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# Holocaust Restitution: Israel Model

## How Restitution of Property of *Shoah* (Holocaust) Victims was Carried Out in Israel

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*70 years after the Holocaust, the Company for Location and Restitution of Shoah Victims' Assets was established, with the aim of doing historical justice with victims by returning their assets to their lawful heirs, and at the same time use assets whose owners were not located for assistance to Shoah needy survivors and perpetuating the memory of the Shoah.*

Israel Peleg<sup>1</sup>

A unique effort to restore the property of Holocaust (*Shoah*)<sup>2</sup> victims in Israel began in 2007 and ended in December 2017.<sup>3</sup> This unique process resulted in the restitution of assets of Israeli new shekel ("NIS") 718 million (US \$ 190.2 million)<sup>4</sup> to 2,811 legal heirs, and NIS

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1. Israel Peleg, Director General of Company for Location and Restitution of Shoah (Holocaust) Victims' Assets ("Hashava") at company's closing event, September 6, 2017.

2. *Shoah* means Holocaust in Hebrew.

3. Reverting the remainder of the process to the regular restitution process through the Custodian General at the Ministry of Justice that ongoingly enables restitution of Holocaust (*Shoah*) victims' assets to their heirs. <http://www.hashava.info/> (last visited April 30, 2018)

4. Rate of 1 US Dollar = NIS 3.7750 was calculated as the average rate in the period 2007-2017, composed of the average rates of each year during this period: Average rate 2007 + Average rate 2008 +...+ Average rate 2017, divided by 11. See *Average Representative Rates*, BANK OF

1 billion (US \$ 264.9 million) of aid to needy Holocaust (*Shoah*) survivors in Israel and to commemorate the Holocaust (*Shoah*), bringing the total proceeds of this unique process up to NIS 1.718 billion (US \$ 455.1 million). This study analyses the unique process of restitution of property of Holocaust (*Shoah*) victims in Israel, and derives useful insights for the ongoing international process of restitution of Jewish property from the Holocaust (*Shoah*) era. This study contains historical, legal, economic, budgetary, financial, structural, and operational aspects.

### I. HOLOCAUST (*SHOAH*) RESTITUTION IN ISRAEL?

There were assets in Israel belonging to *Shoah* victims that were not reinstated to their heirs. At the end of the 19<sup>th</sup> century and the beginning of the 20<sup>th</sup> century, and later at the inspiration of the 1917 British Balfour Declaration, Jews from Europe and the United States purchased real estate in the Land of Israel, then called Palestine, such as lots, houses and flats. They also deposited funds in local banks, and purchased securities for enhancing the Zionist enterprise. There were a number of Jewish-Zionist corporations that enabled these Jews to invest without travelling to Israel, such as the land company *Hachsharat Hayeshuv* that was established by the World Zionist Organization in 1908, the land company *Haachuza* that was established in a number of locations across the Jewish diaspora at the beginning of the 20<sup>th</sup> century, American *Kehilat Tzyion* that was established on the eve of WWI, *Meshek, Hachsharat Mifratz Haifa, Rassco* the rural and suburban settlement company, and others. Investments in the Zionist Anglo-Palestine bank (later *Bank Leumi*) and in other Israeli banks were made through bank transfers from abroad. Part of the investments were made by visiting investors, or by their delegates. One of the biggest investments, for that time period was made by hundreds of thousands of Jews from all over the world who purchased shares in a bank established by Theodor Herzl, *Chozeh HaMedinah* (Visionary of the State) – *Bank Otzar Hityashvut Hayehudim* (Bank for the Settlement of Jews), that was to invest in the development and preparation the Land of Israel for the settlement of Jews.

The motivation for making these investments were Zionist, or to aid in the preparation of the investor's future immigration, such as proving to the authorities of the British Mandate that the investors had capital in Palestine, as that was a prerequisite for obtaining a certificate for immigration. In the 1930s, many of the private capital investments in

Palestine (as well as in Switzerland, Western Europe, the United States and Canada) were made to prevent that capital from being seized by the Nazis after they seized power in Germany.

At the outbreak of WWII in 1939, the government of the British Mandate for Palestine issued the Trade with Enemy Ordinance (“Ordinance”). The Ordinance aimed to prevent Nazi Germany from capturing and using the assets of German citizens and citizens of countries conquered by Nazi Germany, such as Polish citizens, in Palestine for the Nazi WWII effort. The Ordinance also aimed to ensure that Germany’s WWI obligations for reparations to the Allies were secured. The Ordinance remained in place at the end of the British Mandate for Palestine in 1948 and remains in effect as of today. The Ordinance mandated the transfer of all assets belonging to German citizens and citizens of the countries conquered by Nazi Germany to the ownership of the Custodian for Enemy Property (“Custodian”), a role established by the Ordinance. For purposes of the Ordinance, Jews who were German citizens and Jewish citizens of countries conquered by Nazi Germany were classified as “enemies” and their assets were transferred to the ownership of the British Mandate government. As such, the banks in Palestine transferred the bank accounts of these citizens to the Custodian while making a remark of the transfer that in the bank accounts. Real estate assets registered in the land registry were transferred the same way to the Custodian.

After the end of WWII, it became clear that many Jewish families who owned these bank accounts and real estate perished in the Holocaust (*Shoah*). Therefore, their property remained in the hands of the Custodian as there was nobody to claim restitution. For various reasons, not all of these assets were transferred to the Custodian, and remained in the hands of the banks, corporations, and private parties, such as representatives of Polish Jews who held lots and houses for their owners. As a result, these assets were not in the hands of the Administrator General upon the establishment of the State of Israel. Assets belonging to Holocaust (*Shoah*) victims were dispersed among government and public entities, banks, private corporations, and agents acting on behalf of the lawful owners. By 1969, the Administrator General at the Ministry of Justice managed to gather and bring under his jurisdiction a substantial part of these assets.

## II. PARLIAMENTARY INVESTIGATIVE COMMITTEE

The issue of property belonging to Holocaust (*Shoah*) victims in Israel came on the public agenda in Israel in 1997 when an article by

Professor Yossi Katz titled “Forgotten Property: The Fate of the Property of Those Who Perished in the Holocaust in Israel” was published in the Israeli press. The article triggered the involvement of Israeli parliamentarians on the issue that led the *Knesset* (the Israeli parliament) to establish the Parliamentary Investigative Committee (“Investigative Committee”) to identify the assets of Holocaust (*Shoah*) victims located in Israel and reinstate them to their legal heirs, at the start of the year 2000.

The Investigative Committee, headed by Member of the Knesset (MK) Ms. Colette Avital, investigated the scope of assets located in Israel that had not been restituted to their legal owners. The Investigative Committee acted for four years, issued its final report in 2004, and disbanded in 2005. During the four-year period it was active, the Investigative Committee issued two interim reports and a report on bank accounts belonging to Holocaust (*Shoah*) victims in five Israeli banks. The banks paid for an independent audit on the issue by accounting firms. Senior members of the entities involved have testified in front of the investigative committee, such as the Minister of Justice, Administrator General, heads of the banks, Accountant General at the Ministry of Finance, heads of the land authority, and others. Protocols of the Investigative Committee meetings were published on the website of the Knesset. The Investigative Committee was supported by two advisory sub-committees, one for bank accounts, and another for real estate. The banks cooperated well with the Investigative Committee, and therefore an estimate of financial assets was carried out and 9,000 names were published on the Knesset website of bank account owners that may have been Holocaust (*Shoah*) victims. The final report indicated an estimation of the assets involved in two options. The higher option was only 53% of the total assets and proceeds, factually distributed later. However, the cooperation of the real estate actors was less impressive, and the real estate could not be estimated.

The process carried out by the Investigative Committee with the banks was like the process held with the Swiss banks; an advisor of the Investigative Committee was an Israeli lawyer that was dealing with the Swiss banks on behalf of the World Jewish Restitution Organization (“WJRO”). Another advisor was Prof Yossi Katz who triggered the whole process with publishing his article, as mentioned above.

### III. THE RESTITUTION LAW AND THE ESTABLISHMENT OF *HASHAVA*<sup>5</sup> COMPANY

Because of the Investigative Committee's final report, the Law for Holocaust Victims' Assets ("Law") was legislated in 2006, (see Appendix), resulting in the establishment of the Company for Location and Restitution of Holocaust Victims' Assets ("*Hashava*") whose declared task was to do justice with the assets of owners that perished in the Holocaust (*Shoah*), and the restitution of these assets to their legal heirs. These assets include dormant bank accounts administered by Israeli banks, shares, contents of safes and real estate, assets held by various institutions and agencies—both private and public. The Law stipulated that the primary task of *Hashava* company is the identification of Holocaust (*Shoah*) victims' assets that are located in Israel, and the location of legal heirs in order to unite the two. The Law also determined that assets whose owners cannot be found will be transferred for aid to Holocaust (*Shoah*) survivors in need, as well as for educational and commemorative projects related to the Holocaust (*Shoah*) and its victims.

*Hashava* was therefore dedicated to the following tasks:

Location of assets belonging to Holocaust (*Shoah*) victims, transferring them to *Hashava*, and utilizing all investigation and examination powers of the Law.

Restitution of assets of Holocaust (*Shoah*) victims or monetary compensation to those who are entitled by the Law.

Providing aid to Holocaust (*Shoah*) survivors in the areas of medicine, nursing and welfare, psychological and economic support, and supporting institutions and actors that provide aid to Holocaust (*Shoah*) survivors.

Supporting institutions, actors, activities, and initiatives whose goal is commemoration, documentation, education and explanation of the Holocaust (*Shoah*), and imparting the legacy of memory of the Holocaust (*Shoah*) to next generations for commemorating the victims.

*Hashava* was put under the jurisdiction of the Minister of Justice and the Justice Ministry, and was established for a total period of fifteen years.

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5. *Hashava* means Restitution in Hebrew.

#### IV. STRUCTURE AND BUDGET

*Hashava* was a unique legal creation. It was not a government owned company, however, it was controlled by certain components of the Israeli Government's Companies Law. *Hashava*'s financial reports were being published annually by the Government Companies Authority at the Ministry of Finance under the category "non-governmental company," thus reflecting *Hashava*'s unique status. *Hashava*'s structure, personnel, and wages were coordinated with the Government Companies Authority at the Ministry of Finance, that had an observer at *Hashava*'s Board of Directors. *Hashava* employed sixty-five employees at its peak, some of them part time. Most of them were academics, such as historians, lawyers, accountants, economists, archivists, and several other disciplines. Initially, *Hashava*'s budget was determined by the Law at 2% of its assets. However, since the 2012 amendments to the law starting in 2015, its budget was calculated at a sliding share of the 2011 budget – 80%, 65%, and 50% for the years 2015, 2016, 2017 accordingly. The overall cost of operating *Hashava* during the eleven years of its existence, was about NIS 195 (US \$51.7 million), that represented 11.4% of the financial value of total assets restituted and distributed. *Hashava* initiated, in coordination with the Ministry of Justice, reducing its existence from fifteen years to eleven years, thus saving tens of millions of NIS that were distributed to needy Holocaust (*Shoah*) survivors.

#### V. COMPANY ORGANS

*Hashava* was structured into ten legal organs that encompassed the realm of its legal existence and its daily activities. Some organs originated in the law, and others were established by *Hashava*.

##### A. Nominating Committee

Even though the government was the shareholder of *Hashava*, according to paragraph 43 of the Law, the government did not control *Hashava*, nor did it control its policies. This was the role of the Nominating Committee established according to paragraph 45 of the Law.

The Nominating Committee was chaired by a District Court retired judge, and was comprised of three members of the public, who were nominated in consultation with the Minister of Justice, and the Forum of Holocaust (*Shoah*) Organizations. Two members of the Nominating Committee were knowledgeable in restitution, and at least one of them had expertise in accounting and finances.

The Nominating Committee substituted the Minister in Charge (Justice) of *Hashava*, and carried the powers of the general assembly of the shareholders, and the rights of the shareholders (government).

The Nominating Committee nominated the members of the Board of Directors, following the recommendations of the Forum of Holocaust (*Shoah*) Organizations or the Minister of Justice, and nominated the Audit Committee. The Nominating Committee also approved the nomination of the Director General of *Hashava*.

### *B. Board of Directors*

Every year the Nominating Committee discussed and approved the work plan and the budget of *Hashava* and held an in-depth discussion of its annual financial accounts submitted by the Board of Directors.

According to paragraph 51 of the Law, the members of the Board of Directors were nominated by the Nominating Committee. Two-thirds of the Board Members were nominated according to the recommendations of the Forum of Holocaust (*Shoah*) Organizations, and one-third were nominated at the recommendation of the Minister of Justice. The nomination of the Board of Directors was also approved by the Committee for Nominations at the Government Companies Authority at the Ministry of Finance. Most of the Board of Directors members were Holocaust (*Shoah*) survivors themselves.

Among the crucial issues dealt with by the Board of Directors was the aid rendered to Holocaust (*Shoah*) survivors. That included the budget, areas of support, and criteria of eligibility for needy Holocaust (*Shoah*) survivors, organizations of Holocaust (*Shoah*) survivors, and for projects of commemoration and education of the memory of the Holocaust (*Shoah*).

The Board of Directors dealt also with risk management, while holding discussion every six months on the report submitted to them by the management.

For the optimization of their work, the Board of Directors nominated permanent sub-committees for finance and investments, management and personnel, allocation of assets and heirs, restitution and community, international relations and public inquiries, and aid, as well as ad-hoc committees for the search of Director General, allocation of members for advisory board, demands from the banks, and management.

### *C. Audit Committee*

The audit committee held a crucial role in discussing various edit reports in the areas of finance, procedures, management and others, and



following up the necessary amendments. The audit committee oversaw the remuneration of the Board of Directors members according to the criteria set up by the Government Companies Authority at the Ministry of Finance.

## VI. OPERATIONS FOR LOCATION OF ASSETS

At the inception of *Hashava*, the Administrator General at the Ministry of Justice and Keren Kayemet LeIsrael - Jewish National Fund (“KKL-JNF”) transferred to the company about 3,000 assets of real estate, proceeds from real estate sales, and funds originated in bank accounts. It was clear that these were not the entire assets of Holocaust (*Shoah*) victims, and, therefore, it was essential to embark upon an effort for allocation of additional assets. The operations for allocation of assets were done in several areas:

### A. Location of Real Estate

One effort was directed to map the potential real estate assets belonging to Holocaust (*Shoah*) victims. Therefore, the country was divided into eighty-two geographical regions. Each region was scrutinized according to when settlements were established in the region and by which entity. Files with potential assets were created that were then cross-examined with archival databases and data from the land register. A total of 180 real estate and financial assets were allocated. Additional assets transferred by the Administrator General were scrutinized if they belonged to Holocaust (*Shoah*) victims. The same was done with assets transferred by KKL-JNF and *Hachsharat Hayeshuv*. In addition, there was real estate that belonged to *Kvutzot Rechisha* (purchasing groups) that were originally organized as groups of purchasers that bought the assets jointly. The members of these groups perished in the Holocaust (*Shoah*), sometimes without finalizing the purchase process that was subsequently finalized by *Hashava*.

### B. Location of Funds

Upon its inception, *Hashava* published on its website the names of bank account owners that they received from the Investigative Committee. The Investigative Committee published the names to gather information from the public regarding the possible bank account owners. Based on the accumulated information, all five relevant banks signed agreements and an amount of about NIS 150 million (US \$ 40 million) was transferred by the banks to *Hashava* from the accounts of Holocaust (*Shoah*) victims.

There were about 1,700 requests from the public for allocation of assets based upon memory and family stories, but without any documentation. Forty of these assets were allocated, transferred to *Hashava*, and restituted to the heirs.

### *C. Location of Art*

Identification of owners of art was at dispute between *Hashava* and the Ministry of Justice who claimed that it was not within the mandate of *Hashava* to deal with the issue. Despite that, *Hashava* carried out a pilot on thirty items of art of the Jewish Restitution Successor Organization collection at the Israel Museum, and allocated heirs for four of them. In addition, *Hashava* held two international conferences in Israel on the issue of restitution of art.

## VII. OPERATIONS FOR LOCATION OF HEIRS

*Hashava* differed from other restitution organizations in its efforts to locate heirs; these efforts led to its success in restitution. Starting in 2010, *Hashava* carried out 3,600 investigations for the location of owners and heirs. The system was to locate the original owner and then to establish the heirs. The accumulated experience proved that it was not enough to use regular measures of checking archives and databases; it was necessary to act “out of the box” by physically checking cemeteries, and even by knocking on neighbors’ doors. *Hashava* accumulated more than two million pieces of information that were digitized and computerized for easy access. Out of 1,596 initiated searches for location of heirs, 1,066 were accomplished, and in 598, more than 50%, heirs were allocated. When heirs were not allocated, the assets were sold and the proceeds were used for aid to needy Holocaust (*Shoah*) survivors.

## VIII. RESTITUTION TO HEIRS

Restitution to heirs was the most important effort of *Hashava*. The Law did not restrict *Hashava* in developing new techniques and new practices that simplified processes and procedures. In 2007, *Hashava* published on its website a list of 60,000 assets that included the owners’ names and last known residence, and that triggered thousands of inquiries.

There were two stages in the restitution process:

- 1) Identification, which included inquiry if the claimant was factually related to the owner of the property published; and
- 2) Eligibility, which was the inquiry if the claimant was factually an heir to the deceased owner of the property, and this came usually after the

first stage of identification. Eligibility needed to be established step-by-step from the testator to the potential heir.

#### A. Evidence

The more valuable the assets the more evidence was required (i.e., a cost-benefit consideration). As time passed by it became evident that the “bottleneck” in the process was obtaining the inheritance orders from the heirs. To overcome it *Hashava* compiled, in conjunction with the Israeli Bar Association, a list of Israeli lawyers who were experts in obtaining inheritance orders. In addition, in some cases, the need for inheritance orders was forfeited, and other documents were accepted as sufficient, such as birth certificates, death certificates, marriage certificates, letters, etc. However, this was not good enough as large amounts of assets were still not eligible for restitution. Therefore, a new legal entity was created by means of legislation as a substitute to inheritance orders: “Order on Substitutes of Holocaust (*Shoah*) victim.” In 2014, an amendment to the Law empowered the appeal committee of the Ministry of Justice to define an “Order on Substitutes of Holocaust (*Shoah*) victim” in cases where inheritance orders were not issued. That act streamlined the process of restitution and enabled restitution of 160 assets with the value of NIS 250 million (US \$66 million) that represented more than 50% of the value of assets released since the establishment of *Hashava*.

#### B. Appeals Committee

The Appeals Committee has dealt with 321 appeals on resolutions of *Hashava*, and has granted twenty-five appeals only, which represented less than 10% of appeals submitted.

### IX. SHARES OF THE JEWISH COLONIAL TRUST (JCT)

*Hashava* received a substantial number of shares of the Jewish Colonial Trust (“JCT”), which was established in 1898 in Great Britain and was aimed to be the bank for development and settlement of Jews in Palestine of the World Jewish Organization (“WJO”). Hundreds of thousands of Jews have purchased these shares, and then perished in the Holocaust (*Shoah*). After a battle in the Israeli court for economic affairs with the World Zionist Organization (“WZO”) that was holding these shares, *Hashava* got possession of the shares of Bank Leumi that were

held there, sold them, and gained NIS 250 million (US\$ 66 million) for aid to needy Holocaust (*Shoah*) survivors.

## X. MANAGEMENT OF ASSETS

### A. *Management of Real Estate*

Six hundred and seventy-nine real estate assets with the value of NIS 840 (US \$ 223 million) were transferred to *Hashava* by the Administrator General at the Ministry of Justice, Keren Kayemet LeIsrael (“KKL”), Israel Land Authority, and others. Most of the assets were land, including; agricultural, industrial, public, and residential buildings. About 100 assets were producing income, such as four apartment buildings in Tel Aviv. In addition, there were flats, warehouses, and workshops in various cities in Israel. *Hashava* managed these assets and derived income that was restituted to the heirs of these assets.

### B. *Realization of Real Estate*

According to paragraph 37 (a) of the Law, properties that their heirs were no allocated were to be sold by *Hashava* and the proceeds to be used to aid needy Holocaust (*Shoah*) survivors. However, until the Law amendments of 2014, *Hashava* could not sell them. Paragraph 37 states that *Hashava* had to declare that “no claim will be made for these assets.” The 2014 amendment to the Law allowed *Hashava* to sell assets in each one of three instances:

- 1) Affinity disconnection – when the asset managed factually by *Hashava* was not the original asset, and therefore there was no emotional affinity of the heir to the asset;
- 2) Lack of information – not enough information about the owners of the assets, that will not enable investigation of the assets’ heirs; and
- 3) Depletion of the investigation - when investigation of the assets was depleted, *Hashava* did not have to declare that no claim will be made for the assets.

### C. *Financial Assets*

In addition to the real estate, *Hashava* received financial assets from the Administrator General at the Ministry of Justice, Keren Kayemet LeIsrael, and five Israeli banks. These financial assets originated from historical sales of real estate, current income from income producing real estate, bank deposits, securities and other.

The value of these financial assets was re-evaluated by a unique revaluation mechanism which was created by four accounting firms that

were elected by a tender issued by the Ministry of Justice, and a unique software designed for that purpose. Each asset transferred to *Hashava* was re-evaluated by one of these four accounting firms. The cost of this process, and the factual cost of revaluations were paid by a special budget designated by the government.

#### *D. Release of Assets*

The release of assets represented the transfer of the assets to the ownership of heirs such as payment of funds or transfer of ownership in the land register. The heirs were obliged to sign a declaration that they would return the assets if a mistake was made in the process of restitution or if new heirs were discovered.

#### *E. Waiver of Management Fees*

*Hashava* initiated waiving the cost of managing the assets by eliminating paragraph 41 of the Law, and therefore heirs were not charged with a management fees.

#### *F. Tax Reduction*

The government forgave taxing the sale of real estate by *Hashava* when the proceeds were aimed for aid to needy Holocaust (*Shoah*) survivors.

### XI. AMENDMENTS TO THE LAW

Three meaningful amendments were made to the Law in the second half of its life span when the obstacles to rapid restitution were made vivid. These amendments enabled quick issue of inheritance orders, sale of assets with no traced heirs, and maintenance of another five years of the special arrangements provided for by the Law for heirs that were traced and would be dealt with by the Administrator General at the Ministry of Justice after *Hashava* was closed.

### XII. LEGAL PRECEDENTS

#### *A. Initiated Lawsuits*

There were entities that refused to transfer assets belonging to Holocaust (*Shoah*) victims to *Hashava* or transfer their value in financial assets. Starting in 2011, *Hashava* sued those entities and won several cases.

### *B. Lawsuits by Heirs*

In several cases, heirs have sued *Hashava*, as they were unsatisfied with decisions made in their cases. In one such a case, an organization representing Holocaust (*Shoah*) survivors in Greece demanded shares of the JCT<sup>6</sup> belonging to Greece victims, claiming that by Greek law the organization was representing all Greek Jews. After ten years of deliberations, the supreme court finally rejected the lawsuit, arguing that Greek law does not apply in Israel and vice versa, because only one third of the shares belonging to Greek Jews were claimed, and the procedure on the rest of them has not been finalized. This ruling enabled *Hashava* to proceed with its restitution efforts.

## XIII. PUBLICATIONS, WEBSITE, AND PUBLIC INQUIRIES

Paragraph 4(2) of the Law obliged *Hashava* to locate heirs of Holocaust victims, and the *Hashava* website served as a tool for fulfilling that goal. Paragraph 25 of the Law obliged *Hashava* to publish the list of all assets transferred to it once a year, every year, in at least two daily Hebrew newspapers with wide distribution in Israel, in newspapers outside of Israel, and with major Jewish organizations abroad. Every year, *Hashava* published the list of assets in North America and Canada, Central America, South America, Europe (including France, Belgium and Germany), Australia, the former Soviet Union, certain countries in Africa and several others. Publicity campaigns were executed by means of traditional media such as printed press and distribution of flyers in Jewish community centers and in synagogues, as well as through digital media such as banners in certain websites, like Facebook and Google.

### *A. Website*

The *Hashava* website was an easy way for claimants to apply. The website contained the list of properties managed by the company, and a digital facility for allocation of assets by name of victim, town, or country of origin. Claimants could apply directly through the website for any asset included in the list of assets.

### *B. Public Inquiries*

A large number of public inquiries were made. The accounted for public inquiries between the years 2012 and 2017 (until June), including those to the *Hashava* website and call center, amounted to 93,469.

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6. *See supra* Section IX.

#### XIV. AID TO HOLOCAUST (*SHOAH*) SURVIVORS

The Law obliged *Hashava* to provide direct financial aid to needy Holocaust (*Shoah*) survivors, as well as provide aid in the medical, welfare, social, psychological, and economic areas. Additionally, the law obliged *Hashava* to support institutions, actors, activities, and ventures whose goals were commemorating, documenting, and educating on Holocaust (*Shoah*) memory, passing on that memory to future generations, and commemorating the memory of the victims according to paragraph 34(c).

*Hashava* resolved not to individually check on each Holocaust (*Shoah*) survivor's eligibility for aid. It therefore resolved on a set of criteria and got updated lists of eligible survivors from The Holocaust (*Shoah*) Survivors Rights Authority. Between the years 2008-2017 the monthly number of Holocaust (*Shoah*) survivors receiving aid ranged between 8,000-11,000, and the annual accumulated cost of aid ranged between NIS 60-110 million (US \$ 16-29 million).

*Hashava* delivered aid through NGOs and other entities to provide for medical needs, food supplies, guidance on rights of survivors, psychological care, social, and renovation of apartments. The cost of aid to Holocaust (*Shoah*) survivors in the years 2009-2016 ranged between NIS 9-43 million (US \$ 2-11 million).

From 2009-2016 support of Holocaust (*Shoah*) survivors' organizations averaged in NIS 3 million (approximately US \$ 1 million) per annum, for seventeen to twenty-four organizations.

#### XV. COMMEMORATION AND EDUCATION

The Law obliged *Hashava* to allocate 4% of its aid budget for Holocaust (*Shoah*) commemoration and education projects. During the years 2010-2015 the allocations ranged between NIS 3-6 million (US \$ 1-1.5 million) to twelve to twenty-eight organizations.

#### XVI. AFTERMATH

*Hashava* law (see Appendix) stipulated that after the close-down of *Hashava* on 31 December 2017 an "Interim Period" of five years (2018-2022) was in place for the Custodian General at the Ministry of Justice to continue the efforts started by *Hashava* in allocating the owners and their heirs of the remainder of unallocated assets (Paragraph 67A). This new effort is being carried out by a newly established department at the Custodian General with ten employees most of them *Hashava*'s veterans. Upon the close-down of *Hashava* the Custodian General has received

from *Hashava* the remainder of the unallocated assets that included 438 real estate assets with the estimated value of NIS 545 million (US\$ 148 million).<sup>7</sup> Any remaining assets at the end of the “Interim Period” (in 2022) will be sold and the proceeds will be transferred to the state (paragraph 67A of *Hashava* law). However, some proceeds will be provided for aid to needy Holocaust (*Shoah*) survivors, and the amount of up to 4% of the proceeds allocated to aid needy Holocaust (*Shoah*) survivors will be allocated for Holocaust (*Shoah*) commemoration and education (paragraph 64B of *Hashava* law). The transfer of proceeds to the state is based on the state’s obligation to pay after the “Interim Period” for an unlimited period the value of assets to newly allocated owners and their heirs (paragraph 64A of *Hashava* law).

The result of all this will be that the efforts for allocation of owners and heirs will last for a total of sixteen years, eleven years by *Hashava* and another five years by the Custodian General. Newly allocated owners and heirs after that period will receive full value of assets. Needy Holocaust (*Shoah*) survivors will be provided with new aid, and more Holocaust (*Shoah*) commemoration and education will be carried out.

## XVII. CONCLUSIONS

*Hashava*, the Holocaust (*Shoah*) Restitution Company of Israel is the most recent success story in Holocaust (*Shoah*) restitution for many reasons. Close to half of a billion dollars were restored to thousands of heirs of Holocaust (*Shoah*) victims, and aid was provided to thousands of needy Holocaust (*Shoah*) survivors. Thorough search, research, and investigation, close to 80% restitution of asset’s value was achieved so far, with more to be achieved in the coming five years, while the expenses involved out of the overall process so far was a reasonable 11.4%. So far, no other country has reached such high level of restitution, as the average restitution rate in western countries was no more than 50%, and in eastern European countries no more than 3%. The aim of the Israel Restitution Law was to achieve maximum restitution, which was achieved due to extensive outreach efforts carried out by *Hashava*. Effective cooperation was visible among all stakeholders—various branches of government, regulators, parliamentary committees, and Holocaust (*Shoah*) survivors. To enhance the process, the government financed the start of the process and the revaluation of financial assets, that were reevaluated by newly

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7. Nimrod Buso, “Assets estimated at more than half a billion shekels still looking for heirs”, The Marker, 10 March 2017 <https://www.themarker.com/realestate/1.3918738> last visited 2 May 2018. Rate of 1 US Dollar = NIS 3.6780 on 10 March 2017. See *Representative Rates*, BANK OF ISR.



created special indices. *Hashava* could therefore act freely and with vengeance, and that helped to achieve its good results.

An unprecedented unique structure was created: a combination of a limited non-profit company that was not government owned but still scrutinized by the government companies law. It created a subtle combination of certain government and parliamentary control on one hand, and total freedom for carrying out the restitution process by *Hashava* on the other.

The only other nation with anything comparable was Germany where Jewish successor organizations were created by law after WWII. However, the *Hashava* model was more updated, and more sophisticated than the successor organization model. For example, the creation of a new legal actor named “Substitution of Holocaust (*Shoah*) victim” shortened the legal procedures of determining inheritance, and therefore shortened the time frame for completion of the restitution process. It also created by law the nominating committee that enabled better scrutiny of the whole process.

This unique structure enabled *Hashava* to deal with the most complicated type of property for restitution, individual property, that was in the hands of a host of holders: government, public institutions, private institutions and individuals. It enabled *Hashava* to deal with different types of property simultaneously— real estate, financial assets, and art. As well as with different types of distributions—real estate, financial assets, aid for Holocaust (*Shoah*) survivors, Holocaust (*Shoah*) commemoration, and education.

A sufficient time frame of fifteen years was in place for *Hashava*, however the organization ended ahead of time in eleven years. But for the turbulence in management during the first half of the time frame, when for various reasons five Director Generals were replaced, completion of the process could have perhaps been earlier.

With the completion of the *Hashava* process, Israel presents a clean slate when approaching other nations for Holocaust (*Shoah*) restitution. One should not forget that the value of Jewish property left behind in Europe was estimated at US \$13-15 billion in 1938 prices of which utmost 15%-20% was restituted so far.

*Hashava* proved that even now, seventy-two years after the end of WWII, and seventeen years after the end of the U.S. led major process of Holocaust (*Shoah*) restitution in the 1990's, restitution can still be carried out. Nations can use the *Hashava* Law (see Appendix) as is or amend it to suit their needs. There is accumulated expertise in Israel that will be shared willingly with any other nation. There are also experienced

professionals that would be prepared to advise and help. *Hashava*, the Israel model, proves that where there is the will there is the way, and it is never too late for Holocaust (*Shoah*) restitution, and for applying a measure of justice to Holocaust (*Shoah*) survivors and their heirs.

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## **APPENDIX TO:**

### **Holocaust Restitution: Israel Model**

### **How Restitution of Property of *Shoah* (Holocaust) Victims was Carried Out in Israel**

DR. AHARON (ARON) MOR

## **HOLOCAUST VICTIM ASSETS LAW, (RESTITUTION TO HEIRS AND ENDOWMENT FOR ASSISTANCE AND COMMEMORATION), 5766-2006**

### **FULL AND UPDATED VERSION**

#### THE PURPOSES OF THE LAW

1. The purposes of this Law are:
  - (1) to act to intensify actions to locate assets located in Israel, where there is reason to assume that their owners perished in the Holocaust, and to locate the heirs and other rights belonging to holders in such assets managed or held by the Administrator-General or by another party;
  - (2) to ensure that assets as stated in paragraph (1), which the heirs and other holders of rights have not been located, despite efforts to locate them, will be used for the purpose of assisting Holocaust survivors and for the

purpose of perpetuating the memory of the Holocaust,  
giving priority for assisting Holocaust survivors

## DEFINITIONS

*(Amendment No. 2) 5772 - 2012*

2. In this Law –
- “Managing Person” - A person managing an asset pursuant to an order given under Section 8 of the Guardian General Law;
  - “Other Right Holders in Assets” - Save for a creditor of someone who has perished or of his heirs;
  - “Transfer of Asset to the Company” - The transfer of an asset to the ownership of the Company or to the management of the Company, as the case may be, as detailed in the provisions of this law;
  - The “Company” - The Company for the Locating and Restitution of Holocaust Assets Ltd., which was established for the execution of the purposes of this law, pursuant to the provisions of Section 3;
  - “The Authority” - As defined in the Government Companies Law;
  - “The Appointing Committee” - The committee established pursuant to the provisions of Section 45;
  - “The Committee for Interest and Linkage Differences” - the Committee established pursuant to the provisions of Section 16;
  - “Appeals Committee” - the committee established pursuant to the provisions of Section 27;
  - “The “Guardian General” - The Guardian General Law, 5738--1978; “Companies Law” - The Companies Law 5759-1999;
  - “The Government Companies Law” - The Government Companies Law, 5735-1975; “Trust Law” - the Trust law, 5739 -1979;
  - “Commencement date” - the commencement date of this law;
  - “Land” - A right to land or a right for land;
  - “Securities” - As defined in the Companies law, even if issued by a corporation which is not a Company;
  - “Asset” - Land, chattels and rights, including monies and securities;

“Asset of Someone Who has Perished in the Shoah” - an asset in which one of the following prevails save for a German asset, as defined in Section 2(e) of the German Assets law, 5710 - 1950:

- (1) It is located in Israel and the last known right holder in it is a person whose last known place of location was in the region which on the 17th of Elul 5699 (1 September, 1939) belonged to one of the countries detailed in the First Schedule, and it is not known whether the said right holder survived after the 27th of Teveth 5706 (31 December 1945) or where it is known that he perished during the period from the 17th of Elul 5699 (1 September 1939) and up until the 27th of Teveth 5706 (31 December 1945) in the said region;

*(Amendment No. 2) 5772-2012*

- (2) It is an asset which is viewed, in accordance with the provisions of Section 21 of the Guardian General Law, as if an administrative order has been given for it, except for an asset for which the Guardian General or the Company have been persuaded that the stipulations in paragraphs (1) and (3) do not apply; in this matter paragraph (1) will be read as if after [the words] “and its last right holder” [an insertion has been made of] the words “before it was conferred on the Commissioner for Enemy Property pursuant to the Trade with the Enemy Ordinance, 1939”;
- (3) It is the consideration of an asset in which that stipulated in paragraph (1) prevailed provided that the stipulations of paragraph (1) prevails in the said consideration; “The Companies Ordinance”— the Companies Ordinance [New Version], 5743- 1983; “The Special Locating Process” - as defined in Article B of Chapter D; “The Minister” - The Minister of Justice.

#### ARTICLE A: COLLECTING OF DATA INVESTIGATION FOR THE LOCATING OF HEIRS AND RIGHT HOLDERS

*(Amendment No. 2) 5772-2012*

17. (a) The Company will conduct an investigation to gather information regarding assets of those who have perished in the shoah which have been transferred to it in

accordance with the provisions of this law, and other information which may be of assistance for the locating of heirs and Other Right Holders in the said Assets.

*(Amendment No. 3) 5774-2014*

(a1) Notwithstanding that stated in Section 31 of the Population Registry Law and subject to any law, where a need has arisen in the investigation as stated in sub section (a) to view documents in the population register for the locating of the heirs and the Other Right Holders in Assets as stated in that sub section, the registration officer may provide the Company representative, upon his request, with the documents from the population registry needed for the locating of the heirs and the said right holders and to the extent necessary for fulfilling this purpose; in this matter - “Population Registry Law” - the Population Registry Law, 5725-1965;  
“Company Representative” - someone appointed by the director general of the Company to be a representative of the Company for the purpose of this sub section;  
“Registration Officer” - someone appointed as a registration officer pursuant to Section 4 of the Population Registration Law.

*(Amendment No. 2) 5772-2012*

(b) The Company shall start an investigation, as stated in sub section (a), for an asset by no later than one year from the date at which the asset is transferred to it, in accordance with the rules which shall be decided upon considering the value of the asset and the information it holds in the matter of the asset and in the matter of its owners; the said rules will be published on the Company’s website.

*(Amendment No. 2) 5772-2012*

(c) The minister may determine instructions in the matter of the investigations as stated in sub section (a) including in the matter of limiting the length of the investigations and he may determine various instructions vis-à-vis the various types of assets, including with respect of the value thereof.

## DEMAND TO PROVIDE INFORMATION

THE FILING OF AN APPLICATION AFTER THE PROCESS FOR THE SPECIAL  
LOCATING AND THE EXAMINATION THEREOF.

*(Amendment No. 2) 5772-2012*

26. At the end of the time for the filing of the application pursuant to the provisions of Section 20(a), a person who claims a right to an Asset of Someone Who has Perished in the Shoah which has been transferred to the Company may file an application with the Company to receive the asset pursuant to the provisions of this Article; the provisions of Sections 20 (a), latter part and (b), 21 and 22 (b) and (c) shall apply to the application and the examination thereof; the Company shall decide regarding the rights in the asset and will deliver its ruling to the applicant within six months from the date of the filing of the application and if the Company requires additional information, whether from the applicant or from other sources, in order to make the ruling - within two months from the date of the receiving of the said full information, provided that if additional information is needed from the applicant - the Company has demanded the information from the applicant within four months from the date of the filing of the application.

ARTICLE D: APPEALS COMMITTEE  
APPEALS COMMITTEE

27. (a) A committee shall be set up having three members who shall be appointed by the minister whose duty it shall be to hear appeals on the rulings of the Company on applications pursuant to this Chapter;
- (1) A retired justice of the District Court, and he will be the chairman;
  - (2) A lawyer qualified to serve as a Magistrates' Court judge;
  - (3) A person with knowledge and expertise on the subject of the shoah;



- (b) Further that stated in sub section (a), the Appeals Committee shall be authorized for the following:
- (1) To give declarations of death pursuant to Section 30;
  - (2) To obligate a person to provide information, documents, particulars or explanations pursuant to the provisions of Section 31;

*(Amendment No. 3) 5774-2014*

- (3) To give orders regarding the successors of those who have perished in the shoah in the matter of this law, in accordance with the provisions of Section 31A.
- (c) The provisions of the Administrative Courts Law shall apply to the Appeals Committee save for the provisions of Sections 26, 30 and 31-1 of that law, and subject to the following change: wherever “administrative authority” is used it shall be replaced with “the Company”.

#### FILING AN APPEAL

*(Amendment No. 2) 5772-2012*

28. (a) Any person who views himself as having been harmed by a ruling of the Company pursuant to Sections 22 and 26, may appeal it before the Appeals Committee within 45 days from the day it is delivered to him; the appeal will be lodged pursuant to the provisions of the Administrative Courts Law.

#### ORDER ON THE SUCCESSORS OF A PERSON WHO PERISHED IN THE SHOAH

*(Amendment No. 3) 5774-2014*

#### 31A.

- (a) Where the Company has made its ruling conditional on the receiving of an asset pursuant to this Chapter (in this section - the request to receive an asset) on the issuing of a succession order or a probate order, the Appeals Committee may give an order regarding the successors of a person who perished in the shoah, which shall serve, for the purposes of this law, as an alternative to a succession order or a probate order, all in accordance with the provisions of this section.

- (b) Anyone stipulated in the following paragraphs may file an application with the Appeals committee regarding the successors of a person who perished in the shoah (in this section - an application for the granting of an order), pursuant to the conditions stipulated therein:
  - (1) A claimant for a right to an asset as stated in sub section (a) (in this section - a claimant for a right in an asset) provided that he has not filed an application for the granting of a probate order and if he has filed the said application - his application has been struck off;
  - (2) The Company, if under the circumstances of the matter and after having approached any person who, according to the information held by the Company may be an heir or a right holder in the asset, has no reasonable basis to assume that the said person will file an application for the granting of an inheritance (succession) order or a probate order for the granting of an order for that asset.
- (c) the applicant (in this section - the applicant) will attach, to the application for the granting of the order, any information known to him in connection with the affairs detailed below, needed for the purpose of the giving of the order:
  - (1) The family composition of the person who perished in the shoah, the blood relationship, and the relationship by marriage;
  - (2) The dates and the order by which the family members of the person who perished passed away.
- (d) Where an application for an order has been filed, the Applicant will file notice on the filing of the application in a widely circulated Hebrew language newspaper in Israel, and the Applicant will file notice of the filing of the application to anyone who, according to the information he has may be an heir or right holder in the asset, and if the Applicant claims that he has a right in the asset - to the Company also.
- (e) Notice such as stated in sub section (d) will include an invitation to file an objection with the Appeals Committee to the application for the granting of the order within two weeks from the date of publication in the

daily newspaper or from the date of delivery of the notice, according to the later, or within a longer period of time which shall be determined by the Appeals Committee.

- (f) The Company will publish notice in the filing of an application for the granting of an order on its website.
- (g) The publishing expenses of the notice for the filing of the application for the granting of the order, as stated in sub section (d) shall apply -
  - (1) If the application for the granting of the order was filed by a claimant for a right in the asset - on the applicant for the order;
  - (2) If the application for the granting of the order was filed by the Company - on the asset for which the application was filed.
- (h) Where an application has been filed with Appeals Committee for the granting of an order, the Committee will hear the application and will determine who the successors are of the person who perished in the shoah and their share in his rights, in the matter of this law, in accordance with the applicable law of succession, subject to the provisions of sub sections (I) and (j); for the said finding, the Appeals Committee will determine the family composition of the person who perished in the shoah and the dates of the deaths in the family and the [chronological] order thereof.
- (i) The provisions applicable under this law in the matter of the proceedings for the granting of a succession order or a probate order for an Asset of Someone Who has Perished in the Shoah shall apply, mutatis mutandis, also in the matter of the procedure for the granting of an order pursuant to this section; however the Appeals Committee shall not be subject to the proceedings for the granting of the order under this subsection, to the procedures and rules of evidence stipulated in the succession law applicable to the matter or to the said provisions.
- (j) Notwithstanding the provisions of sub section (h), the Appeals Committee may transfer an application for the granting of an order which has been filed with it to the Tel Aviv District Family Court, if it deems it appropriate

- to do so, inter alia, due to the complexity of the application.
- (k) Where an objection has been lodged with the Appeals Committee on an application for the granting of an order as stated in sub section (e), the Appeals Committee will forward the ruling on the dispute to the Tel Aviv District Family Court unless it has found, for reasons which shall be recorded, that the objection does not raise a factually or legally complex dispute and that it can rule on it.
  - (l) Where the Appeals Committee has found that that stated in sub section (k) applies and that it can rule on the dispute, the Appeals Committee will hear and rule on the application for the granting of the order and the objection to the application, pursuant to the provisions of sub section (h).
  - (m) Where an application has been transferred to the Family Court for the granting of an order pursuant to subsection (j) or for the giving of an order and an objection to the application pursuant to sub section (k), the Family Court will hear the application or the objection, as the case may be, and will rule upon it pursuant to the provisions of sub section (h).
  - (n) Where an application for the granting of an order has been lodged with the Appeals Committee or transferred to the Family Court, and the Appeals Committee or the Family Court has found that an inheritance (Succession) order or a probate order has been given for that person who perished in the shoah, or that an objection has been filed for the granting of an order and the submitter of the objection has filed an application with the Registrar for Inheritance Matters for the granting of a succession order or for a probate order for that person who perished in the shoah, the Appeals Committee or the Family Court will order the striking off of the application for the granting of the order.
  - (o) Where an order has been given for the successors of a person who perished in the shoah, the Appeals Committee or the Family Court which has given the order, will forward a copy of the order to the parties to the proceedings and to the Company, so that it may make

a ruling in the application to receive the asset, based on the said order.

- (p) The order on the successors of the person who perished in the shoah will be regarded the same as the said decision in Section 123 (b)(2) of the Land Law, 5729 - 1969 and in the matter of the said section, it will be deemed as if it was a succession order handed down in accordance with this law.

#### DELIVERY OF THE ASSET

##### *(Amendment No. 2) 5772-2012*

33. (a) The Company will deliver the asset to the Application against a letter of undertaking which shall be signed by him or by his attorney in this matter or by one of the other heirs of that asset who has made a personal undertaking in his stead, according to which, if it is proven that he is not the right holder in the asset or part thereof, he undertakes to return the asset or the value of the asset, or of part of the asset, as the case may be, in accordance with the valuated value on the actual payment date if the asset is no longer held by him, within 30 days from the date of the demand for such from the Company; the personal undertaking of another heir in the said asset in this section will not be greater than NIS 30,000.
- (b) .. Upon delivery of the asset, the Company will deliver to the receiver thereof the documents held by it relating to the asset, or copies thereof.

##### *(Amendment No. 2) 5772-2012*

- (c) Notwithstanding the provisions of sub section (a), the Company may deliver to the applicant an asset even without the said undertaking as stated in sub section (a) upon one of the following:
- (1) The accumulated part of an heir or another right holder in the asset is not greater than NIS 5,000 provided that the value of the asset is not greater than NIS 50,000; the minister may increase, in an order, the said amounts in this paragraph;

- (2) Under special circumstances and in accordance with the conditions which shall be determined by the Minister.

CHAPTER E: USE OF ASSETS TRANSFERRED TO THE COMPANY, THEIR  
MANAGEMENT AND REALIZATION USE OF ASSETS

34. (a) The Company will execute its duties, will exercise its powers and will make use of the assets which have been transferred to it in trust for the realization of its aims and the aims of the law.

*(Amendment No. 3) 5774-2014*

- (b) The assets which have been transferred to the Company will be used for the realization of the aims of the Company and for the execution of its duties in accordance with the provisions of this law and for the financing of the Company's activities, and to this end only, subject to the provisions of this Chapter.

*(Amendment No. 2) 5772-2012*

*(Amendment No. 3) 5774-2014*

- (b1) Without derogating from that stated in sub section (b), the Company will allocate and transfer, every year, at least NIS 135 million and in 2015 at least 150 million NIS for the aim of assisting needy holocaust survivors, provided that it does not use the assets for which decisions have been given regarding the right to an application in the asset pursuant to Section 22 or 26, in assets for which the use thereof has been stayed pursuant to Section 35 or in assets in which the Company has a reasonable basis to assume, on the basis of the findings of investigations which have been conducted that they will find heirs or other right holders; where the Company has found that the assets which it holds are insufficient to allocate and transfer the said amount in that year - the board of directors will resolve on the amount which will be allocated for assistance in a reasoned resolution which will be recorded for the minutes, and a detailed report

will be delivered in the matter to the Constitution Committee, to the Finances Committee of the Knesset and to the Minister of Justice by the 21st of December of the year preceding the year for which the assistance has been determined.

*(Amendment No. 3) 5774-2014*

(B2) Every year the Company will allocate and transfer at least 75% of the said amount in sub section (B1) directly to the bank accounts registered in the name of the needy holocaust survivors; however, in 2014 the Company will transfer at least 60% of the said amount into the said bank accounts.

*(Amendment No. 3) 5774-2014*

(B3) Prior to the adopting of the Company's resolution on the amount which shall be allocated and the manner of the allocation of the said funds in sub section (B1), every year, and by no later than 21 days prior to the adopting of the said resolution, the Company will turn to the Ministry of Welfare and Social Services and the Ministry of Senior Citizens in order to receive their joint position in the matter;

*(Amendment No. 2) 5772-2012*

*(Amendment No. 3) 5774-2014*

(c) At the end of two years from the date of the establishment of the Company, the Company may use the assets which have been transferred to it for the purpose of commemoration, provided that the Company give preference to the use of the assets for the purpose of assistance; the amount intended for the purpose of commemoration as stated in this sub section will not be greater than 4% of the amount which the Company has allotted during that year for the purpose of assistance.

(d) Use of the assets for the purpose of assistance and for the purpose of the said commemoration in this section will be done in accordance with the criteria which the Company published pursuant to Section 77.

*(Amendment No. 3) 5774-2014*

(e) (Cancelled).

#### STAY OF REALIZATION

*(Amendment No. 2) 5772-2012*

35.

- (a) The Company will not be entitled to sell an asset of a person who perished in the shoah which has been transferred to it, or to carry out another action which will prevent it to make the specific restitution, for up to seven years from the date at which the asset was transferred to it (in this chapter - the period of stay of realization).

*(Amendment No. 3) 5774 - 2014*

- (b) In this Section and in Sections 36, 37 and 38 the “Asset” - except for monies and securities.

*(Amendment No. 2) 5772 - 2012*

- (c) Notwithstanding that stated in sub section (a), for assets of the sorts detailed below, the period of the stay of realization assigned alongside them shall apply:
- (1) An asset which was managed by the Guardian General or by a managing person prior to its transfer to the Company - the period of the stay of realization will end at the end of the period of the special locating process or at the end of seven years from the date at which it was delivered to the management of the Guardian General or of the managing person, according to the later;
  - (2) An asset which was managed by the Jewish National Fund or by the Himnuta Co. Ltd. at least seven years prior to its transfer to the Company - the period of the stay of realization will end at the end of the period of the special locating process or at the end of five years from the date at which it was delivered to the management of the Company, according to the later;

*(Amendment No. 3) 5774-2014*

- (3) (deleted).



## REALIZATION OF ASSETS

*(Amendment No. 3) 5774 - 2014*

37. (a) Where an asset has been transferred to the Company, and where the period to stay the realization for such has elapsed, and under the circumstances of the matter, and according to the information available to the Company, after having carried out all the actions required pursuant to this Law for the locating of the heirs or the Other Right Holders in that asset, the Company has no reasonable basis to assume that the said heirs or right holders will be located, the Company may realize the asset and it may make use of the consideration it has received from its sale, for the realization of its purposes and the execution of its duties in accordance with the provisions of this law.

*(Amendment No. 3) 5774 - 2014*

(a1) The Company may realize an asset and may make use of the consideration it has received from the sale, for the realization of its purposes and the execution of its duties in accordance with the provisions of this law, even if the provisions of Sub Section (a) do not apply with respect of it, for each one of the following:

- (1) All of the following prevails:
- (a) The information which the Company has on the asset holder includes, at most, the name of the asset holder and the name of the settlement and the country which was his place of residence or the last place [where he stayed];
  - (b) Prior to the transfer of the asset to the Company, the asset was held by the Guardian General, the Jewish National Fund or the Himnuta Company Ltd., and it has been transferred to the Company in accordance with the provisions of this law after that holder has found that the asset is the asset of someone who perished in the Shoah;
  - (c) An investigation carried out by the Company in an attempt to locate additional information to that stated in subparagraph (a) on an asset holder, did not provide information allowing for the identification of

the asset holder for the purpose of locating its heirs, provided that for an asset which is land, the said investigation included all of the following:

- (1) a request to the Department of Land Registration and Arrangement at the Ministry of Justice in order to locate documents which may add to the existing information held by the Company on the asset holder;
  - (2) request to the local authority in whose jurisdiction the property is located and to the tax authority in order to check whether taxes or other payments were made for the property by the property holder or anyone on his behalf who is not the Guardian General, the Jewish National Fund or the Himnuta Company Ltd.;
  - (3) further checks required, in the view of the Company, to identify the asset holder for the locating of its heirs;
- (2) The asset is a real estate asset and there are no pending applications for the receipt thereof pursuant to the provisions of Chapter D, and according to the documents held by the Company the asset was acquired for someone who perished in the Shoah, who is registered in the Company as the right holder thereof, after his death; where the Company has realized a real estate asset in accordance with this paragraph, the Company will continue the investigation in accordance with this law, in an attempt to locate the heirs or the other right holders in the asset, in order to refund the consideration received from its sale to them, pursuant to the provisions of Section 32(2).

*(Amendment No. 3) 5774 - 2014*

- (b)(1) The sale of an asset which has been transferred to the Company as stipulated in Sub Section (a) or (A1), requires prior approval of the Company's board of directors, which will be given by a majority of at least six members of the board of directors;
- (2) The approval of the board of directors will only be given after receiving the approval of the legal counsel of the Company for the sale of the asset, after he has checked that all the actions required in accordance

with this law have been carried out for the locating of the heirs and the other right holders in that asset and that the prior conditions for the sale of the asset have been fulfilled in accordance with the provisions of this law and the provisions of any other law; the approval of the legal counsel will be given in writing together with the reasons.

- (c) When approving the sale of an asset which is a chattel, the board of directors of the Company will consider, *inter alia*, the significance of the sentimental or symbolic value which a certain asset may have for the heirs or other right holders in the asset, and if it believes that the asset may have such meaning or value, it will postpone the realization thereof, as much as possible.
- (d) Where the Company has sold an asset, it may undertake any action required in order to complete the sale, including the registration of the actions in any register administered in accordance with legislation.

#### REALIZATION OF ASSETS IN SPECIAL CASES

*(Amendment No. 3) 5774 - 2014*

- 37A. (a) Where the Company has ruled on an application to receive an asset which has been submitted to it in accordance with the provisions of Chapter D, that the asset of the person who perished in the Shoah must be returned to the applicant, and the date for the filing of an appeal on the resolution has elapsed without an appeal being lodged or an appeal has been lodged and the Appeals Committee has decided that the said asset must be returned, the Company may, at the request of the applicant or with his consent, realize the asset and refund the applicant with the consideration which it has received from it sale, in accordance with the provisions of Section 32(2).
- (b) The Company may turn to the Jerusalem District Court, applying for approval for it, to realize a real estate asset, in each one of the following cases:
- (1) The Company has located a person who, according to the information available to the Company, may be the heir of an asset holder, and in accordance with its

requests made to him, he has not filed with it, within half a year from the date of the initial request to him, an application to receive the property pursuant to the provisions of Chapter D;

- (2) All of the following prevails:
  - (a) The Company has made a decision on the application to receive the asset in accordance with the provisions of Chapter D pursuant to the provisions of a succession order, probate order or an order regarding the successors of someone who has perished in the Shoah pursuant to Section 31A, and in accordance with the Company's decision more than one person is entitled to rights in the asset, or part thereof, and the date for the filing of an appeal on the decision of the Company has passed without the filing of an appeal, or an appeal has been filed on the decision of the Company and the Appeals Committee has decided that the said asset must be returned;
  - (b) Some of those who are eligible to receive rights in the said asset stated in subparagraph (a) have agreed to realize the asset and to receive its consideration, whilst the Company has not succeeded in receiving the consent of all of those who are eligible to the rights in the asset for its realization.
  - (c) Where the Company has filed an application with the Court pursuant to Sub Section (b), it will file notice on the filing of the application to any person who, according to the information available to it, may be an heir or a right holder in the asset in connection with which an application has been filed.
  - (d) Where the Court has approved for the Company to realize an asset pursuant to Sub Section (b)(1), it will also be given instructions in the matter of the transfer of the consideration of the asset, considering, inter alia, the link of the asset of the person who in accordance with the information available to the Company may be the heir of the asset holder.
  - (e) Where the Court has approved for the Company to realize an asset pursuant to Sub Section(b)(2), the Company will continue its investigation in accordance with this law, in an attempt to locate all

the heirs or all the other right holders in the asset, for the purpose of returning the consideration which it has received from its sale to them in accordance with the provisions of Section 32(2).

- (f) The provisions of Section 37(d) shall also apply to an asset which the Company has sold in accordance with this Section.

#### PRESUMPTION FOR THE ASSET OF SOMEONE WHO HAS PERISHED IN THE SHOAH AND THE COMPANY'S UNDERTAKINGS

*(Amendment No. 3) 5774-2014*

- 37B. (a) Where approval has been given of the board of directors pursuant to Section 37(b), for the sale of an asset which has been transferred to the Company in accordance with the provisions of this law, from the Guardian General after he has found that the asset is the asset of someone who has perished in the Shoah, there is a presumption that the asset is the asset of someone who perished in the Shoah in the matter of any legal action.
- (b) Where a claim has been instituted against the State of Israel on the grounds that a transfer has been registered in the land registry books to someone else of the asset in accordance with the provisions of this chapter, even though the asset was not the asset of someone who perished in the Shoah, the Company will be charged for any charge or liability imposed on the State of Israel as a result of such.

#### RESTRICTIONS ON THE EXECUTION OF TRANSACTIONS IN ASSETS OF THE COMPANY

*(Amendment No. 2) 5772-2012*

38. (a) The Company may not, both during the period of the stay on the realization and thereafter, rent out an asset, lend it out, or carry out any other action in it, the result of which is the transfer of the right of possession and use in the asset to another person, unless such is for a maximum period of three years, which may be extended for additional periods which will not be greater than three years each, provided that the agreement for the rent, lending, or performance of any other action as stated will

allow the Company to terminate it, within three months from the date at which the eligibility of an heir or other right holders is determined in that asset, pursuant to Section 22 or 26 or within six months from the making of the decision on the realization of the asset, pursuant to Section 37.

(b) Subject to that stated in the latter part of Section 5(b), the assets managed separately, within the meaning of Section 56, cannot be foreclosed or pledged and no right of lien shall apply to them.

#### EXPENSES

*(Amendment No. 3) 5774-2014*

39. Expenses incurred by the Company for the management of the asset, including the payment of obligatory payments applicable to it in accordance with any law (in this Section - Expenses), shall apply to the asset, however, the Company may collect the Expenses also from another asset belonging to the same person, and under the circumstances in which it has deemed that it is efficient and fair to do so - also from other assets which have been transferred to it; so long as the said expenses in this Section have not been paid to the Company, they will be a first charge on the asset.

*(Amendment No. 3) 5774-2014*

41. (a)(revoked).

#### ARTICLE C: THE BOARD OF DIRECTORS, THE MANAGING DIRECTOR AND THE AUDIT COMMITTEE THE BOARD OF DIRECTORS AND ITS APPOINTMENT

51. (a) The Appointing Committee will appoint the Company's board of directors which will have nine members.
- (b) Two thirds of the members of the board of directors will be appointed from a list of recommended persons, which will be submitted to the Appointing Committee by the organizations stipulated in the Second Schedule and which will include at least ten candidates; the remaining one-third will be appointed from a list of recommended

persons, which will be submitted by the minister to the Appointing Committee and which will include at least five candidates.

- (c) An office holder or member of management in an organization stipulated in the Second Schedule or in an organization represented by the said organ, will not be a member of the board of directors of the Company.

*(Amendment No. 2) 5772-2012*

- (d) The members of the board of directors will have the training, professional experience and skills required of directors in a government company, pursuant to the provisions of the Government Companies Law; at least three of the members of the board of directors will have knowledge in the field of activity of the Company; at least one of the members of the board of directors will have accountancy and financial expertise as such is defined in Section 240 of the Companies Law.
- (e) A member of the board of directors will cease to serve before the end of the period for which he has been appointed, if one of those grounds stipulated in Section 22(a)(1) to (6) of the Government Companies Law appertains with respect of him, as applied pursuant to Section 65.
- (f) The board of directors, with the approval of the Appointing Committee, will appoint the chairman from amongst its members; where a chairman has not been appointed to the board of directors within 60 days from the start date of the activities of the board of directors or from the date at which the tenure of the previous chairman ended, as the case may be, the Appointing Committee may appoint him.
- (g) Where the number of members of the board of directors who are eligible to participate at its meetings has fallen below the legal quorum for its meetings, and this situation has continued for more than 30 days, or where the number of members has fallen below the minimum number of members stipulated in the articles of association of the Company and this situation has continued for more than 60 days, the Authority may turn to the Appointing Committee, requesting that it convene

in order to appoint a director or directors in the number required to complete the quorum.

#### THE DUTIES OF THE BOARD OF DIRECTORS AND THE MANAGING DIRECTOR

53. (a) The members of the board of directors, the chairman of the board of directors, and the managing director of the Company will act in trust for the realization of the aims of the Company for the performance of its duties and for the fulfillment of the provisions of this Law; without derogating from the generality of the above said, in addition to the provisions of any law, the provisions of Sections 10 and 13 of the Trust Law shall also apply to their actions, *mutatis mutandis*.

*(Amendment No. 2) 5772-2012*

*(Amendment No. 3) 5774-2014*

(b) The board of directors will report in writing to the minister, the Finances Committee of the Knesset, and the Constitution, Law and Justice Committee of the Knesset (in this law - the Constitution Committee) every six months, about the activities of the Company for the realization of its purposes and the execution of its duties pursuant to Section 4, and at the said date will file to them a financial report on the Company's activities during the preceding 6 months, including in the following matters:

*(Amendment No. 3) 5774-2014*

- (1) Restitution of assets - The state of the assets for which the Company has determined the linkage of an applicant to an asset, but the asset has not yet been returned to him, the number and value thereof, and the main reasons why the said assets have not been returned;
- (2) Activities for the realization of the assets pursuant to the provisions of Section 37, and especially -
  - (a) the state of the assets for which an investigation has begun to locate heirs and assets for whom an investigation has not yet begun, their number and value;



- (b) assets for which the investigation to locate the heirs and other right holders in the assets has ended without heirs being located and with the recommendation for realization, the number and value thereof;

*(Amendment No. 3) 5774-2014*

- (c) The five assets for which the longest period of time has passed since the commencement of the investigation to locate the heir, indicating the time which has passed and the five assets for which the longest period of time has elapsed since approval for the realization thereof pursuant to Section 37 and they have not yet been realized, indicating the time which has elapsed;

*(Amendment No. 3) 5774-2014 (2A)*

- (2A) Activities for locating heirs -
  - (a) the state of the assets in the number and value held by the Company, for which an heir has not yet been located, divided into types of assets;
  - (b) the value of the lowest asset in each one of the classes of assets, for which the Company has commenced with an investigation for the locating of heirs, except for publication activities;
- (3) Investment activities pursuant to the provisions of Section 40;

*(Amendment No. 3) 5774-2014*

- (4) The amount allotted and the amount which has been forwarded for the purpose of assisting needy Holocaust survivors, and details of the manner of the assistance and the joint position of the government ministries as stated in Section 34(B3), and if their position has been rejected - the Company's response to the position, and the amount which has been forwarded for the purposes of commemoration, if forwarded, and the manner of the commemoration;

*(Amendment No. 3) 5774-2014*

- (5) Activities for locating assets, including the rates of the completing of an investigation in various areas of the country.

*(Amendment No. 2) 5772-2012*

- (c) The Company will provide the minister, the Finances Committee of the Knesset or the Constitution Committee, upon demand, with any additional document or information they deem appropriate to demand, for the clarification of details which have been indicated or which needed to be indicated in the report filed pursuant to Sub Section (b).

*(Amendment No. 2) 5772-2012*

- (d) The Company will publish the report which was filed as stated in Sub Section (b) on its website.

## COMPANY BUDGET

54. (a) The board of directors will determine the annual budget of the Company.
- (b) (1) The board of directors will determine the annual budget of the Company, which will be allocated for its current activities (in this Chapter - the current budget), with the approval of the Appointing Committee, provided that the amount which is allocated for the current budget from the assets of those who have perished in the Shoah will not be greater than -
- (a) In the first year of the Company's activities - two percent of the value of the assets which is expected to be transferred to the Company during that year;

*(Amendment No. 2) 5772-2012*

- (b) Starting from the second year of the Company's activities and up until the 2014 financial year - 2% of the value of the assets held by the Company at the end of the previous budget year;

*(Amendment No. 2) 5772-2012*

- (c) In the 2015 financial year- 80% of the current budget which was approved for 2011, plus linkage differences to the Consumer Price Index which was published by the Central Bureau of Statistics, from the index known on 1 January 2011 (in this Section - linkage differences);

*(Amendment No. 2) 5772-2012*

- (d) In the 2016 financial year - for 65% of the current budget which was approved for 2011, plus linkage differences;

*(Amendment No. 2) 5772-2012*

- (e) From the 2017 financial year and onwards - for 50% of the current budget which was approved for 2011, plus linkage differences;

*(Amendment No. 2) 5772-2012*

- (2) Starting from the second year of the Company's activities, the board of directors will determine the current budget, considering, inter alia, the accumulated experience in the matter of the expenses of the Company and its activities during the previous years and considering the duties of the Company and the tasks before it over the remaining period of its activities, with the intention of adjusting the budget to the activities required for the realization of the aims of the Company;
- (3) A separate section will be determined in the current budget, in the matter of the financing of the duties of the Company for locating and restitution as stated in Section 4(1) to (3);

*(Amendment No. 1) 5772-2012*

- (4) No payments will be paid to the Company's creditors, including within the framework of an arrangement or a settlement under Chapter Three of the Ninth Part of

- the Companies Law, unless such is from the current budget.
- (c) Where the board of directors is persuaded that the current budget which was approved as stated in Sub Section (b)(1) is insufficient in order to guarantee the proper functioning of the Company for the realization of its aims and the execution of its duties, it may -
- (1) turn to the joint committee of the Constitution Committee and the Finances Committee of the Knesset, headed by the chairman of the Constitution Committee (in this Section - the joint committee), requesting that it be determined, in an order, a higher rate than the maximum rate stipulated in Sub Section (b)(1); the joint committee will not approve the increase of the rate until after the government has been given a fair opportunity to have its position heard;
  - (2) to turn to the Appointing Committee requesting that approval be given to the Company to add assets to the current budget which are not assets of those who have perished in the Shoah, which will be made available to it, beyond the approved current budget;
  - (3) to turn to the government, through the minister, requesting that a budget be allocated from the Company from the state budget, beyond the approved current budget.
- (d) Where the Minister of Finance has been persuaded that the maximum rate stipulated in Sub Section (b)(1) is higher than required, under the circumstances of the matter, for the proper functioning of the Company for the realization of its aims and the execution of its duties, the minister may, in an order, with the approval of the joint committee, determine a lower rate than the said rate, provided that it guarantees the proper functioning of the Company for the realization of its aims and the performance of its duties.

## ASSET MANAGEMENT

*(Amendment No. 3) 5774-2014*

56. (a) (revoked).

*(Amendment No. 3) 5774-2014*

- (b) The assets of those who have perished in the Shoah which have been transferred to the Company which are not part of the current budget, including amounts which have been allocated for the purposes of assistance and commemoration, will be managed separately from the current budget.

## ARTICLE D: DISSOLUTION OF THE COMPANY PERIOD OF ACTIVITY OF THE COMPANY

*(Amendment No. 3) 5774-2014*

- 60. (a) The Company will act to realize its aims and to perform its functions in accordance with the provisions of this law until the 13th of Tevet 5778 (31 December 2017) (in this law - the Company's period of activity); at the end of the Company's period of activities, the Company will act to be wound up pursuant to the provisions of Section 61, unless it is decided to wind up at an earlier time.
- (b) Three months before the end of the Company's period of activities, at least, the Company will file written notice that the period of its activities is about to end, with the minister and with the Authority.

## LIQUIDATION BY THE COURT

- 62. (a) The Company will be wound up by the Court in accordance with the provisions of Chapter 12 of the Companies Ordinance, provided that no application for winding up as stated is filed by the Company other than with the approval of the government; notice will be filed with the Attorney General regarding the filing of an application for the winding up of the Company and the filing of another application within the framework of the liquidation proceedings.
- (b) In addition to the grounds for dissolution, as stipulated in Section 257 of the Companies Ordinance, the following may file an application for the winding up of the Company, as stipulated in Sub Section (a), as detailed below:
  - (1) the Attorney General or the Company - on the grounds that the Company's period of activity has

ended; in this matter the Company will not be required to adopt a special resolution as stipulated in Section 257(1) of the Companies Ordinance and will not need the approval of the government as stated in Sub Section (a);

- (2) the Attorney General - if he believes that the Company's activities are being conducted in contravention of the law, its purposes or its Articles of Association, provided that the Company has been given written warning to amend the distortion and has not done so within a reasonable period of time after receiving the warning;

*(Amendment No. 3) 5774-2014*

- (3) the government - if the government has decided that the purposes of the Company have been realized or that the realization of the assets which have been transferred to the Company for the realization of its purposes and the execution of its functions in accordance with the provisions of this law have been completed, and that there are no pending applications before it for the restituting of assets of those who perished in the Shoah, which need to be decided upon by the Company;
- (4) the government - if a decision has been made by the government that the realization of the aims of the Company are not possible.

*(Amendment No. 3) 5774-2014*

- (b1) Where the winding up of the Company has not commenced pursuant to the provisions of Section 60(a), the Attorney General will file an application for its winding up pursuant to the provisions of Sub Section (b)(1).
- (c) Where an application has been filed with the Court for the winding up of the Company pursuant to Sub Sections (a), (b)(2) or (b)(4), the Court will not order its winding up until after it has become persuaded that under the circumstances of the matter it is not possible to bring about a proper functioning of the Company or for the realization of its purposes.

## VOLUNTARY WINDING – UP

63. (a) The Company may, with the approval of the government, voluntarily wind up on one of the following -

*(Amendment No. 3) 5774-2014*

- (1) where the realization of all the assets which have been transferred to the Company has been completed for the realization of its purposes and the execution of its functions pursuant to the provisions of this law;
  - (2) where the period of the Company's activity has ended, provided that prior to the making of the decision regarding the approval of the winding up, the government has received an affidavit made by the directors or the majority of them, at their meeting, according to which they have thoroughly checked the state of the Company's business and have come to the view that it has the means to pay its debts in full within 12 months after the commencement of its winding up, and if we are talking about a winding up pursuant to paragraph (1) - also that all the assets of those who perished in the Shoah as stated have been realized.
- (b) In addition to that stated in Sections 262 and 341 of the Companies Ordinance, where the Company is being wound up voluntarily, the Court may, at any stage, at the request of the Attorney General, order that the winding up be conducted by the Court, if it has found that there is public interest in the court supervision over the winding up procedures of the Company.

## THE LAW ON THE ASSETS UNDER DISSOLUTION

*(Amendment No. 3) 5774-2014*

- 64.
- (a) The assets which do not constitute part of the current budget of the Company, managed separately pursuant to Section 56(b) (in this Section - the assets managed separately), will not be part of the assets of the Company available for distribution upon winding up.

*(Amendment No. 3) 5774-2014*

- (b)(1) The assets managed separately for which an application is pending to receive them pursuant to the provisions of Chapter D will be forwarded upon the winding up to the Company to the administration of the Guardian General for a period of five years over which the provisions under the Guardian General Law will apply as if they were abandoned assets for which release applications have been filed pursuant to that law;
- (2) The Guardian General will initiate a proceeding of investigation and inspection and will act with reasonable diligence to locate right holders in a property which has been transferred to his management pursuant to paragraph (1), with the aim of returning the asset to its right holder, including executing all the actions stipulated below within two years from the date of the transfer of the asset to his management:
- (a) He will publish, every six months, in two widely daily Hebrew newspapers widely distributed in Israel, and on the Internet site of the Ministry of Justice, a notice including the details of the asset, including the type of asset and the name of the last right holder in the asset;
- (b) He will carry out all the actions stipulated in the Fourth Schedule for the property, unless he has found, for certain actions, that an action has been executed in the past by the Company or that it does not contribute to the locating of the right holder in the asset or that there is no justification in carrying out the action for other reasons, considering, inter alia, the costs of receiving the information and the value of the asset;
- (3) For the exercising of his powers under the General Guardian Law, in connection with assets which have been transferred to his management in accordance with this Sub Section, the General Guardian may complete the action which has been undertaken by the Company for the locating of the heirs or other right



holders in the assets as stated, and the returning of the assets to them;

- (4) Where the Guardian General has rejected an application for release which was filed for an asset which was transferred to him in accordance with the provisions of paragraph (1), the asset will be transferred, and if the asset was land - the consideration which was received from its sale will be transferred, after setoff of expenses incurred for the asset during the period of its management for the purpose of assisting needy Holocaust survivors, even if the said period in paragraph (1) has not passed, provided that prior to the sale the General Guardian carried out all the actions stipulated in paragraph (2) for the locating of the right holders in the asset;
- (5) Assets which have been transferred to the Guardian General pursuant to paragraph (1) and which remain under his management at the end of the said period in that paragraph, will be transferred for the purpose of assisting needy Holocaust survivors.

*(Amendment No. 3) 5774-2014*

- (c) The assets managed separately for which the provisions of Sub Section (b)(1) do not apply to them, will be vested in the Company upon its dissolution, and the liquidator will act to realize them and to distribute the consideration which has been received from the sale, for the purpose of assisting needy Holocaust survivors; where the Company has been wound up by a voluntary winding up, the liquidator will turn to the Court in a special application to receive approval for the transfer of the funds for the said purpose, in accordance with the rules set out under Sub Section (c)(1).

*(Amendment No. 3) 5774-2014*

- (c1) The Minister of Justice, with the consent of the Minister of Finance, the Minister of Welfare and Social Services, and the Minister of Senior Citizens, will determine rules in the matter of the transfer of the assets for the purpose of assisting needy Holocaust survivors, pursuant to Sub Sections (b)(4) and (5) and (c), however, he will not use

the assets for payment of pension or provident funds legally owing to Holocaust survivors from the state or for the payment of any other grant from the state which was given to Holocaust survivors at an earlier date.

*(Amendment No. 3) 5774-2014*

(d) (Cancelled).

UNDERTAKING OF THE STATE AFTER THE END OF THE PERIOD OF  
ACTIVITY OF THE COMPANY

*(Amendment No. 3) 5774-2014*

64A. Where a person has proven after the end of the period of activity of the Company, that he is an heir or another right holder in an asset of a person who has perished in the Shoah, which was managed by the Company, that person shall be entitled to receive, from the state, the value of the asset as such stood on the day at which it was transferred by the Company to another party, and if the asset was realized by the Company - the consideration received from its sale, all together with linkage and interest differences in accordance with the Ruling of Interest and Linkage Law, 5721-1961, and setoff of the expenses incurred for the asset during the period of its management.

ARTICLE E: MISCELLANEOUS

APPLICATION OF SECTIONS FROM THE GOVERNMENT COMPANIES LAW  
AND THE PROVISIONS IN THE MATTER OF THE APPLICATION OF THE  
COMPANIES LAW

65.

- (a) The provisions from the Government Companies Law as detailed in the Third Schedule shall apply to the Company.
- (b) Where the Government Companies Law has been amended after the Commencement Date, the minister may, in an order, pursuant to a government decision and with the approval of the Constitution Committee, alter

the Third Schedule for the purpose of applying the said amendment to the Company, mutatis mutandis.

- (c) The minister responsible for the Company's affairs, within the meaning of Section 6(3) of the Government Companies Law, will be the minister.

*(Amendment No. 3) 5774-2014*

- (d) The provisions of Sections 255 and 268 to 275 of the Companies Law shall apply to the Company as if it was a public company, subject to the following changes:
- (1) Section 272(a) of the Companies Law shall also apply to an engagement with an officeholder who is not a director, regarding the terms of his tenure and employment;
  - (2) The provisions of Sections 272(c) and (c1), 273(b), 275(c1) and 279 of the Companies Law, shall not apply to the Company;
  - (3) In any event where approval is required from the Recompense Committee, it will be deemed as if approval of the Audit Committee is required.

*(Amendment No. 3) 5774-2014*

- (e) The provisions of Sub Section (d) shall not derogate from the application of the provisions of Sections 10 and 13 of the Trust Law as stated in Section 53.

## CHAPTER H: MISCELLANEOUS PROVISIONS

### SPECIAL PROVISIONS IN THE MATTER OF INHERITANCE OF AN ASSET OF SOMEONE WHO HAS PERISHED IN THE SHOAH

68. Notwithstanding that stated in any law, for the purpose of the right to inherit an asset of someone who has perished in the Shoah, to receive it in accordance with this law, the Succession Law which would have applied to him had he been an Israeli citizen, as defined in the Inheritance Ordinance 27, shall apply to his estate.

### TWO WHO HAVE DIED AS ONE

*(Amendment No. 2) 5772-2012*

68A.

- (a) Without derogating from the provisions of Section 68, where two or more [persons] have died and it has not been determined who died initially, the rights of each one of them will be in accordance with the following rules:
- (1) If one of the claimants is a certain heir and another claimant is a doubtful heir, the certain heir will be preferable;
  - (2) If the two claimants are doubtful heirs, the claimant who is the spouse or relative of the testator whose estate is being divided will be preferred;
  - (3) Between individual claimants at the same level of preference, the estate will be divided, where there is no will, in accordance with the rules of distribution of succession in accordance with law.
- (b) In this Section -
- “Certain heir” - someone who is an heir, regardless of whether the individual or the other party passed away before him;
  - “Doubtful heir” - someone who was an heir only if the other party died before him.

## RESTRICTION OF THE RIGHT OF THE PARENTS OF THE TESTATOR

*(Amendment No. 2) 5772-2012*

68B. Notwithstanding the provisions of Section 68 in the matter of the granting of a succession order for the asset of someone who perished in the Shoah, in Section 6 of the Second Schedule of the Succession Ordinance, the words “however, if the testator left behind him children or children of children, and the parents or one of them is still alive, they or one of them is given one-sixth of the inheritance” - will not be read.

THE PROVISIONS IN THE MATTER OF PROCEEDINGS FOR THE GRANTING OF  
A SUCCESSION ORDER OR A PROBATE ORDER

*(Amendment No. 2) 5772-2012*

68C. The provisions under the Succession Law, 5725-1965 (hereinafter - the Succession Law) shall apply to proceedings for the granting of a succession order or a probate order for the asset of someone who has perished in the Shoah pursuant to this law, mutatis mutandis, if there is no other provision in this matter in accordance with this law:

- (1) Notwithstanding that stated in Section 67A(a) of the Succession Law, the application for the succession order or the application for the probate order, for the asset of someone who has perished in the Shoah, which has been filed with the Inheritance Registrar, will not be forwarded to the Court, even if the circumstances stated in paragraphs (3), (4) or (7) of that Section has been fulfilled, however, if the circumstances in paragraphs (3) or (4) of that Section have been fulfilled and the applicant for the order has requested that a hearing on the application be forwarded to the Court - the application will be forwarded to the Court; nothing in the provisions of this paragraph shall derogate from the provisions of paragraph (8) in the said Section;
- (2) An application for a succession order or a probate order for the asset of someone who has perished in the Shoah will be filed with the Inheritance Registrar in the Tel Aviv District; the Minister may, under an order, determine that the said applications may also be filed with the Registrar in another district; in this matter, "district" - district in accordance with the areas of activity of the Inheritance Registrars as determined by the Minister, pursuant to Section 65A(d) of the Succession Law.

## NOTICE OF THE COMPANY ON FINDINGS AND THE FILING OF DOCUMENTS

*(Amendment No. 2) 5772-2012*

68D.

- (a) A document which has been drawn up or issued at a place outside the area over which Israeli jurisdiction applies, will be viewed as if the conditions stipulated in Section 30 of the

Evidence Ordinance [New Version], 5731-1971, apply, upon the fulfillment of the following two [components]:

- (1) It has been filed within the framework of proceedings for the granting of a succession order or a probate order for the asset of someone who has perished in the Shoah, in accordance with this law;
  - (2) The Company has filed notice with the Inheritance Registrar or the Court, as the case may be, that it has been certified by it or by someone on its behalf.
- (b) (1) In this Sub Section, “notice of findings” - written notice of the findings of the Company regarding the family composition of someone who has perished, of a blood relationship and relationship by marriage, the dates and the order of death of the family members of the person who perished, or any other information in connection with those matters which have been located by the Company or that the Company found that it would not be possible to locate him;
- (2) In proceedings for the granting of a succession order or a probate order for an asset of someone who has perished in the Shoah in accordance with this law, the Company may file notice of the findings with the Inheritance Registrar or the Court, as the case may be, after having conducted the actions for the locating of the heirs of the perished person detailed in Sections 17 to 25 and in the Fourth Schedule;
  - (3) Notice on the findings will specify the actions which have been undertaken and the findings which the Company has reached; the Minister may determine rules in the matter of the manner of the filing of the notice and the manner of detailing the said findings therein;
  - (4) Where the Company has filed notice on the findings, such will be viewed as prima facie evidence of the veracity of the findings stipulated therein;
  - (5) Notwithstanding that stated in paragraph (2), the Company may refrain from checking one or more of the [data]bases detailed in items 5 to 8 of the Fourth Schedule, provided that it indicate in the notice on the findings that in accordance with the findings which it has gathered, the said check cannot contribute to the process

for the locating of findings or that there is no justification in the said check, for other special reasons which will be specified in the notice, including, considering the costs of the receiving of the information, the value of the asset, and the age of the applicant;

- (6) The Minister may, in an order, add additional actions to the Fourth Schedule which he shall determine, or - with the approval of the Constitution Committee - derogate from them.

#### EXEMPTION FROM TAXES AND OTHER PAYMENTS

*(Amendment No. 2) 5772-2012*

*(Amendment No. 3) 5774-2014*

74. (a) The transfer of assets of persons who have perished in the Shoah to the Company or to the Guardian General, the restitution of assets to heirs or to other right holders thereof, and the realization of assets of those who have perished in the Shoah by the Company or the Guardian General pursuant to the provisions of this law, will be exempt from any fee, tax, levy or other obligatory payment which must be paid in accordance with any law, for the said transfer or restitution.

*(Amendment No. 2) 5772-2012*

*(Amendment No. 3) 5774-2014*

- (a1) Notwithstanding that stated in Sub Section (a), where the Company or the Guardian General has realized a real estate asset which is exempt as stated in that Sub Section, and afterwards, the heir or other right holder of the asset has been located and the Company, the Guardian General or the state have decided to restitute the consideration of the said asset in Sections 22, 26, 64 or 64A (in this Sub Section - the Consideration), the following provisions shall prevail:
  - (1) The Consideration will be viewed as having been given for the sale of the right in land by the heir or by the other right holder in the asset, and he will be obligated for the tax in accordance with the provisions of the Land

Taxation Law (Betterment and Purchase), 5723-1963 (in this Section - the Land Taxation Law);

*(Amendment No. 3) 5774-2014*

- (2) Notwithstanding that stated in Section 85 of the Land Taxation Law, the Administrator as defined in the said law (in this Sub Section - the Administrator) will amend the assessment issued to the Company or to the Guardian General pursuant to the provisions of the said Section 78 of the law;

*(Amendment No. 3) 5774-2014*

- (3) The Company, the Guardian General or the state will return the consideration of the asset to the heir or to the other right holder in the asset, less the applicable tax in accordance with the assessment as stated in paragraph (2), provided that the heir or the other right holder in the asset presents a certificate of the said assessment.

*(Amendment No. 3) 5774-2014*

- (a2) In the realization of the assets of persons who have perished in the Shoah pursuant to the provisions of this law by the Company or the Guardian General, the assets will be exempted from property tax debts, insofar as they apply pursuant to the Property Tax and Compensation Fund Law, 5721-1961; notwithstanding the above said, where an heir or other right holder in a property has been located after the said realization and the Company, the Guardian General or the state has decided to refund the consideration of the asset as stated in Section 22, 26, 64 or 64A, the said exemption will be cancelled and the provisions of Sub Section (a1) will apply, mutatis mutandis, in the matter of property tax also.

*(Amendment No. 3) 5774-2014*

- (a3) The provisions of Sub Sections (a1) and (a2), the latter part, will also apply regarding the consideration of an asset which has been realized pursuant to the provisions of Section 37A(a) or (b).



- (b) The provisions of any legislation prohibiting the registration for an asset in a register administered in accordance with law, so long as it has not been proven that the taxes, municipal rates and levies, levies and other obligatory payments owing to the state or to the local authority have not been paid for that asset, will not apply to the registration due to the transfer of the assets to the Company or their restitution as stated in Sub Section (a).
- (c) The Company shall not be obligated to pay a fee, to make a deposit or to give a guarantee or security in a legal proceeding to which it is party.

*(Amendment No. 2) 5772-2012*

- (d) In the matter of this Section, “an asset of someone who has perished in the Shoah” - including land for which the Company is registered in the land registries as the owner thereof, provided that it was registered, as stated, before the 11th of Tammuz 5772 (1 July 2012).

#### EXECUTION AND REGULATIONS

79.

- (a) The Minister is responsible for the execution of this law.
- (b) The Minister may -
  - (1) After consultation with the Appointing Committee, promulgate regulations in any matter related to the execution of this law, including in the matter of the viewing of relevant documents for the assets which have been transferred to the Company;

*(Amendment No. 3) 5774-2014*

- (1A) To promulgate regulations in the matter of the delivery and the service of notices pursuant to this law;
- (2) To promulgate regulations in the matter of procedures for the filing of appeals to the Appeals Committee;
- (3) After consultation with the Appointing Committee and with the approval of the Constitution Committee, to extend, in an order, any date stipulated in this law, for the undertaking of any action, except the end date for the period of activities of the Company pursuant to Section 60.

*(Amendment No. 3) 5774-2014*

- (4) After consultation with the Minister of Finance and with the approval of the Constitution Committee, increase the amount which the Company is to transfer to needy Holocaust survivors as stated in Section 34(b)(1);
- (5) To determine provisions in the matter of an absent heir in proceedings for the granting of a succession order or a probate order for the receiving of an asset of someone who has perished in the Shoah pursuant to this law.

## THIRD SCHEDULE (SECTION 65)

## APPLICATION OF SECTIONS FROM THE GOVERNMENT COMPANIES LAW

*(Amendment No. 2) 5772-2012*

1. The provisions of Sections 2, 3, 10, 11, 13(a), 16A, 17(a) and (b), 17A, 18(b) and (c), 18A, 18B, 18C(a) and (b), 19 to 21, 22(a)(1) to (6), 23, 24(b), 25 to 29, 30 to 32, 33(a) to (b) and (d), 33A, 34(a), (a1), (b) and (c), 35, 36, 37(a) to (c), 38 to 41, 42 save for paragraphs (2) and (5a) in subsection (a), 43 to 49, 50(b) 54, 55, 60, 64 to 68, and 71 of the Government Companies Law shall apply as if it were a government company, however:
  - (1) In the matter of Section 10 of the Government Companies Law, the allocation of the budget to the Company from the state budget as stipulated in Sections 54(c)(3) and 55, shall not be deemed to be an investment;
  - (2) In the matter of Section 11(a) of the Government Companies Law, the Company shall not be entitled to execute the actions specified in paragraphs (1), (4) to (7), (9) and (9b) or to make an undertaking for the execution as stated in paragraph (11) of that Section, and, notwithstanding that stated in paragraph (8) of that Section, it will not be possible to merge the Company with another company, or to resolve to voluntarily wind it up pursuant to the provisions of this Law; in this matter the transfer of shares which are the Asset of Someone Who has Perished in the Shoah to the Company, pursuant to the provisions of this Law, will not be viewed, as the acquisition of shares as stated in paragraph (9) of that Section;

- (3) In the matter of Sections 18(b), 18A(b), 22(a)(1) to (6), 23, 25, 26(a), 35(a) and 37(a) of the Government Companies Law, the Appointing Committee will replace the ministers;
- (4) In the matter of Section 20 of the Government Companies Law, the Minister will replace the ministers, the report will also be to the Appointing Committee and the reporting duties under sub section (a) shall apply to the board of directors and not to the director;
- (5) In the matter of Section 26(b) –
  - (a) In the first part the Appointing Committee, the chairman of the Appointing Committee or the two members of the Appointing Committee will be inserted instead of the ministers;
  - (b) In the latter part, the Appointing Committee will replace the ministers;
- (6) In Section 27(b) of the Government Companies Law, instead on the latter part, starting from the word ‘to send’, if a special need has been seen and in the view of the Appointing Committee, the following will be read - ‘to send a representative to the meeting who may participate in it, however he will not be taken into account for the quorum and he shall not have the right of vote;
- (7) In the matter of Section 28 of the Government Companies Law, the director appointed by the Appointing Committee with the recommendation of the minister will replace the director on behalf of the State, and notwithstanding that stated in the latter part of the Section, it will not be possible to stipulate against the provisions of that Section in the articles of association;
- (8) In the matter of Section 30(a) of the Government Companies Law, instead of the Company a reading will be made of all government companies or for a certain sort of government companies:
- (9) In the matter of Section 32(a) of the Government Companies Law –
  - (a) In paragraph (4) the ‘approval of the authority’ will replace the ‘approval of the government’;
  - (a) In paragraph (8) the Appointing Committee, the chairman of the Appointing Committee or the two

- members of the Appointing Committee will be inserted instead of the ministers;
- (10) In the matter of Section 33(b) of the Government Companies Law, the obligating of the Company for the drafting of a report which does not apply to all the government companies or a certain sort of government companies, will be with the consent of the Minister;
  - (11) In the matter of Section 33D (b) of the Government Companies Law –
    - (a) The chairman of the board of directors, a director or the managing director will not be removed from their positions if the Appointing Committee has objected to such and it shall be responsible for the forwarding of the said reports in Section 33 (a) of the Government Companies Law to the Authority;
    - (b) In the matter of paragraph (2) of that sub section, the government will not be entitled to remove the managing director from his position;
  - (12) In the matter of Section 34(a) of the Government Companies Law, documents which the chairman of the board of directors must file will also be filed with the Appointing Committee;
  - (13) In the matter of Section 37 (a) of the Government Companies Law, the latter part shall not apply;
  - (14) In the matter of Section 42 of the Government Companies Law, the Appointing Committee, including after request from the Authority, may remove the managing director from his tenure;
  - (15) In the matter of Sections 44(a) and 47(a) of the Government Companies Law, the response of the Authority to the request for approval of the appointment of an accountant or legal advisor, as the case may be, will be given within 30 days from the date of receiving the information regarding the appointment;
  - (16) In the matter of Sections 45 and 67 of the Government Companies Law, the Appointing Committee will be in addition to the ministers.

## FOURTH SCHEDULE (SECTION 68D(B))

## List of Operations for the Locating of Heirs

1. Check in the Yad Vashem data base;
2. Check in the Beit Hatfusot (Diaspora House) data base;
3. Request to the state authorities who may be able to provide information which may be of assistance to locate right holders in the asset;
4. Check in the Jewish genealogical data base [www.jewishgen.org](http://www.jewishgen.org);
5. Check in the general gemological research base [www.ancestry.com](http://www.ancestry.com);
6. Checking the data base at the Holocaust Museum in Washington [www.ushmm.org](http://www.ushmm.org);
7. Check in the data base of the international locating service (ITS - Arolsen) in Germany;
8. Check in the archive of the population registry of the city of extract of the right holders in the asset.

Ariel Sharon  
Prime Minister

Tsipi Livni  
Minister of Justice

Moshe Katzav  
State President

Reuven Rivlin  
Speaker of the Knesset