

# Order Regarding Administrative Detentions (Temporary Order) [Combined Version] (Judea and Samaria) (No. 1591), 2007



Israel Defense Forces

## Announcement of combined version

By the powers vested in me by the directives of Section 2C of the Order Regarding the Collection of Proclamations (Judea and Samaria) (No. 111), 1967, and with the consent of the commander of IDF forces in the region, I hereby declare the Order Regarding Administrative Detentions (Temporary Order) [Combined Version] (Judea and Samaria) (No. 1591), 2007.

This order replaces the Order Regarding Administrative Detentions (Temporary Order) (Judea and Samaria) (No. 1226), 1988.

I declare that this order will take effect on March 15, 2007.

March 7, 2007

Yair Lutstein, Colonel  
Legal Advisor for the Judea and Samaria Region

By the powers vested in me as commander of IDF forces in the region, and in the belief that the special circumstances existing today in the region make it necessary in order to maintain the public order and security in the region, and for this reason it is necessary to temporarily resume the principles of administrative detention practiced in the region prior to the addition of Chapter 1E of the Order Regarding Security Directives, 1970, I hereby order the following as a temporary order:

### 1. Administrative detention

**1. (A)** If the commander of IDF forces in the region or a military commander authorized by him for the purpose of this order (hereinafter: a military commander) has reasonable grounds to believe that a particular person must be held in detention for reasons pertaining to the region's security or public security, he is empowered, with a signed order, to command the person's detention for a period of time cited in the order, not to exceed six months (hereinafter: detention order).

**(B)** If a military commander has reasonable grounds to believe, prior to expiration of the detention order issued under Subsection (A) that reasons pertaining to the region's security or public security still require holding the person in detention, he is empowered, with a signed order, to periodically command extension of the original detention order for a period not to exceed six months, and the extension order will have the same legal status as the original detention order.

**(C)** A detention order under this section may be issued without the presence of the person against whom the detention applies.

## 2. Execution

**2. (A)** A detention order issued under this order will be executed by a soldier or policeman, and will serve as authorization for the incarceration of the detainee.

**(B)** If the place of detention is not cited in the detention order, the detainee will be held in custody in one of the following places:

- (1) A detention facility or jail facility as defined in the security legislation;
- (2) A prison, as defined in the Prisons Ordinance [New Version], 1971, as in force in Israel;
- (3) A military prison as defined in the Military Judgment Law, 1955, as in force in Israel;

## 3. Limitation on exercise of authority

**3.** A military commander may not exercise authority under this order unless he believes that it is necessary for decisive security reasons.

## 4. Judicial review of the detention order

**4. (A)** A person detained under this order will be brought within eight days of his arrest before a judge as defined in Section 3(B)(1) of the Order Regarding Security Directives (Judea and Samaria) (No. 378), 1970 (hereinafter: Order Regarding Security Directives), whose rank is no lower than major. The judge is authorized to approve the detention order, cancel it or shorten the stipulated period of detention;

If a detainee is not brought before the judge and a hearing is not initiated within these eight days, the detainee will be released, unless there is another reason to arrest him under any law or security legislation.

**(B)** The judge will cancel the detention order if it is proven to him that the reasons for which it was issued do not pertain to the security of the region or public security, or that it was issued not in good faith or due to extraneous considerations.

## 5. Appeal

**5.** A judge's decision under Section 4 may be appealed before a judge of the Military Court of Appeals as stipulated in Section 3(B)(4) of the Order Regarding Security Directives, and he will have all of the authorities assigned to a judge under this order.

## 6. Delay of execution

**6. (A)** If a judge decides under Section 4 to cancel or shorten a detention order, and the representative of the military commander announces soon after the decision is issued that he wishes to appeal it, the judge is authorized

to order a delay in the execution of release for a period not to exceed 72 hours; Saturdays and holidays will not be included in the calculation of hours.

**(B)** If the military commander's representative submits an appeal regarding a judge's decision under Section 4, the Military Court of Appeals judge will have the authority to order a delay in the execution of release until the ruling on the appeal.

**(C)** If the Military Court of Appeals judge decides in a proceeding under Section 5 to cancel or shorten a detention order, the judge will have the authority, if requested by the military commander's representative, and for special reasons that are to be cited, to delay the execution of the release for a period not to exceed 72 hours. Sabbath and Festival hours shall not count for this purpose.

## 7. Laws of evidence

**7. (A)** In proceedings under sections 4 and 5, it is permissible to deviate from the laws of evidence if the judge is convinced that this would facilitate discovery of the truth and execution of justice.

**(B)** Whenever it is decided to deviate from the laws of evidence, the reasons for this decision will be noted.

**(C)** In proceedings under sections 4 and 5, the judge will have the authority to receive evidence in the absence of the detainee or his representative, or without revealing to them whether, after examining the evidence or hearing the arguments, even in the absence of the detainee and his representative, he was convinced that revealing the evidence to the detainee or his representative would be liable to harm the security of the region or public security. This directive does not diminish any right to refrain from submitting evidence under Section 9A of the Order Regarding Security Directives.

## 8. In camera

**8. (A)** The hearings in proceedings under this order will be conducted in camera.

**(B)** Subject to the stipulations of Section 7(C), the detainee is entitled to be present in any hearing pertaining to his case.

## 9. Prohibition on delegation of authority

**9.** The authorities of a military commander under this order may not be delegated.

## 10. Cancellation of an order

**10.** A military commander has the authority, at any stage, to cancel or shorten a detention order to which the directives of this order apply.

## 11. Regulations

**11.** The commander of IDF forces in the region is authorized to issue regulations for the execution of this order, including regulations that define the legal procedures in proceedings under this order and the date for submitting an appeal and taking other action under this order.

## 12. Transition instructions

**12. (A)** A detention order issued by power of Chapter E1 of the Order Regarding Security Directives before this order came into force will be regarded as if issued by power of this order, regardless of whether or not the approval proceedings under Section 87B of the Order Regarding Security Directives or the periodical review under Section 87C of the Order Regarding Security Directives were completed regarding the detention order.

**(B)** The directives of Chapter E1 of the Order Regarding Security Directives and any regulation issued under it will not apply to a detention order to which this order applies.

**(C)** Despite the stipulation in Subsection (B) above, the Regulations Regarding Administrative Detention (Conditions of Incarceration in Administrative Detention) (Judea and Samaria), 1981 will apply to the incarceration of detainees in the region by power of this order

**(D)** Despite the stipulation in Section 5 of this order, the detainee will not have the right to appeal a detention order issued under Chapter E1 of the Order Regarding Security Directives before this order came into force and after the completion of appeal proceedings under Section 87E of the Order Regarding Security Directives or periodic review proceedings under Section 87C of the Order Regarding Security Directives relating to the detention order.

**(E)** If an approval, appeal or periodic review is pending under Chapter E1 of the Order Regarding Security Directives at the time this order comes into effect, it should be ruled on immediately.

## 13. Period of validity

**13. (A)** This order will remain in effect until a different directive is issued by the commander of IDF forces in the region.

**(B)** Despite the stipulation in Subsection (A), if a person is detained under a detention order subject to the directives of this order, the directives of this order will continue to apply to him until the expiration of the aforementioned detention order, even if this order [No. 1591] expires in the meantime.

## 14. The name

**14.** This order will be called: The Order Regarding Administrative Detentions (Temporary Order) [Combined Version] (Judea and Samaria) (No. 1591), 2007

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# Amendments

## Israel Defense Forces

### Order No. 1619

#### Order Regarding Administrative Detention (Emergency Provision) (Consolidated Version) (Amendment No. 1)

By virtue of my authority as commander of IDF forces in the area, I hereby order the following:

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|----------------------------------|---|
| <b>Amendment to Article 6(c)</b> | 1. At the end of subsection 6(c) of the Order Regarding Administrative Detention (Emergency Provision) (Judea and Samaria) (No. 1591), 2007, add the following: "Sabbath and Festival hours shall not count for this purpose. |
| <b>Effective date</b>            | 2. This amendment shall go into effect on its date of signing.  |
| <b>Title</b>                     | 3. This order shall be entitled: "The Order Regarding Administrative Detentions (Emergency Provision) (Consolidated Version) (Amendment No. 1) (Judea and Samaria) (No. 1619), 2008   |

**7 October 2008**

**General Gadi Shamni**

**IDF Commander in Judea & Samaria**