

Genetic Information Law, 5761-2000*

Chapter 1: Interpretation

Purpose of Law

1.

The purpose of this Law is to regulate the conducting of genetic testing and the provision of genetic counseling, and to protect the right to privacy of the person subject to such testing in respect of identified genetic information, but without derogating from the quality of the medical treatment, medical and genetic research, the advancement of medicine and the protection of public welfare.

Definitions

2.

In this Law:

"person responsible for research" means the person responsible for research for which DNA samples or the results of genetic testing have been used;

"person responsible for a minor, ward or incompetent person" means a parent, including a step-parent, adoptive parent and guardian;

"genetic testing" means the testing of the DNA sample of a person in order to characterize and compare DNA sequences;

"genetic testing to establish parenthood" means genetic testing in order to determine the familial relationships of a person;

"genetic testing for research" means genetic testing carried out for research purposes;

"Medical Experiments Regulations" means the Public Health (Medical Experiments on Human Beings) Regulations, 5741-19801;

"clinical geneticist" means a person with appropriate professional qualifications as provided in section 9(2) as recognized by the Director;

"DNA sample" means a biological sample from a person taken for the purpose of extracting human DNA therefrom, within the scope of genetic testing;

"identified DNA sample" means a DNA sample where an identifying detail of the person subject to testing appears, or where details have been separated from the sample but which may be traced in any manner;

"the Director" means the Director General of the Ministry of Health or the person the Director has authorized for the purposes of this Law, in whole or in part;

"informed consent", "ethics committee", "medical treatment", "therapist",

"medical information", "medical record" shall have the meanings ascribed to them in the Subjects

Rights Law;

"Advisory Committee" means the Supreme Helsinki Committee appointed pursuant to the Medical Experiments Regulations, the Chief Scientist of the Ministry of Science and a representative of the Minister of Science;

"Scientific Committee" means the Scientific and Technological Research and Development Committee of the Knesset;

"Protection of Privacy Law" means the Protection of Privacy Law, 574119812;

"Penal Law" means the Penal Law, 5737-19773;

"Subjects' Rights Law" means the Subjects Rights Law, 5756-19964;

"genetic counselor" means a person with appropriate professional qualifications as provided in section 9(3), recognized by the Director;

"recognized institution" as defined in the Council for Higher Education Law, 5718-19585;

"identified genetic information" means any genetic information relating to a subject where an identifying detail appears;

"genetic information" means information stemming from genetic testing;

"genetic institute" means the genetics department of a hospital registered under the Public Health Ordinance, containing a laboratory that conducts genetic testing;

"genetic testing laboratory" means a medical laboratory for conducting genetic testing which has been granted a license pursuant to section 4;

"medical laboratory" means a medical laboratory registered pursuant to the Public Health Ordinance;

"subject" means a person from whom a DNA sample is taken or is intended to be taken for the purposes of conducting genetic testing;

"(legally) incompetent", "ward" and "minor" shall have the meanings ascribed to them in the Capacity and Guardianship Law, 5722-19626;

"Public Health Ordinance" means the Public Health Ordinance, 19407;

"Physicians Ordinance" means the Physicians Ordinance [New Version], 5737-19768;

"identifying detail" means one of the following: given name and family name, identity number, any other identifying number issued by a governmental authority;

"relative" means a person who is a blood relative of a subject;

"genetic medical practitioner" means a person with appropriate professional qualifications as set out in section 9(1);

"specialist medical practitioner" means a person with appropriate professional qualifications as set out in section 9(4);

"license" means a license granted to a laboratory for genetic testing pursuant to section 4;

"results of identified genetic testing" means results of genetic testing bearing an identifying detail of the subject, or where such details have been separated from the results but may be traced in any manner;

"the Minister" means the Minister of Health.

Chapter 2: Genetic Tests – Licensing and Provision of Genetic Counseling

Article A: General

Taking DNA sample and conducting genetic testing

3.

(a) An identified DNA sample shall not be taken from a person, genetic testing shall not be conducted nor shall genetic counseling be provided pursuant to the results of testing other than in accordance with the provisions of this Law.

(b) Genetic testing shall be conducted at a genetic institute or in a genetic testing laboratory. The provisions of this subsection shall not apply to genetic testing for research purposes.

(c) Genetic testing for research purposes shall not take place unless the research has been approved under any law.

(d) Genetic testing to establish parenthood shall only take place in accordance with an order of the Family Court.

Article B: Licensing

Conditions of license for genetic testing laboratory

4.

(a) The Director may grant a license for conducting genetic testing to a medical laboratory, on such conditions as he may prescribe, if all the following conditions prevail:

(1) the applicant is a resident of Israel or is a corporation registered in Israel;

(2) the applicant has appropriate premises and equipment as well as other means for conducting genetic tests, as the Minister prescribes;

(3) neither the applicant nor the director of the laboratory have been convicted of an offense the nature, severity or circumstances of which would make it unsuitable for such person to receive a license;

(4) the director of the laboratory is a genetic medical practitioner or a clinical geneticist or another medical professional, provided that any such person has received permission from the Director to direct a medical laboratory under section 36 of the Public Health Ordinance.

(b) A laboratory in a genetic institute which conducts genetic testing, and in respect of which

the provisions of subsection (a) (2) to (4) prevail, mutatis mutandis, shall not require a license under this section.

Validity of license

5.

A license for a genetic testing laboratory shall be valid for three years, and shall be subject to renewal.

Refusal to grant license, abrogation, limitation or suspension thereof.

6.

(a) The Director may refuse to grant a license, or may abrogate a license, or may limit it or suspend it upon such conditions as he shall see fit, after having given the applicant or the licensee the opportunity to state his case, if one of the following applies in respect thereof:

- (1) one of the provisions of section 4 does not apply or ceases to apply;
- (2) a fundamental term of the conditions of the license as laid down by the Director has been infringed;
- (3) the license was granted on the basis of false information;
- (4) the court has held that the licensee or a person acting on his behalf has infringed a provision of this Law, the Subjects Rights Law, the Public Health Ordinance, the Protection of Privacy Law or the Physicians Ordinance;
- (5) the applicant for the license, the licensee, the director of the laboratory for genetic tests or an employee of the laboratory has been convicted of an offense the nature, severity or circumstances of which would make it appropriate to refuse to grant the license, to abrogate it, limit it or suspend it.

(b) The Director may suspend the consideration of an application, or may suspend the license or may make the license conditional upon such terms as he may see fit, after having given any of the persons set out in paragraph (1) the opportunity to state their case, if any of the following applies:

- (1) an indictment has been filed against the licensee, an applicant for a license, or a director of a laboratory for genetic testing, in respect of an offense under this Law or under one of the statutes referred to in subsection (a) (4);
- (2) a complaint has been filed under section 41 of the Physicians Ordinance against one of the persons referred to in paragraph (1);
- (3) the license of one of the persons referred to in paragraph (1) has been restricted or suspended, as the case may be, under section 44A of the Physicians Ordinance.

(c) The decision of the Director under this section shall be subject to appeal to the District Court, within thirty days of the date on which the appellant becomes aware of the decision.

(d) Where the Director orders the cancellation or suspension of a license, he shall also determine what should be done with the DNA samples, and may order, inter alia, that they be transferred to the Ministry of Health or to another licensee.

(e) The provisions of section 25A of the Public Health Ordinance shall apply to a laboratory for genetic testing and to a genetic institute, which shall be deemed, for these purposes, to be a medical institute requiring registration under the provisions of the Ordinance.

Prohibition on transfer of license

7.

(a) A license granted under this Law shall not be transferable.

(b) The transfer of control in a corporation which is a licensee shall require the prior written consent of the Director, and the Director may determine that such transfer requires a new license.

Fee

8.

The Minister, with the consent of the Knesset Finance Committee, may prescribe a fee for:

- (1) submission of an application for a license and for the renewal of a license;
- (2) conducting safety tests;
- (3) performing quality tests.

Article C: Genetic Counseling

Appropriate professional qualifications

9.

For the purposes of this Law, a person with appropriate professional qualifications shall be one of the following:

- (1) for a genetic medical practitioner – a medical practitioner with a specialist's qualifications in medical genetics pursuant to the Physicians Ordinance;
- (2) for a clinical geneticist – a person with a doctorate in biological sciences from a recognized institution, or a similar degree from an institution outside Israel approved by the Director, in a similar field, together with two years' experience in practical work after having received the degree in a genetic institute or a laboratory for genetic testing recognized by the Director, and who has received recognition from the Director as a clinical geneticist;
- (3) for a genetic counselor – a person with a masters degree in human genetics from a recognized institution, or from an institution outside Israel approved by the Director, with practical training in the provision of genetic counseling in a laboratory for genetic testing or a genetic institute recognized by the Director, and who has received recognition from the Director as a genetic counselor;
- (4) for a specialist medical practitioner – a medical practitioner with a specialist degree under the Physicians Ordinance.

Provision of genetic counseling

10.

Genetic counseling or clarification in respect of the medical-genetic meaning of results of genetic testing conducted on a subject shall only be given by the persons specified in paragraphs (1) to (4) below and as detailed therein:

- (1) a genetic medical practitioner – comprehensive genetic counseling and clarification;
- (2) a clinical geneticist – genetic advice and clarification, subject to conditions of recognition by the Director;
- (3) a genetic counselor – genetic counseling and clarification, subject to conditions of recognition by the Director;
- (4) a specialist medical practitioner – medical-genetic counseling and clarification in such person's field of specialty.

Chapter 3: Taking of DNA Samples

Article A: Taking of DNA Samples, Conducting Genetic Testing and Storage thereof

Informed consent

11.

(a) A DNA sample shall not be taken nor shall genetic testing be conducted without the informed consent of the subject, and the provisions of Chapter 4 of the Subjects Rights Law shall apply, mutatis mutandis.

(b) For the purpose of conducting a research testing, informed consent to the taking of a DNA sample shall be given in writing.

Provision of additional clarification regarding identified DNA sample

12.

(a) For the purposes of receiving informed consent to taking an identified DNA sample and the testing thereof, a subject shall be given an explanation regarding the significance of conducting genetic testing to him and to his relatives, in addition to the provisions of section 13(b) of the Subjects Rights Law, and of any other law.

(b) Every subject shall be given a written clarification as to his rights in respect of the taking of a DNA sample and conducting genetic tests under this Law, and under any other law, in the form approved by the Director.

Research

13.

The provisions of sections 11 and 12 shall not apply research that only makes use of unidentified DNA samples or research that makes use of existing DNA samples the identifying details of which have been separated from them so as to make it impossible, in any manner, to repeat them, where the research has been approved by any law.

Article B: Communication of Results of Genetic Tests

Communication of results of genetic testing

14.

(a) The results of genetic testing shall be transmitted, in accordance with the instructions of the subject, to the subject or to whomever the subject directs.

(b) Notwithstanding the provisions of subsection (a), a the treating practitioner may decide not to transfer the results of genetic testing conducted on a subject to such subject, in whole or in part, if the knowledge of such results is likely to cause serious harm to the physical or mental health of the subject, or to endanger such person's life. Where the treating practitioner so decides, he shall immediately notify the Ethics Committee of the decision, and shall attach the results not transmitted to the subject and his reasons for not transmitting them, and for these purposes, the provisions of section 18 of the Subjects Rights Law shall apply.

(c) Genetic counseling and clarification regarding the medical-genetic significance of the results of genetic testing conducted on a subject shall be given to a subject or to whomever the subject may direct, in accordance with the provisions of section 10.

Article C: Storage of DNA Samples

Preserving DNA samples

15.

(a) An identified DNA sample and the results of genetic testing conducted thereon shall be stored in accordance with rules prescribed by the Director.

(b) The Director shall, in the rules referred to in subsection (a), lay down, inter alia, provisions regarding the minimum period for which results and samples shall be stored and may prescribe rules for various kinds of genetic testing and results, provided that for the purposes of:

(1) an identified DNA sample taken for the purposes of medical treatment, the identifying details have not been separated from the sample;

(2) a DNA sample taken for the purpose of research and the results of genetic testing conducted in respect thereof, the identifying details have been separated from the sample and from the results of the testing, unless the subject has given written consent to keeping the sample or the results of the testing thereof in an identified manner.

(c) For the purposes of subsection (b) (2), the Director shall prescribe procedures regarding the separation of identifying details from DNA samples, subject to the methods and purposes of the research, in consultation with the Advisory Committee.

(d) Rules made under this section shall be published in Reshumot.

Deletion of identifying details

16.

A subject may direct, in writing, deletion of identifying details from an identified DNA sample taken or to be taken from such subject or from results of genetic testing conducted in respect of such sample. Such deletion shall be effected in such a way that it shall not be possible restore the identifying details and to identify the subject in any manner whatsoever.

Chapter 4: Communication of Genetic Information

17.

A person in possession of identified genetic information in a database as defined in the Protection of Privacy Law shall be bound to register such data base under that Law, and the provisions of that Law shall apply to the extent that this Law does not provide otherwise in respect thereof.

Confidentiality

18.

(a) A person who receives genetic information regarding a subject in the performance of his duties or during the course of his employment shall keep such information confidential and shall not make any use of it unless he has received the consent of the subject thereto, and only in accordance with such consent.

(b) A licensee, person responsible for research, treating practitioner or person providing genetic counseling, director of a genetic institution, director of a laboratory for genetic tests and a person taking part in research shall take reasonable steps required to ensure that employees under their supervision maintain the confidentiality of the matters brought to their knowledge in the fulfillment of their duties or during the course of their employment.

Transfer of information to another

19.

A licensee, person responsible for research, treating practitioner or a person providing genetic counseling, director of a genetic institute and a director of a laboratory for genetic testing may transfer genetic information to another person in accordance with the provisions of section 20 of the Subjects Rights Law, other than subsection (a) (5) thereof, mutatis mutandis.

Communication of information for the purpose of imminent treatment

20.

A treating practitioner and a person providing genetic counseling may provide genetic information to another treating practitioner or to another person providing genetic counseling for the purpose of imminent treatment of the subject, unless the subject has given notice of his objection thereto.

Notwithstanding the objection of the subject, the information may be transmitted to another treating practitioner if the Ethics Committee, after having heard the subject, is convinced of all of the following,:

- (1) communication of the genetic information regarding the subject is required for the maintenance of the health of a relative or to improve such person's health, and for the prevention of death, illness or serious disability of such relative, including an unborn relative;
- (2) communication of the genetic information is the only way of achieving the object referred to in paragraph (1);
- (3) the benefit to the relative as a result of communication of the genetic information to the treating practitioner is greater than the harm that would be caused to the subject by communication of the genetic information, or the reasons given by the subject for not transmitting the information to the treating practitioner of the relative are not reasonable, in

the circumstances of the case.

Manner of communication of genetic information

21.

Communication of genetic information under this chapter shall only be effected to the extent required by such circumstances while avoiding, as far as possible, disclosure of the subject's identity.

Waiver of confidentiality

22.

(a) Waiver of medical confidentiality regarding a medical record or medical information shall not be deemed consent to communication of identified genetic information.

(b) Consent to provision of genetic information shall be given expressly and in writing.

Communication of genetic information for research purposes

23.

A person in possession of genetic information or a database of genetic information may communicate the information possessed by him for the purposes of lawfully approved research, instruction or publication in a scientific journal, if one of the following prevails:

(1) the genetic information is communicated without any identifying details;

(2) the subject has given written consent to transfer of the genetic information. Regarding publication under this paragraph, no details identifying the subject shall be disclosed unless the subject has given express consent thereto, in advance and in writing.

Chapter 5: Minors, Wards and Incompetent Persons

Conducting of genetic testing on a minor, ward or incompetent person

24.

A DNA sample shall not be taken from a minor whose age is less than sixteen years, from a ward or an incompetent person, and no genetic testing shall be conducted thereon, unless the person responsible for the minor, ward or incompetent person has provided written consent thereto, and one of the following conditions prevails:

(1) findings indicating a disease or handicap have been discovered in the minor, ward or incompetent person, the diagnosis of which requires genetic testing;

(2) the testing is required to clarify the existence of a carrier gene of a disease or handicap which, according to reasonable medical assessment, can be prevented, or the spread of which can be delayed, or the state of the minor, ward or incompetent person can be improved or advanced;

(3) the testing is required for one of the purposes set out in section 27;

(4) the testing is required for the purposes of lawfully approved research.

Consent of minor who is sixteen years of age

25.

A DNA sample shall not be taken from a minor who is sixteen years of age or above, nor shall genetic testing be conducted on such a person, unless the following are fulfilled:

- (1) the minor has been given clarification as set out in section 12, in the presence of the person responsible for him;
- (2) the person responsible for the minor and the minor have given written consent to the taking of the sample and conducting the testing.

Special provisions regarding consent and special details

26.

(a) In the consent to the taking of a DNA sample and to conducting genetic testing for the purpose of research, a minor who is sixteen years of age or above and the person responsible for him, or a person responsible for a minor who has not yet reached the age of sixteen, or the person responsible for a ward or for an incompetent person, shall give instructions as to the protection, severance or deletion of identifying details.

(b) A minor who has reached eighteen years of age may cancel, restrict or amend the consent that he gave or that was given on his behalf in respect of his participation in research when he was a minor.

Conducting genetic testing on a minor, ward or incompetent for a relative or for another

27.

(a) A DNA sample shall not be taken from a minor, ward or incompetent person, where the sample is not for the needs of such minor, ward, or incompetent person, as the case may be, nor shall genetic testing be conducted on such person, other than for one of the purposes enumerated below, and where the person responsible for the minor, ward or incompetent person has given consent thereto in writing – and where the minor has become sixteen years of age, the minor has also consented in writing:

- (1) the finding of genetic compatibility between the minor, ward or incompetent and another person for the treatment of a disease of such other person;
- (2) clarification of the existence of a carrier gene for a disease or disability of a relative of the minor, ward or incompetent, which may, according to reasonable assessment, be prevented, the spread of which may be delayed or the state of the relative may be improved or advanced, including of an unborn relative, but without harming to the physical or mental health of the minor, ward or incompetent person.

(b) Conducting genetic testing on a ward or an incompetent person for another person who is not a relative of such person shall require the consent of the Family Court.

(c) The Minister of Justice may, with the consent of the Scientific Committee, make regulations within nine months following the date of publication of this Law regarding procedure for proceedings under this section.

Delivery of results of testing

28.

The results of testing conducted on a minor, ward or incompetent person shall be delivered to the person responsible for such minor, ward or incompetent person only, provided that one of the following conditions prevails:

(1) it is apparent that the subject does not carry a carrier gene for a disease;

(2) it is apparent, according to reasonable medical assessments, that the existence of a disease, or of a carrier gene for a disease, in respect of which it appears, that intervention or treatment at this stage could bring about prevention of the disease, delay in the clinical manifestation of the disease or improvement in the condition of the minor, ward or incompetent person; but without harming the physical or mental health of the minor, ward or incompetent person.

Chapter 6: Prevention of Discrimination

Preventing of discrimination in employment

29.

(a) An employer shall not require an employee or a person applying for employment (in this section – an employee) to provide genetic information or to undergo genetic testing.

(b) Where an employer requires an employee to provide genetic information or undergo genetic testing, in contravention of the provisions of subsection (a), he shall not harm the employee owing to his refusal to provide genetic information or to undergo genetic testing in respect of acceptance for employment, promotion, employment conditions or dismissal.

(c) An employer shall not make use of genetic information or the results of genetic testing of an employee, including with respect to acceptance for employment, promotion, employment conditions or dismissal.

(d) (1) For the purpose of maintaining the health of an employee, the Minister may, upon consultation with the Minister of Labor and Welfare and with the consent of the Scientific Committee and, notwithstanding the provisions of subsection (a), determine places of employment where genetic testing may be necessary for particular classes of work.

(2) Where the Minister has made a determination as provided in paragraph (1), an employer may, notwithstanding the provisions of subsection (a), require a person applying for employment to undergo genetic testing to be conducted with maximum protection of such person's privacy, after having advised such person of his being accepted for employment but prior to his having commenced employment. In light of the results of the genetic testing held, the employer shall take all means required to enable the person applying for employment to work in such place of employment, to the extent possible, while safeguarding such person's health.

(3) In regulations made under paragraph (1), provision may be made regarding the manner of conducting genetic testing, the methods for utilizing the results of genetic testing and the means required for protecting the health of the employee.

Diagnoses for insurance purposes

30.

(a) In this section, "insurer" means an insurer or an insurance agent, within the meaning of the Insurance Business (Control) Law, 574119819, or a health fund, as defined in the Public Health Insurance Law, 5754-199410.

(b) An insurer shall not ask an insured or a person applying for insurance (hereinafter – an insured) whether such person has undergone genetic testing and shall not ask for the results of genetic testing from an insured, nor request such person to undergo genetic testing.

(c) In addition to the provisions of subsection (b), an insurer shall not make use of identified genetic information or of a refusal to provide him with such information in order to refuse or reject insurance coverage for any person or stipulate conditions therefor, or increase or decrease the rate of insurance fees or affect the terms of the insurance in any manner.

(d) (1) Notwithstanding the provisions of subsection (b), where an insured proposes entering into a life insurance, or sickness or disability insurance contract in an amount exceeding the amounts laid down by the Minister of Finance for any such insurance, the insurer may ask the insured whether he has undergone genetic testing regarding a disease designated by the Minister of Health during the three years prior to submitting such proposal, and whether he is aware of the results of such testing.

(2) Where the conditions set out in paragraph (1) prevail and the insured presents the results of the testing to the insurer, the insurer may, notwithstanding the provisions of subsection (c), make use, as provided in that subsection, of the genetic information he receives.

(3) The provisions of paragraphs (1) and (2) shall not apply to a person requiring life insurance as a condition of a mortgage registered over a residential property owned by him, for the purpose of purchase of such residential property.

(e) An insurer who receives genetic information as provided in subsection (d) shall not transmit it to any other person, and use of it shall only be for the purpose of entering into an insurance contract for the purpose of which the information was provided, and the provisions of section 19 shall apply, mutatis mutandis.

(f) Regulations under this section shall be made with the consent of the Committee.

Chapter 7: Use of Genetic Information by Security Authorities and Law Enforcement Authorities

Terms

31.

In this Chapter:

"public body" as defined in section 23 of the Protection of Privacy Law operating for one of the purposes laid down in section 32(a);

"law enforcement authorities" means the Israel Police Force, the prosecuting authorities, the National Center for Forensic Medicine, and any other body prescribed by the Minister of Justice by order;

"security authorities" means the Israel Defense Force, and any other body prescribed by the Minister of Justice by order;

"use" means genetic testing, and any act permitted by law for the purposes set out in section 32(a), including any act permitted in respect of investigative material within the meaning of section 74 of the Criminal Procedure Law (Consolidated Version), 5742-198211.

Use of DNA samples and of results of genetic tests

32.

(a) The security authorities and the law enforcement authorities may make use of DNA samples in

their lawful possession for the following purposes only:

- (1) for the purpose of identification in criminal proceedings, in a criminal investigation, uncovering or prevention of crimes, for the purpose of discovering and apprehending offenders as well as putting them on trial, and anything relating thereto (hereinafter – criminal proceedings);
 - (2) for the purpose of collecting intelligence information and preventing harm to the security of the State;
 - (3) for the purpose of identifying unknown persons or bodies, or for locating and identifying persons deceased, corpses, prisoners of war or persons missing in action;
 - (4) for the purpose of research in respect of the purposes set out in paragraphs (1) to (3);
 - (5) for the purpose of lawfully approved research, but only with the written consent of the subject.
- (b) The security authorities and the law enforcement authorities may transmit the results of genetic testing carried out under subsection (a) without transmitting the DNA sample to another public body for use in fulfilling its function

Expansion of application

33.

The provisions of this chapter shall also apply to the results of genetic testing not conducted by the security authorities or the law enforcement authorities, but lawfully obtained by them.

Safeguarding of DNA samples and of results of tests

34.

A DNA sample or the results of genetic testing shall be safeguarded by the security authorities or the law enforcement authorities in such a manner as to ensure the secrecy thereof.

Databases

35.

(a) The provisions of the Protection of Privacy Law shall apply to a database containing the results of genetic testing held by the security authorities and the law enforcement authorities.

(b) Security authorities and law enforcement authorities shall be treated as a security authority under the Protection of Privacy Law.

Regulations for the purposes of Chapter 7

36.

The Minister shall make regulations for the carrying out of this Chapter:

- (1) in respect of the security authorities, in consultation with the Minister of Defense;
- (2) in respect of the law enforcement authorities, in consultation with the Minister of Internal Security.

Application – special provisions

37.

(a) The provisions of this Law shall not apply to the taking of a DNA sample and the use thereof, the use of the results of genetic testing, conducting of genetic testing, storing of a DNA sample and maintenance of the results of a DNA sample for the purposes set out in section 32, but the provisions of this Chapter only shall apply.

(b) The provisions of this Law shall not derogate from the powers of the security authorities or the law enforcement authorities under any law.

Chapter 8: Penalties

Offences

38.

(a) A person who does any of the following shall be liable to five years' imprisonment or a fine five times that laid down in section 61(a) (3) of the Penal Law:

(1) discloses or provides information or makes use of the same in contravention of the provisions of section 18(a) or in contravention of the provisions of sections 19, 20, 21, 22 or 23;

(2) does not employ reasonable means to maintain secrecy, in contravention of the provisions of section 18(b);

(3) takes a DNA sample from a minor whose age is less than sixteen years, from a ward or from an incompetent person, or conducts genetic testing on such persons in contravention of the provisions of sections 24 and 26;

(4) takes a DNA sample from a minor who has reached sixteen years of age or conducts genetic testing on such minor the same in contravention of the provisions of sections 25 and 26;

(5) takes a DNA sample from a minor, ward or incompetent person other than for such person's own purposes, and other than for one of the purposes set out in section 27 or in contravention of the provisions of that section;

(6) does not hand over the results of testing conducted on a minor, ward or incompetent in accordance with the provisions of section 28 or hands over the results of such testing in contravention of such provisions.

(b) A person who engages in genetic testing without a license or other than in accordance with the provisions thereof shall be liable to two years' imprisonment or a fine four times that which is laid down in section 61(a) (3) of the Penal Law.

(c) A person who does any of the following shall be liable to one year's imprisonment or a fine which is three times the fine set out in section 61(a) (3) of the Penal Law:

(1) conducts genetic testing to establish parenthood other than under a court order in accordance with the provisions of section 3(d);

(2) does not hand over the results of genetic testing under the provisions of section 14(a) or (b) or hands over results as aforesaid, in contravention of the provisions of those subsections;

(3) does not provide genetic counseling and clarification regarding the provisions of sections

10 and 14(c) or provides counseling and clarification as aforesaid in contravention of the provisions of those sections;

(4) does not safeguard an identified DNA sample or results of genetic testing conducted in respect thereof, in contravention of the rules prescribed under section 15;

(5) does not erase identifying details of the person examined in contravention of such person's instructions or the provisions of section 16;

(6) does not notify the Director of the termination of activity in accordance with the provisions of section 43 or does not act in accordance with the provisions of that section or the instructions of the Director under section 6(d).

(d) A person who does any of the following shall be liable to one year's imprisonment or a fine six times that laid down in section 61(a) (4) of the Penal Law:

(1) requires an employee or a person applying for employment to provide genetic information or requires such person to undergo genetic testing in contravention of the provisions of section 29(a) or in contravention of the provisions of section 29(d);

(2) harms an employee in the matter of acceptance for employment, promotion, employment conditions or dismissal, due to the refusal of the employee to provide genetic information or to undergo genetic testing in contravention of the provisions of section 29(b);

(3) makes use of genetic information or of the results of genetic testing for the purposes of acceptance for employment, promotion, employment conditions or dismissal, in contravention of the provisions of section 29(c);

(4) does not take the steps required to enable a person applying for employment to work in a place of employment while safeguarding such person's health, in contravention of the provisions of the last part of section 29(d) (2);

(5) asks an insured whether he has undergone genetic testing or asks for an insured to provide the results of genetic testing or asks such person to undergo genetic testing in contravention of the provisions of section 30(b) or (d);

(6) makes use of identified genetic information or of the refusal of a person to provide genetic information in contravention of the provisions of section 30(c);

(7) transmits genetic information to another person in contravention of the provisions of section 30(e).

Liability of an office holder of a corporation, and of employer

39.

(a) An office holder of a corporation must supervise and do everything possible so as to prevent offences under section 38 by the corporation, or by an employee thereof. Where the office holder contravenes this provision, he shall be liable to six months' imprisonment or a fine as laid down in section 61(a) (3) of the Penal Law. For these purposes, "office holder" means a director, general manager, active partner or person with any other position in the corporation who is responsible on behalf of the corporation for the area in which the offence was committed.

(b) Where an offence has been committed under section 38 by the corporation or by one of the employees thereof, there shall be a presumption that an office holder of the corporation

committed a breach of his duty under subsection (a), unless he proves that he did everything necessary to fulfill his duty.

(c) The provisions of this section shall apply, mutatis mutandis, to an employer also for the purpose of offences under section 38 committed by an employee.

Chapter 9: Miscellaneous Provisions

Advisory Committee

40.

The Advisory Committee shall follow up developments in medicine, biology and biotechnology in the field of genetic information, shall submit a report to the Minister once a year, shall advise the Minister on these matters and shall make recommendations to the Minister with regard to the need to adjust and alter this Law, in light of the said developments and of the information stemming from the human genome research project.

Report

41.

The Supervisor of Insurance shall submit a report once a year to the Minister of Finance on developments in the international insurance market, in light of developments in genetic research for the purposes of the provisions of section 30. Representative of person examined

42.

Anywhere in this Law where provisions are made regarding informed consent, the provision of information to a subject, the provision of clarification and genetic counseling and the provision of instructions by a subject, the subject may appoint a representative, for any of these matters, in the manner prescribed under section 16 of the Subjects Rights Law and in accordance with the conditions set out under that section.

Changes in activities of licensee

43.

Should a licensee cease to or be about to cease to act, he shall give notice thereof to the Director as soon as possible and no later than thirty days prior to the date of termination of his activities, and shall transmit the DNA samples in his possession and the results of genetic testing in accordance with the instructions of the Director, as provided in section 6(d).

Implementation and regulations

44.

(a) The Minister shall be responsible for the implementation of this Law and shall be entitled, with the approval of the Scientific Committee, to make regulations for its implementation.

(b) Initial regulations under this Law shall be submitted to the Committee within nine months of the date of its publication.

Reservation of laws

45.

The provisions of this Law shall be in addition to the provisions of any law and shall not derogate therefrom, to the extent that special provisions are not otherwise prescribed for a

given matter in this Law.

Chapter 10: Incidental Amendments

Amendment of Equal Opportunities in the Workplace Law

46.

In the Equality of Opportunities in Labor Law, 5748-198812:

(1) The following shall be inserted at the end of section 15:

"(c) A person committing a breach of the provisions of section 29 of the Genetic Information Law, 5761-2000 shall be liable to the penalty laid down in section 38(d) of that law.";

(2) The following shall be inserted after section 20: "Extension of Application

20A. The provisions of this Law shall apply, mutatis mutandis, to the breach of the provisions under section 29 of the Genetic Information Law, 5761-2000, and the breach of these provisions shall be deemed to be a breach of section 2 of that Law. "

Amendment of Labor Tribunal Law

47.

In the Labor Tribunal Law, 5729-1969, in the Second Schedule, the following shall be inserted at the end:

"Section 29 of the Genetic Information Law, 5761-2000. "

Chapter 11: Commencement, Application, Transitional Provisions and Temporary Provisions

Commencement

48.

This Law shall come into force one year after the date of its publication.

Transitional provisions

49.

(a) A person who, immediately prior to the publication of this Law, conducted genetic testing or provided genetic counseling shall be entitled to continue this occupation for two further years from the date of commencement of this Law.

(b) Where an identified DNA sample is taken from a subject prior to the commencement of this Law, research may be undertaken on it provided that the identifying details have been separated from it, in any manner, and the provisions of the Law regarding the obtaining of informed consent shall not apply to such a sample unless the subject instructed otherwise when he gave consent to the taking of the sample, and provided that the identifying details have been separated from it in any manner.

Application

50.

This Law shall also bind the State; however, for the purposes of security authorities and law enforcement authorities, the provisions of Chapter 7 alone shall apply.

Temporary Provisions

51.

Section 30(c) shall be in force for three years from the date of publication of this Law.

Ehud Barak Roni Milo

Prime Minister Minister of Health

Moshe Katsav Avraham Burg

President of the State Speaker of the Knesset



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