Abatement of Nuisances Law 5721-1961

Definitions
1. In this Law –
   "the Minister" – the Minister of Environmental Protection;
   "This Law" includes the regulations, by-laws, provisions and directions made under it.

Prevention of noise
2. A person shall not cause any considerable or unreasonable noise, from any source whatsoever, if the same disturbs or is liable to disturb a person in the vicinity or a passerby.

Prevention of odor
3. A person shall not cause any considerable or unreasonable odor, from any source whatsoever, if the same disturbs, or is liable to disturb, a person in the vicinity or a passerby.

Prevention of air pollution
4. (a) A person shall not cause any considerable or unreasonable pollution of the air, from any source whatsoever, if the same disturbs, or is liable to disturb, a person in the vicinity or a passerby.
   (b) Air pollution, for the purposes of this section – pollution by smoke, gas, fumes, dust or the like.

Rules of implementation
5. The Minister shall, by regulations, make rules for the implementation of sections 2-4, and he may, inter alia, define what constitutes considerable or unreasonable noise, odor or air pollution.

By-laws
6. A local authority may, by by-law, with the approval of the Minister, enact special provisions for the purpose of this Law, taking into account the specific conditions of the place and of its inhabitants, and aforesaid provisions may deviate from the provisions of regulations made under this Law, including determining that such regulations shall not apply in areas, on days and at times specified in the by-law.

General directions
7. The Minister may direct, by regulations, the adoption of measures to prevent the violation of sections 2, 3 or 4; such regulations may be general or specific.

Personal directions
8. (a) The Minister or a person he appointed for that purpose, may direct a
particular person to adopt measures for the prevention of any violation of sections 2, 3 and 4.

(b) Making regulations under section 7 or a by-law under section 6 shall not derogate from the power to issue directions under this section to a person to whom the regulations or the by-law apply.

**Licenses to plants**

9. All licenses under the Licensing of Businesses Law 5728-1968 or any other license required under any enactment for the operation of a plant shall be deemed to be conditional on compliance with the provisions of this Law.

**Appointment of inspectors**

9A. (a) The Minister may appoint inspectors from among the employees of his Ministry for the implementation of this Law.

(b) A person shall not be appointed an inspector unless the following two conditions have been met:

1. the Israel Police has not stated that it objects to his appointment for reasons of public safety;

2. he received appropriate training, as determined by the Minister of Environmental Protection in coordination with the Minister of Interior Security.

**Powers of inspectors**

9B. (a) An inspector may, in order to supervise implementation of the provisions of this Law, enter any place at any reasonable time, provided he does not enter –

1. a place used for residential purposes, except under a court order;

2. a place held by the defense establishment, except by permission from the Minister of Defense or from a person he authorized for that purpose.

(b) For the purpose of discovery of an offense under this Law, an inspector shall have the powers of a police officer under section 2 and 3 of the Criminal Procedure (Evidence) Ordinance, as well as the powers of a policeman to apply to a court for a search warrant and to carry it out under sections 23 and 24(a)(1) of the Criminal Procedure (Arrests and Searches) Ordinance [New Version] 5729-1969; the provisions of the said enactments shall apply to an investigation, search and seizure of objects by an inspector, as if they were carried out by a police officer or a policeman, as the case may be and *mutatis mutandis*.

**Evidence**

10. In any judicial proceeding under this Law –

1. a nuisance defined as considerable or unreasonable in the regulations under section 5 is presumed to be liable to disturb a person in the vicinity, as long as the contrary has not been proven;

2. it shall be a good defense that the accused or defendant complied with all obligations imposed on him by directions issued under section 8.

**Powers of courts**

10A. (a) When an indictment or complaint for an offense under this Law has been submitted, then the court may issue a mandatory injunction, a prohibitory injunction and any other remedy as it deems fit under the circumstances.
before it, including for the implementation of a nuisance removal order under section 11B, and all in order to prevent, to stop or to reduce considerable or unreasonable noise, odor or air pollution.

(b) The provisions of sections 20W(b) to (h) of the Water Law 5719-1959 shall apply, *mutatis mutandis*, to all orders issued by a court under subsection (a).

(c) A court that has convicted a person of an offense under this section may, in its sentence, in addition to any penalty which it may impose, obligate him to pay the expenses incurred for the removal of the nuisance, if an application was made by the plaintiff or by the person who incurred them.

(d) If more than one person was found guilty of an offense, then the court may, in its said decision, impose payment of the expenses on all or on some of them, jointly or severally, or it may divide the amount between them, all as it deems fit under the circumstances of the case.

**Penalties**

11. (a) A person who violates any of the following provisions shall be liable to six months imprisonment or to a fine as said in section 61(a)(4) of the Penal Law 5737-1977 (hereafter: Penal Law), and if the offense was committed by a body corporate, then it shall be liable to double the said fine:

   (1) sections 2, 3 and 4 of this Law;
   
   (2) Orders by the Minister, or a person he appointed for this purpose, under section 8(a) of this Law;
   
   (3) regulations made by the Minister, which define what constitutes considerable or unreasonable noise, odor or air pollution, or regulations that prescribe the steps to be taken in order to prevent violation of the provisions of sections 2, 3 or 4 of this Law;
   
   (4) non-compliance with a nuisance removal order under section 11B of the Law.

(b) A person who violates one of the offenses said in subsection (a) in an aggravated manner or circumstances, or who causes air pollution by a substance containing a hazardous substance shall be liable to three years imprisonment or to double the fine said in section 61(a)(4) of the Penal Law, and if the offense was committed by a body corporate, then it shall be liable to four times the fine said in section 61(a)(4) of the Penal Law.

(b1) (1) For an offense committed under subsections (a) or (b), in consequence of which a person obtained a benefit or profit, for himself or for another, the court may impose on him a fine in the amount of the benefit or profit that he obtained aforesaid, in addition to any other penalty.

(2) For the purpose of this section, "benefit" includes an expense that was saved;

(3) the provisions of this section shall not derogate from the provisions of section 63 of the Penal Law.

(c) If the offense is a continuing offense, then the court may impose an additional fine, at the rate of 5% of the fine prescribed for that offense, for every day in which the offense continues beyond the period set in the warning, which began upon its service; for this purpose, "warning" – a written warning from a person empowered for that purpose by the Minister.

(d) If, within two years, a person was again convicted of an offense under this section, then he shall be liable to imprisonment as said in subsection (a) or
to double the fine which the court was entitled to impose on him under the provisions of this section for the offense of which he was convicted.

(e) An offense under this section is a strict liability offense.

(f) A fine imposed for an offense under this Law shall be paid to the Cleanliness Maintenance Fund within its meaning in the Maintenance of Cleanliness Law 5744-1984 (hereafter: Cleanliness Maintenance Fund).

Powers with respect to vehicle alarms
11A. (a) A policeman may take steps in order to stop a noise caused by an alarm instrument installed in a vehicle, which continues for longer than twenty minutes; in this section, "taking steps" includes disassembling or damaging parts of the vehicle or of the alarm system, breaking into the vehicle and towing it away.

(b) If a vehicle was opened in the course of the steps taken as said in subsection (a), then the police or the policeman who caused the vehicle to be opened do not have to post guard at the vehicle.

(c) A policeman shall not bear liability in tort for any act committed in good faith under this section.

(d) The costs of towing and storing a vehicle towed away under subsection (a) shall be borne by the owner of the vehicle, as said in section 70A(3) of the Traffic Ordinance.

Nuisance removal order
11B. (a) Where the Minister or a person he empowered for this purpose concludes that considerable or unreasonable noise, odor or air pollution (hereafter: nuisance) was caused, and an indictment has not yet been filed, then he may do the following:

(1) order the person who caused the nuisance or the owner of the property from which the nuisance is caused to stop the nuisance or to remove it to a place, in a manner and within a time period prescribed in the order, which shall begin on the day the order is served, all as the order shall prescribe;

(2) order the person who caused the nuisance or the owner of the property from which the nuisance is caused as said in paragraph (1) to restore the previous condition as far as possible under the circumstances.

(b) If a person did not comply with the provisions of an order issued under this section, then the Minister or a person he empowered for that purpose may do whatever is required under the order; once done, the person who was given the order but failed to comply with its provisions must pay to the Cleanliness Maintenance Fund double the expenses incurred; the Taxes (Collection) Ordinance shall apply to the collection of the expenses incurred.

(c) A person empowered by the Minister to implement an order said in subsection (b) may enter any place in order to implement the order, on condition that he enter a place used for residential purposes only under a court order;

(d) The provisions of section 237 of the Criminal Procedure Law [Consolidated Version] 5742-1982 (hereafter: Criminal Procedure Law) shall apply, mutatis mutandis, to the service of an order under this Law, in respect of the service of documents.
Application for revocation of an order by the court

11B1.(a) If a person deems himself aggrieved by an order made under the provisions of section 11B, then he may submit an application for its revocation to the court that is authorized to hear the offense that is the subject of the order.

(b) Submission of an application for the revocation of an order under the provisions of subsection (a) does not suspend the force of the order, as long as the court has not decided otherwise; where the court decides ex parte to suspend the force of the order, then the application shall be heard in the presence of the parties as soon as possible and not later than seven days from the day of the decision.

(c) The court may revoke, approve or change the order.

Responsibility of an office holder in a body corporate

11C.(a) An office holder in a body corporate must inspect and do everything possible in order to prevent offenses under section 11 by the body corporate or by any of its employees; a person who violates this provision shall be liable to double the fine said in section 61(a)(4) of the Penal Law; for purposes of this section, "office holder" – an active manager of the body corporate, a partner other than a limited partner, or an official responsible on behalf of that body corporate for the sphere in which the offense was committed.

(b) If an offense under section 11 was committed by a body corporate or by any of its employees, then it shall be assumed that the office holder of the body corporate violated his obligation under subsection (a), unless he proved that he did everything possible to fulfill his obligation.

Rates of fines

11D Notwithstanding the provisions of section 221(b) of the Criminal Procedure Law, the Minister of Justice may, with the agreement of the Minister, set a rate of fine that exceeds the amount of fine prescribed in the said section for an offense under this Law that is designated a finable offense, and also for a recurring, continuing or additional finable offense committed by the same person, taking into consideration the type of offense and the circumstances under which it was committed, provided that the amount of the fine not exceed 10% of the maximum fine prescribed for that offense.

Complaint

11E. (a) The following may submit a complaint, as said in section 68 of the Criminal Procedure Law, for an offense under this Law:

(1) any person – in respect of an offense committed in his private domain, or which caused him damage;

(2) a local authority – in respect of an offense committed within its jurisdiction;

(3) any one of the public and professional bodies designated in the Schedule to the Abatement of Environmental Nuisances (Civil Claims) Law 5752-1992.

(b) A complaint under subsection (a) shall only be submitted after the complainant informed the Minister of his intention to do so, and if, within 60 days thereafter, no indictment was submitted on behalf of the Attorney General.

Applicability to the State
11F. (a) This Law shall apply to the State; however –

(1) it shall not apply to installations of the Atomic Energy Commission and to any person to whom the Commodities and Services Supervision Order (Construction and Operation of Nuclear Reactor) 5735-1974 applies;

(2) the provisions of this Law shall not apply to defense or operational activity or to results of aforesaid activity, by –

(a) units and dependent units of the Prime Minister's Office, whose main activity is in the sphere of national security or foreign relations;

(b) dependent units of the Ministry of Defense, whose main activity is in the sphere of national security;

(c) the Israel Defense Forces;

however, aforesaid activity shall be carried out, as far as possible, in accordance with the provisions of this Law.

(b) The provisions of this Law shall not apply to a government company, to which spheres of activity of one of those enumerated in paragraph (a)(2) were transferred after April 1, 1997, with respect to any of the spheres of activity transferred to it.

12. Repealed

Private nuisance

13. For purposes of the Civil Wrongs Ordinance 1944, any violation of a provision of this Law shall be deemed a private nuisance.

Causing an act

14. Wherever in this Law reference is made to causing an act, a person shall be deemed to have caused it also if it was done in a place or by a person subject to his control or supervision, and he did not take reasonable measures to prevent it; if a person contends that he took such measures, then the burden of proof shall rest on him.

Saving of validity

15. The provisions of this Law shall add to and not derogate from the provisions of any enactment, and they shall not prevent any State authority or local authority from prescribing, within the scope of their lawful powers, provisions in addition to the provisions of this Law.

Exemption

16. The Minister may prescribe, by regulations, exemptions from all or from some of the provisions of this Law, when he deems it necessary to do so in order to protect a public right that takes precedence over the right affected thereby.

Inapplicability of Law

17. The provisions of this Law shall not apply to any noise, odor or air pollution whose effect does not extend beyond the private domain of the person who causes it.

Implementation and regulations

18. The Minister is charged with the implementation of this Law and he may make regulations on any matter related to its implementation.