimed that the police were opposed to the renewal of the licenses, which made it impossible to grant his request.

(e) On February 28, 1991 the police informed the complainant that the file, that was opened against him, had been closed.

Consequently, the complainant once again applied to the department, requesting to renew his licenses. The department informed him that it could not renew the licenses until the police withdrew its opposition.

At this point the complainant requested that the Commissioner intervene.

2. (a) According to the Firearms Law, 5709-1949 ( hereafter - the Law) the competent authority to grant a license to a citizen to carry firearms is the Licensing Officer, the police and the Israel Defense Forces.

Section 12 (A) of the Law states that "a person competent to grant a license under this law may, in his discretion... cancel a license during its period of validity".

(b) The department informed the Commissioner that according to an arrangement with the police, the latter may make a recommendation to cancel a license, stating the reasons for so doing. Should the Licensing Officer decide to act according to the recommendation, he must notify the license holder of his intention to cancel the license, and of the right of the citizen to appeal his decision. If the citizen does not appeal, or if his appeal is rejected, the Licensing Officer cancels the license.

In this case, the Licensing Officer acted in accordance with the arrangement.

3. The Commissioner's investigation revealed the following turn of events:

(a) In the evening hours of August 31, 1989, the former husband of a woman with whom the complainant was living (hereafter - the man) appeared in the yard of his house. The man began to bang on the door of the house with a heavy instrument. The complainant, knowing that the man had a criminal record, feared that he intended to break into his house. In order to chase him away, he climbed to the second floor and fired two shots in the air with his revolver, causing the man to leave the premises.

(b) On his own initiative, the complainant went to the local police station and reported the incident. However, as a result of this report, the police opened a file against the complainant himself, on the suspicion that he committed a crime of "attempting to inflict grievous bodily harm and shooting in a residential area." His weapons were later confiscated.

(c) In February 1990, the police recommended that the department cancel the complainant's licenses. The following reasons were given:

"A criminal file was opened against Mr.(-) in the Zichron station for attempting to inflict grievous bodily harm, and shooting in a residential area. In addition, he is awaiting trial for two offenses of creating public disorder, one offense against property without a conviction, two offenses of fraud with a conviction and three offenses of fraud without a conviction".

The department informed the complainant of its intention to cancel his licenses and of his right to appeal.



The complainant appealed. However, the police stood by their recommendation and consequently the Licensing Officer cancelled the licenses on November 27, 1990.

(d) As mentioned above, in February 1991 the complainant petitioned the court to order the police to return his weapons to him.

The court accepted the position of the police, according to which the police agreed to return the weapons to any person holding a valid license, or alternatively to make it possible for the complainant to sell his weapons to a certified weapons merchant.

(e) A review of the police file that had been opened against the complainant, and that caused the police to cancel his licenses, revealed that the police had found that the complainant had indeed shot in the air in order to cause the man to leave his property, and not to harm him.

The police recommendation to cancel the complainant's licenses was based on the assumption that he had a criminal record. This assumption was incorrect, resulting from the fact that the criminal record of the man who threatened him was attributed to the complainant. The complainant's record was clean.

The mistaken information about the supposed criminal record of the complainant was conveyed to the Licensing Officer, and was the basis for the cancellation of the licenses.

In July 1992 the Licensing Officer informed the Commission that in light of the clarification that he received from the police, he decided to retract the cancellation of the complainant's licenses.

**4. In view of the above findings, the Commissioner ruled that the complaint was justified.**

(a) The police should not have opened a file against the complainant, on the suspicion of attempting to cause grievous harm. At most, a file could have been opened on the suspicion of the offense of shooting in a residential area.

(b) The criminal record of the complainant should have been assessed accurately in order to avoid misleading the Licensing Officer.

(c) The police should have discovered its mistake when responding to the complainant's appeal.

(d) Since the complainant's record was clean, the Licensing Officer reached the correct decision when he retracted his decision to cancel the licenses.

The police informed the Commissioner that it would take disciplinary steps against the officers responsible for these blunders.

## LOCAL AUTHORITIES

### A MUNICIPAL PROPERTY TAX EXEMPTION ON PROPERTY THAT IS UNINHABITABLE

1. (a) The complainants are owners of an old building in Haifa on the seacoast, that was reclaimed from the sea when the port of Haifa was constructed. For the last ten years the basement of the building had suffered from flooding and was consequently uninhabitable.

The complainants requested that the Municipality exempt them from the Municipal Property Tax (hereafter - the tax). Indeed between 1985 and 1989 they received such an exemption.

(b) The Municipal Engineer inspected the property in December 1990 and stated his opinion that the basement could be repaired. On the basis of this opinion, the Municipality decided to discontinue the exemption, and the complainants consequently received a demand for payment of the tax. As an alternative, the Municipality suggested that the complainants seal off the entrance to the basement, so that it could not be used.

The complainants rejected the suggestion of sealing off the basement. They claimed that access to the basement was necessary to carry out regular maintenance jobs, in order to ensure the soundness of the foundations of the building.

(c) The complainants, insisting that they were not liable for the payment, filed a complaint with the Commissioner.

2. (a) The complainants based their claim on Section 330 of the Municipal Ordinance (New Version), which states:

"If any building in respect of which any rate is payable under the provisions of this Ordinance,

(a) shall be demolished, or

(b) shall be damaged to such an extent that it becomes uninhabitable and is not inhabited,

the occupier of such building shall give notice in writing to the municipal council, and after the giving of such notice shall not be liable for any further installment in respect of the rates; Provided that nothing herein shall be deemed to affect the liability of any occupier

for any installment of rates which became due before the giving of such notice."

(b) The complainants pointed out that all three conditions stated in the above section exist in their case.

1. Flooding made the basement "uninhabitable".
2. The basement had not been "inhabited" for the last several years, ever since the archives of a commercial bank were evacuated from it, in 1984, because of flooding.
3. The complainants, who were and are "occupiers of the building" notified the Municipality, as is required, and were even given an exemption from the tax for several years, as a result of that notification.

(c) Subsequent to the visit of the Municipal Engineer, the complainants were required to drain the water from the basement, and to repair its floor and ceiling. The Municipality claimed that after these repairs were made, the basement would be fit for use.

The complainants claimed that in previous years they were careful to carry out all necessary maintenance jobs relating to the foundations of the building, located in the basement, and from time to time drained the water from it. They showed the Commissioner documents that supported their claim. However, the maintenance and drainage activities were not, and could not be, sufficient to prevent repeated flooding, nor could they make the basement inhabitable without a further considerable investment.

In support of its claim, the Municipality referred to certain passages appearing in the book "Municipal Property Tax", by Henrik Rostovitz, citing a Judgement of the Tel Aviv District Court, according to which the test of whether a building is "damaged to such an extent that it becomes uninhabitable" must be an objective test, to be applied in each case according to its facts. There may be a case in which a certain building is uninhabitable in its present condition, but with a reasonable investment, could be repaired in order to make it inhabitable. In such a case, a refusal to invest in the necessary repairs cannot constitute justification of exemption according to Section 330. On the other hand, if such a considerable investment for repairs is required that it would not be reasonable to expect the building's owner or occupier to agree to it, the Municipality must grant the exemption. The Municipality was of the opinion that in the present case

it was reasonable to expect the complainants to invest in the necessary repairs in the building.

In order to determine whether an investment is reasonable, one must consider whether the use that will be derived from the property, after its repair, justifies the size of the investment. In the case considered by the District Court, it was decided that in light of the circumstances, even if the property would be made inhabitable, the rent that could be derived would be less than the tax due. It was decided, therefore, that the occupier could not be required to repair the property.

3. The complainant presented to the Commissioner a detailed evaluation prepared by an engineer, supporting his claim. A visit was arranged to the site, in which the Commissioner, the Municipality and the complainant would all be represented. The Commissioner's engineering consultant evaluated the situation. It was concluded that a very large sum of money would have to be invested to make the basement usable.

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

The Commissioner was satisfied that in this case all the conditions of Section 330 of the Municipal Ordinance (New Version) existed, and that there was no basis to charge the tax as long as the above conditions continued to exist.

The Commissioner instructed the Haifa Municipality to exempt the complainants from paying the tax. The Municipality acted accordingly.

**USING A FORM BEARING THE SYMBOL OF A MUNICIPALITY TO COLLECT A GARDENING FEE**

1. The complainant, a resident of one of the neighborhoods in Haifa, received a demand from a neighborhood cooperative society to pay an annual gardening fee. The demand for payment was printed on a form bearing the symbol of the Haifa Municipality.

2. According to the State Comptroller Law, 5718-1958 [Consolidated version], the cooperative society is not an inspected body. It appeared, therefore, that the Commissioner could not investigate the complaint. However, the Commissioner decided to investigate the complaint, since use was made of a form bearing the symbol of the Haifa Municipality and was attached to an official Haifa municipality payment request.

3. The Commissioner is of the opinion, that the use of an official municipality form could mislead the residents of the neighborhood into thinking that the gardening fee is an obligatory payment to the Municipality.

4. It should be noted that the Commissioner's 14th Annual Report reported a similar complaint against the Haifa Municipality. In that case the municipality collected a gardening fee from the residents of a particular neighborhood, as a part of the Municipal Property Tax. In that case, the Commissioner ruled that it was improper administration to collect gardening fees for cooperative societies within the framework of municipal taxes.

5. In the present case, even though the gardening fee demand was made directly by the cooperative society, and not within the framework of a municipal tax demand, the use of a form carrying the municipal symbol and the heading "Department of Neighborhoods and Quarters" was improper administration, since such a presentation is likely to be interpreted to mean that the collection is carried out by the Municipality by law - and not by the cooperative society.

6. Consequently, the Commissioner instructed the Haifa Municipality to prevent the use of its official forms for such purposes.

#### **ISSUING AN ORDER FOR TEMPORARY USE OF AN EMPTY PLOT AS A PARKING LOT - THE REFUSAL TO PAY PROPERTY TAX ON THE PLOT**

1. The complainants, owners of a plot in Kiriat Ata, filed the following complaint with the Commissioner:

(a) In November 1989 the Kiriat Ata Municipality (hereafter - the Municipality) informed the complainants that, by power of the provisions of the Local Authorities' Law (Temporary Use of Empty Plots), 5747-1987, (hereafter: the Law), it was issuing an order, whereby their plot would be used temporarily as a public parking lot.

The notice sent by the Municipality stated that the order was for five years, commencing November 21, 1989. On August 21, 1991 the Municipality informed the complainants that the order was revoked.

(b) The complainants claimed that the Municipality had not fulfilled its statutory obligation to pay the Property Tax due on the plot.

At the time that the complaint was sent to the Commissioner, the tax for the period in which the order was in effect amounted to 28,025 NIS.

2. The relevant provisions of the Law, are as follows:

(a) Section 5: Temporary Use of a Parking Lot

The Local Authority has the right to order that an empty plot be used as a public parking lot: If the Authority so ordered, the owner of the plot will permit vehicles to park on his plot free of charge, but the Authority must pay the cost of preparing the plot for use as a parking lot and the cost of its upkeep.

(b) Section 8: The Period of Validity of an Order

An order for temporary use is valid for five years, but may be lengthened by issuing a new order.

(c) Section 12: Property Tax and Salary Payments

As long as an order is in force on a plot, the Authority is liable for the tax due on that plot, and shall not bill the owner for mandatory payments due. The Authority shall be considered to be the party in possession of the plot, and will be liable for any duty or responsibility which is applicable to the possessor, by law.

3. The Municipality claimed as follows:

(a) The plot was never prepared for use in accordance with the order for temporary use issued by the Municipality, which was, in any case, later revoked. The Municipality never made use of the plot, and did not allow others to use it.

(b) The complainants own properties in the adjacent commercial center, and, therefore, were well aware that the Municipality had not made use of their plot. Moreover, about a year and a half before the revocation of the order, the Municipality had informed the complainants that it was not making any use of the plot.

(c) The order for temporary use, which was not implemented, did not cause the complainants to incur any expense and did not prevent them from using their plot, which remained empty as it had been before the order.

(d) Accordingly, the Municipality did not see any reason to pay, from public funds, the Property Taxes that were due on the plot.

4. The complainants also claimed that since the order was made for a five year period, expiring on November 21, 1994, the Municipality was not authorized to revoke the order before that date. The complainants claimed that the Municipality is obligated, therefore, to pay the Property Tax regarding the period after the "illegal" revocation of the order.

The complainants based this claim on section 8 of the Law, presented above. According to their reasoning, the wording of the section provides that the period fixed in the order may be lengthened but not shortened.

**5. The Commissioner ruled that the complaint was justified regarding the Property Tax due for the period during which the order was in effect prior to revocation.**

(a) The Law explicitly states that, as long as an order for temporary use is in effect, the Municipality is liable for the Property Tax. It makes no difference whether or not the Municipality used the property, or if the complainants knew that it was not actually being used. The fact that the Municipality had the right to use the plot by power of the order, made the Municipality the party in possession of the plot, according to law, and therefore transferred to the Municipality the burden of the Property Tax.

(b) Section 12 of the Law, presented above, is part of a chapter whose heading is "Insuring Owner's Rights". In the Commissioner's opinion, when a public authority, such as a municipality, is empowered to injure property rights, it is important to ensure that the provisions, intended to protect owner's rights, be upheld.

**(c) On the other hand, the Commissioner did not accept the complainant's claim, according to which the Municipality was not empowered to cancel the order before expiry of the five year period.**

Section 15 of the Interpretations Law, 5741- 1981 states that:

"Any empowerment to make regulations or to issue an administrative directive implies empowerment to amend, vary, suspend or revoke them ... in the same manner in which they ... are ... made or issued."

According to this provision, the Municipality had the authority to revoke the order before the termination of the period originally fixed by the Municipality.



Since the authority to cancel orders is a general one, it was not necessary to provide by law specific authority to cancel an order, as was provided regarding the extension of an order, by section 8 of the Law.

6. In light of the above, the Commissioner instructed the Municipality to pay the Property Tax due concerning the plot for the period commencing with the issuing of the order, and ending with the date of its revocation.

#### **A WORKER'S CLAIM THAT HIS DISMISSAL WAS DUE TO HIS EXPOSING ACTS OF CORRUPTION**

1. On June 17, 1991 the complainant submitted a complaint to the Commissioner, claiming that the Municipality of Kiryat Motzkin (hereafter - the Municipality) had unjustifiably dismissed him. Following are the details:

(a) In 1988 the complainant was hired, on the basis of a tender, as a foreman in the Water and Sewage Department of the Municipality, (hereafter - the department).

The complainant claimed that he experienced a lack of cooperation from the department manager, (his supervisor). In his opinion, the department manager is not qualified for his position. He also claimed, that the manager used the municipal car for personal needs and that he privately employed workers from the department in his home. Similarly, he claimed that the employees subordinate to him refused to carry out the tasks that the complainant requested of them. In this respect, he mentioned in particular one such employee (hereafter - the employee). According to the complainant, the employee would perform private jobs during working hours. The complainant reported this to the department manager, but nothing was done to improve the situation.

In April 1991, when the complainant substituted for the department manager, who was on reserve duty, he was involved in a stormy quarrel with the employee. Following this, on April, 25, 1991, the complainant wrote a letter to the Mayor and to the Director General of the Municipality, describing irregularities in the running of the department.

On April 28, 1991 the Director General held a meeting with the complainant, together with the Municipal Engineer, the department manager and representatives of the employees's union. Following this meeting, the complainant was dismissed. His dismissal came into effect on June 7, 1991.

(b) The complainant claimed that the decision to dismiss him stemmed from the fact that he had revealed corruption in his department to the Mayor and the Director General. He requested of the Commissioner to order the revocation of his dismissal and to demand his reinstatement.

2. Following are instructions in the State Comptroller Law that pertain to the matter:

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

(l) A complaint by an employee... about an act ... that his superior committed as a reaction to the fact that he reported, in good faith and in accordance with proper procedure, acts of corruption committed in the body in which he is employed - shall be investigated under the provisions of this chapter.

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.

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...

3. The investigation of the complaint revealed:

(a) The Municipality explained to the Commissioner, that the complainant was dismissed because of difficult and continuing problems of personal relations. The Municipality presented documentation supporting its claim, that since the complainant had started working in the Municipality, there were severe tensions between him and the employees of the department. These tensions even caused two senior workers to resign.

The Municipality also claimed that the complainant was incapable of solving professional problems on the spot, and was unable to supervise the department independently while the department manager was absent. This created a derisive and mistrustful attitude towards him by the employees under his charge.

The decision to dismiss him was finally reached by the Mayor and the Director General after the quarrel between the complainant and the employee, following which the complainant wrote to them and demanded investigation of the matter. The Municipality claimed that since the complainant began working in the Municipality, there was need for such investigations time and again, a state of affairs that was unknown prior to that time in the department.

(b) It was noted that in the complainant's letter of April 25, 1991, he did not speak out against acts of corruption in the department, but pointed out the lack of obedience on the part of the employee, management problems and the lack of support on the part of the department manager.

(c) After receiving that letter, the Director General arranged for a meeting with the complainant on April 28, 1991, in which the Municipal Engineer, the department manager and representatives of the employees' union participated. At this meeting the complainant was informed that it had been decided to propose to the Mayor that he be dismissed.

It was only during that meeting that the complainant brought up the claim of corruption in his department. In the course of the discussion, the complainant expressed his willingness to retract his claims on the condition that the employee with whom he quarrelled would be dismissed, whereas he would retain his position. The Director General did not agree to this.

The complainant wrote a letter that same day to the Municipal Comptroller, in accordance with the Director General's request to put in writing the list of irregularities in the department.

**4. As a result of the investigation, the Commissioner found the complaint unjustified.**

(a) The complainant made his claims of corruption only after he became aware of the intention to dismiss him. It follows that the dismissal did not come "as a reaction to the fact that he ... complained about corruption", as required in clause 45A(1) of the State Comptroller's Law. On the contrary, the inquiry revealed that the decision to dismiss him stemmed from his behavior and the way in which he functioned.

(b) Moreover, the corruption reported by the complainant, was known to him earlier, but he only reported it when he knew he was about to be dismissed. In these circumstances, his disclosures create a doubt regarding his good faith.

5. The complainant's claims of corruption in the department were investigated by the Municipality. As a result of the findings of the investigation, the supervisor was reprimanded for improper conduct.
6. The Commissioner ordered that these findings be brought to the attention of the appropriate audit unit in the State Comptroller's Office.

## **BROADCASTING AUTHORITY**

### **PROLONGED DELAY IN GIVING A REPLY**

1. In September 1992, a Member of the Knesset (hereafter - the complainant) submitted a complaint to the Commissioner, regarding the prolonged delay of the Israel Broadcasting Authority (hereafter - the Authority) in replying to his letter. Following are details of the complaint:

(a) On March 8, 1992, the complainant wrote a letter to the Director General of the Authority, complaining about the manner in which he was interviewed on the Israeli television news program "Mabbat", regarding a speech that he made in the Knesset.

The complainant claimed that the interviewer, a reporter for police affairs, addressed him angrily and aggressively. He requested that the Director General of the Authority investigate the matter and inform him of the results of the investigation.

(b) Not having received a reply by April 7, 1992, the complainant sent a reminder to the Director General of the Authority.

(c) The Deputy Director General for Special Assignments, who is also responsible for investigation of public complaints in the Authority (hereafter - the Deputy Director General) informed the complainant on April 29, 1992, that the complaint had been referred to him, and that he would reply to his letter not later than the middle of May 1992.

(d) The complainant sent three more reminders to the Deputy Director General in the months of May, June and August 1992, but to no avail.

2. In spite of the Commissioner's preliminary investigation of the complaint, the complainant did not receive a reply to his letter.

(a) From September 1992 until December 1992, the Commissioner wrote to the Deputy Director General several times, regarding the failure of the Authority to reply to the complainant's letters.

(b) In the course of discussions that took place in the presence of the Director General of the Authority in the Knesset Committee of State Audit Affairs on December 7, 1992, the complainant once again raised the subject of not having received a reply from the Authority.

(c) It was only on December 24, 1992, that as a result of the Commissioner's letters, the Deputy Director General finally wrote a letter of reply to the complainant.

The letter informed the complainant that the interviewer had deviated from the explicit instructions of the Authority regarding the proper behavior of News Department employees, and accordingly, a derogatory remark would be recorded in his personal file.

He apologized to the complainant on behalf of the Authority, for the manner in which the interview was conducted, and also apologized personally for the delay in answering his letter.

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

The Commissioner pointed out to the Authority the seriousness with which she regarded the long delay in answering the complainant. She remarked that this was not the only complaint to have been received concerning the time taken by the Authority in dealing with public complaints. The Commissioner pointed out the need to take steps to prevent recurrence of similar incidents in the future.

4. The Director General informed the Commissioner that as a result of the Commissioner's ruling, the Authority had taken the necessary steps to ensure a speedy reply to all future complaints.

## **AMIDAR - NATIONAL COMPANY FOR IMMIGRATION HOUSING LTD.**

### **EVICTING A TENANT ON A CLAIM OF ABANDONMENT**

1. (a) The complainant, a woman in poor health, lived alone in Kfar Saba in an apartment that she rented from the Amidar Housing Company (hereafter - Amidar). In the middle of 1987 she requested that Amidar transfer her to another apartment, claiming that in its present state her apartment was uninhabitable. By mid-1988 her request had not been granted, and since her health had deteriorated, the complainant went to live with relatives, but continued to pay rent according to the terms of the lease.

(b) In her complaint to the Commissioner, the complainant claimed that Amidar viewed the fact that she went to live with relatives as abandonment of the apartment, and removed her belongings from her apartment without a court order. Later Amidar renovated the apartment and leased it to another tenant. The complainant was consequently left homeless. Moreover, her belongings, that had been removed from the apartment, were not returned to her.

(c) The complainant claimed that Amidar should provide her with a suitable apartment, and compensate her for the loss of her belongings.

2. (a) Amidar responded, that since the apartment had been abandoned for a prolonged period, it had been repossessed by the company. The manager added: " When the apartment was cleared, there were only rags and pieces of broken furniture in it."

(b) Amidar's internal regulations regarding "abandoned units" include the following provisions:

"When the administrator discovers an abandoned unit...the tenant should be sent a warning by registered mail, signed by the lawyer of the branch... entitled `Warning of Abandonment of your Apartment`...A similar announcement should be sent to the local authority.

The warning should be sent to the address of the apartment, as well as to any other known address of the tenant...

If within one month the warning is not returned from the post office, the administrator should arrange for a return visit to the apartment in order to ascertain that the apartment is abandoned, or to see what actually happened, and to act accordingly."

3. The Commissioner's investigation of the complaint revealed the following turn of events:

(a) In June 1988 neighbors notified Amidar that the apartment had been broken into, and that the complainant had been living elsewhere for about a year.

About a half a year after receiving that notification, a representative of the company visited the apartment. He was impressed that the complainant no longer lived in the apartment, photographed it, but did not make an inventory of its contents.

On January 26, 1989 Amidar sent the complainant a "Warning of Abandonment of the Apartment", but only to the address of the apartment itself. According to the warning, she was given a period of seven days to return the apartment to the company, and if she did not do so, the company itself would repossess it. Amidar did not send the warning to the complainant's address at her relatives' home, nor to her place of employment, which was known to Amidar, nor to the local authority, as it was obliged to do according to the company's internal regulation.

(b) When the complainant realized that Amidar had repossessed the apartment, she contacted the company, who referred her to the Ministry of Construction and Housing, advising her to make a request to receive another apartment. The complainant did so. The district manager of Amidar recommended that the Ministry of Construction and Housing accept her request, in light of her poor health. However, her request was rejected on the grounds that the complainant did not fit the criteria for receiving an apartment.

(c) The investigation revealed that as far back as April 1985 a social worker of the Israel Aircraft Industry, where the complainant was employed, wrote to Amidar stating that it was essential that the company make basic repairs in the apartment, emphasizing that the complainant was "a cardiac patient who suffers from diabetes and high blood pressure, who must receive frequent medical treatment, and is sometimes hospitalized."



Immediately after receiving the letter, Amidar inspected the apartment and found that repairs were indeed required. A detailed list of the necessary repairs was prepared - including opening a wall because of a burst water pipe and consequent dampness. A work order was prepared, but later cancelled, and the repairs were not carried out.

Towards the end of 1987, after receiving the complainant's request to be transferred to another apartment, Amidar inspected the apartment for the second time. The report stated that repairs were required. However, once again the repairs were not carried out.

(d) This turn of events badly affected the complainant's health, and because of the poor condition of the apartment, she was forced to find refuge with her relatives. The Commissioner found that the complainant was absent from her apartment for a total of six months.

(e) Only after Amidar had repossessed the apartment, did the company make the repairs that were long overdue. When the apartment was later rented to another tenant, further repairs were made.

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

(a) The complainant's absence from the apartment could not be viewed as abandonment. Her poor health and the bad condition of the apartment forced the complainant to take refuge with her relatives. She did not have any intention of abandonment when she acted as she did, and what is more, she continued to pay rent and to keep her belongings in the apartment.

Moreover, in this case Amidar did not follow its own regulations regarding abandonment. The company simply pasted a warning on the door of the abandoned apartment, without sending an additional warning to the complainant at her place of employment. Amidar also did not send a notification of the warning to the local authority, as was required.

(b) Amidar did not act as it was required to by an express term in the lease, regarding vacating the apartment, requiring the company to make an inventory of the tenant's belongings in the presence of two witnesses.

Consequently, the repossession of the apartment was illegal.

5. In light of the above, the Commissioner instructed Amidar to provide the complainant with an alternative apartment in Kfar Saba, and to pay her compensation of 10,000 NIS for the loss of the contents of the apartment.

6. Amidar notified the Commission that it would act as directed.

## **APPENDICES**

**Table 1: Breakdown of Complaints by Agencies Complained Against, 1992/93**  
(September 28, 1992 - September 15, 1993)

Agency	New Cases	Cases Resolved During Report Year (Including Cases Received Previously)		
	Total Number of Complaints	Number of Complaints	Subjects Resolved Substantively	Subjects of Complaints Found Justified
Prime Minister's Office	19	12	8	3
Ministry of Finance*	449	334	315	129
Income Tax	148	100	100	48
Property Tax and Compensation Fund	83	66	70	20
Land Improvement Fund	31	30	30	14
Customs and Value Added Tax	76	66	56	21
Civil Service Commission	23	18	16	3
Ministry of the Environment	10	13	12	8
Ministry of Economics and Planning	2	-	-	-
Ministry of Defense*	97	93	69	16
Rehabilitation Department	60	55	51	14
Israel Defense Forces	174	156	27	5
Ministry of Construction and Housing	322	252	218	79
Ministry of Health	225	209	165	39
Ministry of Religious Affairs	82	63	35	18
Ministry of Foreign Affairs	20	6	5	2
Ministry of Education and Culture	155	167	130	59
Ministry of Agriculture	30	24	13	4
Ministry of Science and Technology	1	2	2	-
Ministry of Justice*	357	316	167	51
Courts Administration	123	109	35	15
Execution Offices	116	103	49	10
Ministry of Labor and Social Welfare*	186	165	108	40
Labor	41	38	25	7
Social Welfare	44	34	25	5
Employment Services	72	64	42	19
Ministry of Police*	507	426	205	74
Israel Police Force	442	367	175	69
Prison Service	62	54	25	2
Ministry of the Interior	202	170	121	52
Ministry of Immigrant Absorption	107	44	45	25
Ministry of Transport*	159	125	98	35
Licensing Department	55	38	40	19
Ministry of Tourism	9	12	12	2
Ministry of Industry and Commerce	22	18	14	7
Ministry of Communication	31	14	11	3
Bezek, Israel Communications Co. Ltd.	152	130	115	44
Postal Authority	99	69	69	32
Bank of Israel	50	28	27	4

**Table 1: Breakdown of Complaints by Agencies Complained Against, 1992/93**  
(September 28, 1992 - September 15, 1993) (continued)

Agency	New Cases	Cases Resolved During Report Year (Including Cases Received Previously)		
	Total Number of Complaints	Number of Complaints	Subjects Resolved Substantively	Subjects of Complaints Found Justified
National Insurance Institute	432	361	252	94
Israel Lands Administration	128	123	63	8
Broadcasting Authority	176	123	109	63
Local Authorities**	1,547	1,242	815	300
City of Jerusalem	129	115	75	29
City of Tel Aviv-Jaffa	148	141	118	37
City of Haifa	126	115	91	36
City of Bnei Brak	70	19	15	11
City of Ramat Gan	51	39	23	10
City of Holon	42	25	23	5
City of Netanya	34	35	5	2
City of Bat Yam	32	9	16	4
City of Rehovot	32	24	11	7
Others	883	720	438	159
Other Agencies**	625	509	430	106
Amidar Housing Company	172	148	149	23
Electric Company	61	50	50	9
Kupat Holim	84	61	43	23
Israel Housing and Development Company	38	21	21	8
Others	270	229	167	43
Agencies Not Subject to Ombudsman Inspection***	917	1,023	-	-
<b>Total</b>	<b>7,292</b>	<b>6,229</b>	<b>3,660</b>	<b>1,302</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 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, 1992/93**  
(September 28, 1992 - September, 15, 1993)\*

Category	New Cases	Cases Resolved During Report Year (Including Cases Received Previously)		
		Total	Substantively Resolved	Found Justified
A. Welfare Services	1,741	1,409	1,007	303
1. Housing	513	338	273	83
Improvement of Housing Conditions	64	82	60	7
Building Defects	100	81	71	30
Mortgages and Apartment Prices	48	72	64	15
Immigrant Housing	78	39	39	21
Savings Funds and Eligibility for Loans	98	37	30	7
2. Welfare	278	238	189	22
3. Education	205	216	142	52
Matriculation Exams	11	13	12	4
Professional Training	33	29	22	5
Tuition Fees	38	36	28	6
Higher Education	23	28	17	1
4. Handicapped Persons	211	169	125	36
5. National Insurance (Social Security)	292	231	139	63
6. Health (Hospitals, etc.)	244	217	139	47
B. Services Provided by Local Authorities	760	630	352	178
Hazards and Nuisances	211	198	131	78
Building Licenses	276	208	85	39
Roads, Sidewalks and Refuse Removal	80	71	46	27
Business Licenses	44	36	15	5
Parking Fines	60	43	31	12
C. Provision of Public Services	869	667	479	228
Non-Response to Letters	374	299	224	120
Behavior of Public Officials	107	84	61	23
D. Telephone and Postal Services	232	189	156	66
Telephone Installation and Repair	37	32	21	11
Bills and Credits	69	56	47	12
Postal Service	82	60	54	27
E. Taxes and Levies	862	669	510	189
1. Income Tax	129	81	73	36
2. Property Tax	63	57	54	8
3. Customs	34	33	29	12
4. Value-Added Tax	26	13	8	2
5. Land Improvement Tax	20	25	24	11
6. Radio and T.V. License Fees	158	110	99	55

**Table 2: Breakdown of Complaints by Major Categories, 1992/93**  
(September 28, 1992 - September, 15, 1993)\* (continued)

Category	New Cases	Cases Resolved During Report Year (Including Cases Received Previously)		
		Total	Substantively Resolved	Found Justified
7. Refunds	37	23	13	7
8. Local Taxes and Levies	338	306	195	53
Water Bills	97	75	51	22
Local Property Taxes	196	174	109	24
Road Paying Levies	16	16	10	1
F. Workers Rights	496	442	244	63
Salaries and Wages	88	121	29	14
Dismissals and Severance Pay	84	65	28	4
Tenders and Employment	134	62	34	7
Pensions and Transfer Payments	30	36	28	6
G. Miscellaneous	2,844	2,639	912	275
1. Police	423	350	163	63
Handling of Complaints	172	143	58	13
Police Behavior and False Arrests	91	96	36	22
Traffic Offenses	86	74	49	25
2. Transportation	182	138	110	36
Public Transportation	82	72	52	21
3. Acquisition and Expropriation of Land	77	85	36	13
4. Fees for Leasing and Sub-Leasing				
Public Land	57	58	39	5
<b>Total**</b>	<b>7,804</b>	<b>6,645</b>	<b>3,660</b>	<b>1,302</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, 5751-1990; State Comptroller (Amendment No. 17) Law, 5752-1992.



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

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.  (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.  (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 safe-guarding 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



## Chapter Four

### REPORTS AND OPINIONS OF THE COMPTROLLER

Comptroller's  
report on  
Government  
offices and  
State  
institutions

15. (a) Not later than the 15th of February each year, the Comptroller shall present a report for the consideration of the Minister of Economy and Planning on the results of the inspection of the inspected bodies, within the meaning of section 9(1) and (2), carried out during the course of the past financial year.

(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.





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 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.

Material not  
to serve as  
evidence

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.

(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.

(\*) updated periodically.

## 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

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

Complaint  
against  
whom

(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.

37. The subject of a complaint may be –

Complaint  
about what

(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,



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.

45B. Where the Commissioner finds that there is a reason justifying it, he may investigate a complaint under section 45A(1) even if the employee reported the acts of corruption otherwise than in accordance with proper procedure.

Complaint only to be investigated for special reason

