



## UNITED NATIONS CONCILIATION COMMISSION FOR PALESTINE

## Emergency Regulations on Property of Absentees

"Development Authority Law"(Transfer of Property) - 5710-19.50

(Working paper prepared by the Secretariat)

Following the promulgation, on 2 December 1948 of the "Emergency Regulations on Property of Absentees" generally referred to as the "Absentee Property Act" (see Document W/10 dated 2 March 1949) the law creating the "Development Authority" (Transfer of Property 5710-1950) was put into effect on 9 August 1950.

While the task of the Custodian of Absentee Property was, above all, to administer and to preserve the absentee property, the Development Authority is authorized to take measures to dispose of that property. The two laws must in future be considered as the two shutters of a legal diptych. Henceforth, one cannot be studied without the other.

The present working paper contains an English translation of this new law, transmitted by the Israel Ministry of Finance. Also included is an article from "The Israel Economist" of August 1950 containing comments on the new law, as well as a modification of the Absentee Property Law (Section 19, 14 March 1950) and two decrees published in the Israel Official Gazette (Reshumot) concerning the composition of the Development Authority.

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ANNEXTEXT OF THEDEVELOPMENT AUTHORITY (TRANSFER OF PROPERTY) LAW. 5710-1950 1/

(This English translation of the official Hebrew text was transmitted to the Economic Adviser of the Commission on 16 October 1950 by Mr. Y. Baham, Acting Secretary General Israel Ministry of Finance)

Interpretation 1. In this Law -  
"Property" includes immovable and movable property as well as rights and interests of any kind whatsoever; "urban land" means immovable property situate within the town-planning area and not included in a regional planning area; "Land passing into public ownership" means immovable property other than urban land which the Government, for the purposes of this Law, has declared to be immovable property assigned for the housing of immigrants, popular housing or development purposes.

Development Authority 2. (a) The Government may, by order, published in the State records, appoint a body of persons to be an Authority for the Development of the Country (in this Law: "The Development Authority")  
(b) The Development Authority shall be a corporate body and shall be authorized to enter into-contracts, to possess and acquire property and to be a party in any legal or other proceeding.  
(c) If the Development Authority ceases to hold offices, its powers, rights and liabilities shall pass automatically to the Minister of Finance; if another body of persons is appointed to be the Development Authority, the said powers, rights and liabilities shall pass automatically to it and so on from Development Authority to Development Authority.

3. The Development Authority is competent -

- (1) To buy, rent, take on lease, take in exchange or otherwise acquire property;
- (2) to build, erect, pave, alter, repair, complete, improve, develop, carry on, maintain, manage, operate, or regulate buildings, way roads, railways, bridges, canals, mines, lines of communication, ports, airfields, factories, irrigation schemes, afforestation schemes, power plants, transport enterprises, water-works, settlement schemes, housing

schemes and other schemes;

(3) to develop, complete, ameliorate, merge, cultivate and reclaim property;

(4) to sell or otherwise dispose of, let, grant the lease of, and mortgage property;

provides that -

(a) The Development Authority shall not be authorized to sell, or otherwise transfer the right of ownership of, property passing into public ownership, except to the State, to the Jewish National Fund, to an institution approved by the Government, for the purposes of this paragraph, as an institution for the settlement of landless Arab, or to a local authority (the right of ownership of land so acquired may not be retransferred except with the consent of the Development Authority, to one of the bodies mentioned in this sub-paragraph);

(b) The Development Authority shall not be authorized to sell immovable property not being land passing into public ownership unless such property has first been offered to the Jewish National Fund and the Jewish National Fund has not agreed to acquire it within a period fixed by the Development authority;

(c) The total area of immovable property, not being land passing into public ownership, which the Development Authority may sell, the right of ownership of which it may otherwise transfer, shall not exceed 100,000 dunums (but immovable property acquired by any of the bodies mentioned in sub-paragraph (a) shall not be taken into account for the purposes of this sub-paragraph);

(d) The sale or the transfer of the right of ownership in any other way of immovable property, whether land passing into public ownership or other immovable property, shall be by decision of the Government in each individual case;

(5) to borrow or lend moneys, to obtain or grant credits, and to guarantee debts or contracts of other persons;

(6) to establish, join, or initiate or encourage the establishment of, companies, cooperative societies, partnerships and other bodies;

(7) to be a guardian, curator, trustee agent or attorney of any person and in respect of any matter;

(8) to employ agents, officials, and other employees and to prescribe their conditions of service;

(9) to do whatever is necessary to the exercise of any of its powers;

(10) to exercise any of its powers together or in partnership with the organs of the States, the Jewish Agency for Palestine, the Jewish National Fund, local Authorities, companies, cooperative societies and other bodies or persons.

4. The Government shall submit to the Knesset, at least once in every four months, a report on the activities of the Development Authority.

Budget

5. The Budget of the Development Authority shall be fixed by a Law of the Knesset; the Development Authority shall not incur expenditure or assume any financial liability unless such expenditure or liability is suitably provided for in the budget so fixed or has been approved, upon the recommendation of the Economic Committee, by the Finance Committee of the Knesset.

General Authorization to sell, etc.

6. Notwithstanding anything contained in any other Law, memorandum of association, articles of association or other document, and irrespective of any prohibition or restriction arising therefrom, any person - including the State, a local authority, the Custodian of Enemy Property (within the meaning of the Trading with the Enemy Ordinance, 1939 2), the Administrator General (within the meaning of the Administrator General Ordinance, 1944 3), accompany, a cooperative society, a trustee, the administrator of an estate, and a guardian, curator, or other person representing a legally incompetent person - entitled to any property may sell or otherwise transfer such property to the Development Authority and enter for this purpose into any such agreement as may be required.

Right of preemption, etc. not to apply

7. The sale, or disposal in any other manner, to the Development Authority of property of the category of immovable property shall not be a basis for any claim under the provisions of the third chapter of the ninth book of the Mejlle or the provisions of sections 41, 42, 44 and 45 of the Ottoman Land Law, notwithstanding anything contained in such provisions.

Implementation.

8. The Minister of Finance is charged with the implement of this law and may make regulations as to any matter relating to its implementation.

DAVID BEN GURION  
HEAD OF THE GOVERNMENT

ELIEZER KAPLAN  
MINISTER OF FINANCE

YOSEF SPRINZAK  
CHAIRMAN OF THE KNESSET  
ACTING PRESIDENT OF THE  
STATE

## ANNEX II

### Excerpt from "The Israel Economist" of August 1950

#### Note on the new "DEVELOPMENT AUTHORITY" (Transfer of Property) Law

The long awaited Development Authority, foreshadowed in a number of previous ordinances, has at last come into being. For the time being, however, only some fundamental provisions have been enacted while a more comprehensive Bill is anticipated to come before the Knesset at a later date. The main object of the law now adopted is to regulate the transfer of properties. But there are also enumerated at considerable length a variety of additional functions of the new Authority. The latter include provisions empowering that body to acquire properties and dispose of them, as well as develop them; to erect houses and factories; to construct roads railways, ports and airfields; to undertake irrigation and afforestation schemes; to borrow and lend money; to found companies and undertakings as well as other bodies. This lengthy list of powers, of course, is liable to brief more confusion than clarity, pending the enactment of a more detailed Bill. As matters stand at present, it is difficult to probe the ultimate intentions of those regulations. It is even harder to discover a clear demarkation line between the functions of the Development Authority and those of the Government and other public bodies.

Even on the transfer of properties - the chief object of the present Bill - the law remains obscure in some important respects, that is worse, it appears illogical on certain other points. Discussion on the Bill turned mainly on the problem of nationalization. The Question was whether the Authority should be entitled to pass some of its property to private ownership. For the purpose of sale the law divides the properties held by the Authority into two categories. The first, called "land transferable to the public" comprises all non-urban land as is designed for immigrant's housing, popular housing and various development schemes. The second covers all other urban land. This distinction is of great practical importance. Lands in the first category (which account for the bulk of property involved) may be sold to four public bodies only - the Government, the Jewish National Fund, local authorities, and an institution yet to be created by the Government, the Jewish National Fund, local authorities, and an institution yet to be created by the Government for the resettlement of Arabs Of the land in the second category up to 100,000 dunums may be sold to private persons. The latter provision, however, aroused sharp and understandable criticism. There is no need to go so far as Mapam in advocating the nationalization of all natural resources of the country, The Question at issue is not, however, one of nationalization, but of de-nationalization. The properties coming into the possession of the development Authority- notably through purchase from the Custodian, of Absentee Property or the Custodian of German Property obviously bong to the nation and should retain their national character. There seems to be no valid, reason why the law should have made a concession regarding urban land. It is precisely such land which is most vulnerable by private speculation, especially in an expanding economy. But this is the very. thing that the Government ought to forestall. True, the Development Authority, when willing to sell some such property to a private person must first offer it for sale to the Jewish National Fund and only if the latter refuses to buy, may the land be transferred to private ownership. That restriction, however, is of no great significance, for the Fund may well-not be in a position to take advantage of the offer because of temporary financial difficulties.

#### Legal Obscurities

There are other features in the law which invite criticism. For instance, sales by the Development Authority not only to private persons but also to the above public bodies are subject to the approval of the Government. It follows that even sales to the Government - which is "one of those bodies - require approval by the Government. A further provision states that land acquired from the Development Authority by one of the public bodies is not transferable save to another such body, and that such transfer is subject to the approval of the Authority. This means that' if the Government wishes to sell land acquired from the Development/ authority to, say, the Jewish National Fund, it would first have to obtain the consent of the Authority. In other words, in the first case, *the* Government controls the Development Authority while in the second it is the Authority which controls the Government.

The law is silent upon the important question of what prices may be charged by the Authority in selling its properties. It would be interesting to know whether public organizations or private persons are to be treated in the same manner. On the other hand, detailed regulations have been laid down with respect to purchasing prices for assets of the Custodian of the Absentee Property and the Custodian of the German Property.

Rather surprisingly, no provision is made in the law concerning the composition of the Development Authority. The one principle formulated is that the Authority is to be nominated by the Government. It was only in the course of the debate that the Chairman of the Knesset Economic Committee disclosed the composition of the

Authority. There will accordingly be representatives of four Ministries - the Treasury, the Ministries of Agriculture, Trade and Industry and Labour, as well as members of the Jewish National Fund and the Jewish Agency. It would have seemed more logical to incorporate so important a provision in the body of the law.

ANNEX III  
Modification of Section 19 of the  
Absentee Property Law

(Passed by the Israel Knesset on 14 March 1950 )

"19. (a) The Custodian cannot, in the case of vested property of the immovable category:-

(1) sell or otherwise transfer the right of ownership thereto; however, *if* a development authority shall be established by law of the Knesset, the Custodian may sell the property to that development authority; at a price not less than the official value of the property;

(2) lease the property for, a period above six years, unless

(i) to the said development authority, and when leasing property to the authority the Custodian shall insert in the agreement of lease a condition that the annual rent to be paid by it shall, not. be less than a sum equal to 4.8 per centum of the official value of the property."

ANNEX IV

Decrees published in the Israel Official Gazette  
(Reshumot) of October and November 1950 concerning  
the composition of the  
Development Authority

1. Order of Appointment of Development Authority

By virtue of its authority, in accordance with Article 2 (a) of the Development Authority Law (Transfer of Property), 5710-1950, the Government has appointed a group of persons to serve as the development authority of the country, according to the following formation:-

Yosef Gurion  
Levi Eshkol  
Haim Halperin  
Yosef Weit  
Yitzhak Finkelstein  
Binyamin Fishman  
Asher Rosenblum

13 Heshvan 5711 (24 October 1950)

By order of the Government  
ZEEV SHARP  
Secretary of the Government

2. Order of Appointment of Development Authority

Further to the Order of Appointment of Development Authority which was published in the Official Gazette 121 of 18 Heshvan 5711 (29 October 1950), page 166, and by virtue of its Authority in accordance with Article 2 (a) of the Development Authority Law (Transfer of Property), 5710-1950, the Government has appointed :

David Horowitz - Chairman of the Development authority  
Yosef Gurion - Vice-Chairman and Director of the Development Authority;  
Yitzhak Chizik - Additional member of the Development Authority.

By order of the Government  
ZEEV SHARF  
Secretary of the Government.

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1/ Passed by the Knesset on the 17th Av, 5710 (31st July 1950); the Draft and an Explanatory Note were published in Draft laws No. 25, of the 17th Kislev, 5710 (8th December, 1949) p.23.

2/ P.G. No. 823, of 5.9.39, Suppl. I. p.95 (English edition)

3/ P.G. No. 1390, of 28.12.44, Suppl. I, p.151 (English edition)