

THE ENCOURAGEMENT OF INDUSTRIAL RESEARCH AND DEVELOPMENT LAW, 5744-1984¹

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CHAPTER ONE: INTRODUCTION

Objects of the Law

1. The objectives of this Law are:

- (1) The creation of places of employment in industry and the absorption therein of scientific and technological manpower;
- (2) Creating surplus yield for the Israeli economy. In this Law: "surplus yield" – means increased economic benefit to the economy resulting from Research and development or the fruits thereof, over and above the yield which is meant to flow to whom directly involved in such Research and development;
- (3) The development of science-intensive industry whilst utilizing and expanding the technological and scientific infrastructure, and the existing human resources in the State;
- (4) The improvement of the balance of payments of the State through the manufacture

¹ THE FOLLOWING DOES NOT CONSTITUTE AN OFFICIAL TRANSLATION OF THE ENCOURAGEMENT OF INDUSTRIAL RESEARCH AND DEVELOPMENT LAW, 5744-1984.

THIS TRANSLATION HAS NO LEGAL STATUS AND ALTHOUGH EVERY EFFORT HAS BEEN MADE TO ENSURE ITS ACCURACY, THE MINISTRY OF INDUSTRY, TRADE AND LABOR DOES NOT ASSUME ANY RESPONSIBILITY WHATSOEVER AS TO ITS ACCURACY AND IS NOT BOUND BY ITS CONTENTS. ONLY THE ORIGINAL HEBREW TEXT PUBLISHED IN THE OFFICIAL GAZETTE IS BINDING AND READERS ARE ADVISED TO CONSULT THE AUTHORITATIVE HEBREW TEXT IN ALL MATTERS THAT MIGHT AFFECT THEM.

and export of science-intensive Products developed therein; all by way of the encouragement of industrial Research and development.

Means of achieving objectives

2. For the purpose of achieving the objectives of this Law, grants, loans, exemptions, reductions and relaxations mentioned therein (hereinafter referred to as the "**Benefits**") will be provided, which shall be given on the basis of an approved Plan, all as set out in this Law.

Implementation

3. The Minister of Industry and Trade and the Minister of Finance (hereinafter referred to as "the Ministers") are jointly charged with the implementation of this Law.

CHAPTER TWO: DEFINITIONS

Definitions

4. In this Law-

"Plan" - means an annual or multi-annual Research and development plan, consisting of one or more Files, as a result of which any know-how, processes or methods are to become available for the manufacture of a New Product or a substantial improvement of one or more existing Products or the development of a new process or a substantial improvement of one or more existing processes;

"Substantial Improvement of an Existing Product" or **"a Substantial Improvement in an Existing Process"** -

includes the development of a supplementary product or process;

"File" -

means an application for support of Research and development, in a particular year, within the scope of a Plan;

"Product" -

means any tangible property or know-how, including production process and a computer program;

"New Product" means a Product the commercial manufacture or use of which will be made possible by the discovery of any know-how, processes or methods which were previously not known or not generally available;

"Research" - means planned investigation with a view to discover any new know-how in the expectation that it will be useful in developing a New Product or new process or in substantially improvement of an existing Product or process;

"Development" - means the application of the findings of any Research, or any other know-how, aimed at the manufacture of a New Product or the Development of a new process or a substantial improvement in an existing Product or process, including the consolidation or examination of the features of a Plan, the preparation of programs and designs, the construction of a prototype and the operation of an experimental model or a semi-industrial facility;

"Manufacturer" – (Repealed);

"Research and Development Expenses" -

means expenses incurred in carrying out Research and Development under an approved Plan for which the Research Committee has published rules in the Official Gazette and which may be taken into account;

"Percentage of the Added Value" -

means the amount of the manufacturing costs carried out in a particular country, less costs imported for the purpose of manufacturing in such country, compared with the price of the Product *ex works*;

"Transfer of Manufacturing Rights" -

means an authorization to a third party to use know-how developed in the scope of or resulting from a Plan, for the purpose of manufacturing a particular Product only, while all the remaining rights to use and exploit the know-how remaining vested in the transferor in Israel;

"Control" and **"Interested Party"** - bear the

meaning ascribed thereto contained in the Securities Law, 5728-1968.

CHAPTER THREE: INDUSTRIAL RESEARCH AND DEVELOPMENT ADMINISTRATION

Establishment of Administration

5. There is hereby established an "Industrial Research and Development Administration" (hereinafter referred to as **"the Administration"**), which shall operate for the realization of the objects of this Law and for the encouragement of investments in industrial Research and Development.

Authorities of Administration

6. The authorities of the Administration are:
 - (1) The Head of the Administration;

- (2) The Research Committee;
- (3) (Repealed).

Head of Administration

7. (a) The Chief Scientist of the Ministry of Industry and Trade shall be the Head of the Administration. The Head of the Administration shall, ex officio, be a member, and the chairman of the Research Committee.
- (b) The Deputy Head of the Administration, appointed by the Head of the Administration as a member of the Research Committee according to section 9(a)(2), will be the substitute chairman of the Research Committee.

Functions of Head of the Administration

8. (a) The Head of the Administration is charged with the implementation of the decisions of the Research Committee and shall act in its name.
- (b) Everything to be submitted to the Research Committee shall be submitted through the Head of the Administration and every notice on its behalf shall be delivered by him.

The Research Committee

9. (a) The Research Committee shall consist of nine members, as follows:
 - (1) The Head of the Administration;
 - (2) Any of the deputies of the Head of the Administration, appointed by the Head of the Administration;
 - (3) Two representatives of the Ministry of Industry and Trade having an academic degree in the fields pertaining to the Committee's work, appointed by the Minister of Industry and Trade from the employees of his Ministry;
 - (4) Two representatives of the Ministry of Finance appointed by the Minister of Finance from the employees of his Ministry;
 - (5) Two representatives of the public from among industrialists who will be appointed by the Ministers, one of them will to the extent possible, have an education in the field of natural sciences and technology;
 - (6) A representative of the public, not being a civil servant, having at least 10 years' experience in business or industrial management, who will be appointed by the Ministers.
- (b) The appointment shall be for a period not exceeding three years; a member the

period of whose appointment has expired may be reappointed, provided that a member who is a representative of the public will not be appointed for more than one additional period of tenure.

- (c) A member of the Committee being a representative of the public will be entitled to remuneration for participating in meetings of the Committee at the rates prescribed for directors of government companies, according to the Government Companies Law, 5735-1975.
- (d) (Repealed)
- (e) The person or persons who appointing a member of the Research Committee shall also appoint him a permanent substitute.
- (f) Notice with respect to an appointment of a member of the Research Committee shall be published in Official Gazette.

Termination of Tenure

- 9A. (a) A member of the Research Committee will cease to serve as such before the expiration of the term of his tenure, in any of the following cases:
- (1) He has resigned by delivering a letter of resignation to the Ministers.
 - (2) He has been convicted of an offence by reason of the nature, severity or circumstances of which, he is not worthy of being a member of the Committee;
 - (3) He has ceased being a civil servant of the government ministry that he is representing in the Committee;
 - (4) With respect to a representative of the public –upon him being appointed as a civil servant.
- (b) The Ministers may remove a member of the Research Committee from office before the expiration of his term of tenure, if he is unable permanently, or for a period exceeding six consecutive months, from fulfilling his duties.
- (c) If a criminal bill of indictment was filed against a member of the Committee for an offence mentioned in sub-paragraph (a)(2), the Ministers may, after consultation with the Attorney General, suspend him from office until a final judgment in the matter is handed down. The Attorney General will, prior to giving his opinion, give the member an opportunity of voicing his claims; for any member of the Committee suspended according to this sub-section, a deputy will be appointed for the period of his suspension in the manner in which he was appointed as provided by section 9.

Functions of Research Committee

10. (a) The functions of the Research Committee are as follows:
- (1) To decide upon the grant of an approval to Plans (hereinafter referred to as the "**Approval**") within the framework of the State's

Budget and to prescribe conditions for their Approval and also to decide upon the grant of Benefits to the Plans and their rate;

- (2) To prescribe, with the approval of the Ministers and the approval of the Finance Committee of the Knesset, in the framework of the budget approved for such purpose in the Budget Law for such fiscal year, additional Benefit track for the encouragement of industrial Research and Development in accordance to the objectives of this Law and to publish them in the Official Gazette.
 - (3) To prescribe, with the approval of the Finance Committee of the Knesset, conditions and criteria for granting Benefits and their rate in accordance to the objectives of this Law (in this section called – “**the Rules**”); the rules will be published in the Official Gazette.
 - (4) (Repealed)
 - (5) To recommend to any competent authority authorized to do so, to grant, within the framework of the enactments in its sphere of competence or with the implementation of which it is in charge of, and within the framework of the criteria prescribed by the Research Committee for the approval of Plans - any reduction, relaxation, licence or loan that may assist the achievement of the objectives of this Law.
- (b) (Repealed)

Meetings of the Research Committee

- 10A.**
- (a) The quorum for holding meetings of the Research Committee is at least four members, of who three are representatives of the government, including the chairman of the Committee or his substitute and one representative of the public.
 - (b) Notwithstanding the provisions contained in sub-section (a), when decisions are made in regard to policy, new Benefit tracts and determining conditions and criteria for granting Benefits and determining their rate, at least four representatives of the government will be present, including the chairman of the Research Committee and one representative of the public.
 - (c) Decisions of the Research Committee will be adopted by majority vote of the members participating in the vote.
 - (d) In the event of the votes being evenly divided, the chairman of the Research Committee will have the casting vote, and, in his absence - his substitute.
 - (e) The Research Committee will prescribe its rules of procedure, to the extent these have not been prescribed by this Law.

Sections 10, 12 and 13 (Repealed).

Secrecy

14. (a) Nothing of the proceedings of the Research Committee or any material delivered to it shall be disclosed save by decision or with the consent of the Head of the Administration or the Ministers.
- (b) Any party to whom any documents are delivered on behalf of the Research Committee for the purpose of providing an opinion or for any other purpose shall not disclose the contents of such documents to another save by authorization from the Head of the Administration.
- (c) The Head of the Administration may prescribe rules for the maintenance of the secrecy of the Plans, their approval and the following up on their execution.

Conflict of Interests

15. (a) No person shall serve as member of the Research Committee who may, directly or indirectly, be found frequently in a situation of a conflict of interest between this function and another function that he holds, other than in the framework of the Civil Service, or in relation to any other interest of him or of his Relative or of a corporate in which he or his Relative is an Interested Party therein, directly or indirectly; For this purpose, it shall make no difference if the performance of the other function is for consideration or not.
- (b) Any member of the Research Committee who may have or his Relative or a corporate in which he or his Relative are Interested Party therein, have a direct or indirect personal or other interest may have in any matter which is scheduled to be discussed by the Committee, will give notice thereof to the chairman of the Committee or his substitute immediately after becoming aware of such, and will not be present at any discussion on such matter.
- (c) In this section “**Relative**” – means a spouse, parent, sibling or descendant of any of the foregoing and includes any person who is a dependent, agent, partner, employer or an employee of any such member of the Research Committee.

Members of the Research Committee not being civil servants

- 15A. Members of the Research Committee not being civil servants will be treated as civil servants for purposes of the following enactments:
 - (1) The Public Service (Gifts) Law, 5740-1979;
 - (2) The Penal Law, 5737-1977, for purposes of the provisions pertaining to civil servants;
 - (3) The Civil Wrongs Ordinance (New Version).

CHAPTER FOUR: APPROVALS AND APPEALS

Approvals and Appeals

16. (a) An applicant for the Approval of a Plan shall submit to the Research Committee a detailed description of the Plan it intends to execute, together with details with respect to the investment required and the sources of financing, a summary on the existing know-how on the subject and the possibilities of obtaining it, an exposition of the novelty of the Product to be developed and its advantages over other Products, details as to the way it proposes to manufacture the Product if the anticipated results of the Research and Development are achieved, a declaration regarding the locations where the Product will be manufactured in Israel and abroad, the planned manufacturing operations in such places together with argumentations why certain manufacturing operations are planned to execute abroad, and the percentage of added value planned in Israel and abroad (in this Law referred to as – **“Statement Regarding the Location of Manufacture and Percentage of the Added Value”**), including details of the owners of the rights in the know-how, manufacturing or marketing and a summary with respect to the possibilities of marketing the Product and the arrangements that have been made to secure the manufacturing in Israel; the applicant shall deliver to the Committee any such other detail or document requested by it as is required for an examination of the Plan.
- (b)-(d) (Repealed)

Approval of the Plan

17. (a) The Research Committee shall not approve a Plan or any part thereof unless it has received an opinion regarding the Plan from a professional examiner empowered for this purpose by the Head of the Administration and it appears to it that the Plan has a reasonable prospect of leading to the creation of a Product which could lead to the advancement of the objectives of this Law. Approval of the Plan will only be granted to a corporate incorporated in Israel, which, as a result of the execution of the Plan, is expected to develop in Israel by Israeli residents, a New Product or an existing Product in which a significant improvement has been introduced (in this Law hereinafter referred to as – **“the Approval Recipient”**) unless the Research Committee is satisfied for reasons that will be recorded, that for the implementation of the Plan it is essential that part of the Plan will be executed not in Israel or not by Israeli residents.
- (a1) In the decision to grant Approval for the Plan and the rate of the Benefits that will be granted thereto, the Research Committee will impute significant weight to the Approval Recipient’s declaration regarding the location of manufacture and the Percentage of the Added Value in Israel.
- (b) The Research Committee shall not approve a Plan if one of the following occurs:

- (1) The applicant proposes to execute the Plan on the order of another, in consideration for full or partial payment given against the grant of full or partial rights of ownership in the know-how or the Product;
- (2) (a) The applicant is to receive for the execution of the Plan, assistance from the Government not in accordance with the provisions of this Law;
- (b) Notwithstanding the provisions of sub-section (a), the Research Committee shall approve a Plan in the instances and on the conditions to be prescribed by the Ministers with the approval of the Knesset Finance Committee;
- (3) The Plan concerns the execution of Research approved as scientific research in accordance with the Income Tax (Benefits for Investment in Securities the Consideration for which is Earmarked for Scientific Research) Law, 5744-1983).

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- c) Where a Plan or part thereof has been financed by another, other than as part of an order as described in sub-section (b)(1), the amount of such financing shall be deducted from the approved budget of the Plan;
- (d) Where the Research Committee has approved a Plan or part thereof (hereinafter referred to as - "**Approved Plan**"), a written certificate to this effect, signed by the Head of the Administration, shall be issued;
- (e) Where the Research Committee has not approved a Plan or part thereof, the Head of the Administration shall notify the applicant of the reasons, in writing, within fourteen days of the date of the decision.

Approval of changes to the Plan

18. (a) Any change in an Approved Plan, with respect to the content of the Research and Development, or the amount of expenditure required for the execution of the Plan, or with respect to the requirement for the manufacturing of the Product in Israel, or in any other respect, shall require the approval of the Research Committee.
- (a1) The Approval Recipient and the Controlling party or the Interested Party mentioned in sub-section (2), as appropriate, will report to the Research Committee on the dates prescribed and published by it in the Official Gazette of any of the following changes:
 - (1) A change in the Control of the Approval Recipient;
 - (2) A change in the Holding of the Means of Control in the Approval Recipient which transforms any person not being a citizen or resident of Israel or corporate incorporated in Israel into an Interested Party directly in the Approval Recipient; When giving such report, the Interested Party will sign an undertaking in the form to be published by the Research Committee in the Official Gazette. For this purpose,

“Holding” and **“Means of Control”** – bear the meaning defined in the Securities Law, 5728-1968.

- (b) The Head of the Administration, with the approval of the Research Committee, may appoint sub-committees from among the members of the Research Committee, and empower such committees to approve, in accordance with the provisions of this Law and rules to be prescribed by the Head of the Administration, with the approval of the Research Committee -
- (1) A change in the expenditure sections of an Approved Plan, as long as the overall budget framework approved to the Approval Recipient will not increase in such year;
 - (2) A variation in the dates of executing the Approved Plan;
 - (3) A change in the party performing the Research and Development and replacement of the chief researcher in an Approved Plan;
 - (4) Transfer of know-how and any right deriving therefrom to another within Israel;
 - (5) A change in the definition of the Product in the Approved Plan, for the purpose of determining the income resulting from the Product for which royalties will be paid;
 - (6) Correction of non-material errors that have occurred in the letter of Approval for the Approved Plan.
- (b1) The Head of the Administration or his deputy will be the chairman of any sub-committee appointed in accordance with sub-section (b). At least one of the members of the sub-committee will be a representative of the Ministry of Finance and will be appointed by the Minister of Finance from among the employees of his Ministry and at least one will be a representative of the public, from among the industrialists, who will be appointed by the Ministers. The quorum at meetings of the sub-committee is at least three members.
- (c) The provisions of section 17 shall apply mutatis mutandis to the Approval of a change to the Plan.

Conditions for the execution of the Plan

19. (a) The Research Committee may at its discretion, prescribe preconditions in its Approval, for its coming into force and conditions in connection with the execution of the Plan.
- (b) The execution of the Research and Development within the framework of an Approved Plan will be executed by the Approval Recipient or by the party specified by the Approval Recipient within the Plan as the party to whom the Research and Development, or part thereof, will be delivered for

execution, or by a performing party who has been approved in accordance with section 18(b)(3).

- (b1) Know-how deriving from Research and Development according to an Approved Plan other than the Product which has been developed within the framework of such Plan, and any right deriving therefrom will not be transferred to another outside of Israel except in accordance with the provisions of section 19B.
- (c) The Research Committee or the sub-committee may, by virtue of the power vested in them according to section 18, approve transfer of the know-how to another within Israel, provided that the duties under this law and under the terms of the Plan, apply to the recipient of the know-how, including the obligation not to transfer the know-how to another without the consent of the Research Committee, and including the obligation to pay royalties;
- (d) (Repealed)

Manufacture in Israel and Transfer of Manufacture Abroad

- 19A. (a) The Product that will be developed as a result of the Research and Development or part thereof, will be manufactured in Israel at a rate which will not be less than the percent of the production and the Percentage of the Added Value in Israel contained in the declaration with respect to the location of manufacture and Percentage of the Added Value of the given by the Approval Recipient (in this Law referred to as – **“the Original Manufacture Percentage in Israel”**).
- (b) Notwithstanding the aforementioned in sub-section (a) in order to accomplish the objectives of this Law, the Research Committee may, in special cases and on grounds to be recorded, approve, during the course of the execution of the Plan or after the conclusion thereof, at the request of the Approval Recipient, the Transfer of manufacture or of Manufacturing Rights of a Product that has been developed within the framework of the Plan or which results therefrom (hereinafter referred to as – **“the transfer of manufacture”**), abroad, by reason of which the manufacturing percentage in Israel out of the original manufacture percentage mentioned in sub-section (a) will decrease, provided that one of the following obtains:
- (1) The Approval Recipient will be liable for payment of royalties by reason of the transfer of the manufacture, at the rates and on the conditions prescribed in accordance with the provisions of section 21(c).
 - (2) Against the transfer of the manufacture abroad, the manufacture or manufacturing rights of a Product at a similar or higher technological level than that of the Product which is the subject of the application for transfer, will be transferred to Israel (in this paragraph referred to as – **“the Substitute Manufacture”**), provided the volume of employment and creation of workplaces in Israel, the Percentage of the Added Value in Israel and the extent of marketing for the world

market, intended to result from the manufacture or the manufacturing rights that will be transferred to Israel, will not be less than those intended to result from the manufacture or the manufacturing rights according to the Approved Plan, that will be transferred abroad; The Research Committee will not grant an Approval for a transfer according to this paragraph until the Approval Recipient deposits a bank guarantee in such sum it prescribed in order to secure the Substitute Manufacture.

- (c) The following provisions will apply to a further application submitted according to sub-section (b) for purposes of determining the Approval Recipient's original manufacture percentage in Israel:
 - (1) Where the previous application has been approved according to paragraph (1) of sub-section (b) – the manufacturing percentage in Israel, as amended pursuant to the application approved, will be regarded as the Approval Recipient's original manufacture percentage;
 - (2) Where the previous application has been approved according to paragraph (2) of sub-section (b) – the substitute manufacture within the meaning of such paragraph will be regarded as having replaced the manufacture or the manufacturing rights that have been transferred abroad pursuant to the application that had been approved.
- (d) Notwithstanding that stated in sub-section (b), transfer of manufacture abroad, which accumulatively together with previous transfers of manufacture by the applicant recipient to a reduction in the original manufacture percentage in Israel that does not exceed 10%, does not require approval of the Research Committee, provided that the applicant recipient has given notice in writing thereof to the Research Committee prior to carrying out the transfer, and the Research Committee or the sub-committee appointed according to section 18(b), has not informed it of its refusal to the transfer of manufacture within 30 days of receiving such notice.
- (e) The party submitting an application or delivering a notice according to this section must, upon demand of the Research Committee or any party on its behalf, to submit to the Committee in writing within the time prescribed in the demand, any explanation, details, information and documents relating to details contained in the application or notice, as appropriate.
- (f) The Research Committee will fix Rules as to the details to be included in the application or notice according to this section, and the documents to be attached thereto.

Transfer of know-how abroad

- 19B. (a) In this section –
“Stock Exchange”

, “**Private Company**”, “**Public Company**”, “**Distribution**”, “**Merger**”, “**Bonus Shares**” – bear the definitions contained in the Companies Law, 5759-1999;

“**The Sale Price**” of the know-how or of the Approval Recipient – means the actual sale price of the know-how or of the Approval Recipient, as appropriate, and on sale mentioned in sub-section (f) – the price fixed by the Research Committee according to that sub-section;

“**Sale**” of the Approval Recipient – means the sale of all the Approval Recipient’s assets, the Merger thereof and any other transaction prescribed by the Ministers;

“**Annual Interest**” –as defined in the Encouragement of Industrial Research and Development (Rate of Royalties and Rules for the Payment thereof), Regulations, 5756-1996.

- (b) The Research Committee may, in special cases, approve an application to transfer abroad know-how resulting from Research and Development according to an Approved Plan, not being the Product developed within the framework of such Plan, and any right deriving therefrom (in this section – “**Know-How**”), on the conditions set out below, as appropriate:
- (1) If the application is to sell only the Know-How – the Approval Recipient will pay in cash, the Basic Amount reduced according to the provisions of sub-section (g); in this paragraph “**the Basic Amount**” – means an amount equal to the ratio between the aggregate grants received by the Approval Recipient according to this Law, to the aggregate financial investments invested in executing the Approved Plan, multiplied by the Sale Price of the know-how, provided that this will not be less than the aggregate of such grants, plus Annual Interest;
 - (2) If the application is to transfer know-how abroad within the scope of a Sale of the Approval Recipient that as a result of which the Approval Recipient has ceased being a corporation incorporated in Israel – the Approval Recipient will pay in cash, the Basic Amount reduced according to the provisions of sub-section (g); in this paragraph “**the Basic Amount**” means an amount equal to the ratio between the aggregate grants received by the Approval Recipient according to this Law, to the aggregate financial investment invested in it less the financial assets as to be prescribed by the Ministers, multiplied by the Sale Price of the Approval Recipient, provided that this will not be less than the aggregate of such grants, plus Annual Interest;
 - (3) If the application is to transfer know-how abroad in exchange for the transfer of substitute know-how to the Approval Recipient in Israel, and the Research Committee was convinced, taking into account the types of the know-how being transferred and the extent of their technological obsolescence, and also the duration of the period that has elapsed since the conclusion of the Development of the know-how to be transferred abroad and the volume of royalties having been paid until the date of the application for transfer, that by reason of the substitute know-how that will be transferred to Israel, surplus yield will be obtained that is significantly greater than that which

would otherwise have been obtained by reason of the know-how to be transferred abroad, the Committee may, for special reasons that will be recorded, approve the transfer of the know-how and the Approval Recipient will not be charged any payment by reason of the transfer; In the event of the Committee approved such transfer of know-how, the Approved Plan will be varied accordingly so that the substitute know-how will be included in the Plan and the amended Plan will, for purposes of this Law, be regarded as the original Approved Plan; The provisions of this paragraph will also apply to the partnering of a party abroad in the know-how of the Approval Recipient against partnering of the Approval Recipient in the know-how of such party, all for purposes of joint and new Research and Development.

- (c) Notwithstanding the provisions of sub-section (b)(1), if the purchaser of the know-how has granted an express authorization to the Approval Recipient to exploit the know-how and fully use the same and all the rights inherent therein or deriving therefrom, by way of an exclusive, irrevocable license unlimited in time, place or otherwise, the Committee may, for special reasons that will be recorded, approve the transfer of the know-how without charging the Approval Recipient any payment by reason of the transfer.
- (d) Notwithstanding the provisions of sub-section (b)(2), if the consideration on account of a Sale of the Approval Recipient mentioned in such sub-section is, fully or partially by way of shares (in this sub-section – “**the Consideration in Shares**”), and the difference between the Sale Price of the Approval Recipient and the Consideration in Shares (in this sub-section – “**the Cash Consideration**”) is lower than the payment the Approval Recipient should pay according to sub-section (b)(2), the consideration will be paid in cash and the Research Committee may defer the payment of the difference between the full payment according to that sub-section and the consideration in cash (in this sub-section - “**the Balance Payable**”), subject to the conditions set out below and such further conditions as the Committee will direct:
- (1) If the consideration in shares was that of a Private Company – all the shares received as consideration will be charged in favor of the State, until the Balance Payable has been transferred, and the purchaser of the Approval Recipient will give an undertaking not to transfer the know-how to another, directly or indirectly, nor effect any transaction with the charged shares, including a Distribution of dividend or Bonus Shares, until the Balance Payable has been transferred; The Research Committee may decide to realize the charge at any time, in order to sell the shares;
 - (2) If the consideration in shares is that of a Public Company –the shares will be listed for trading on a Stock Exchange and out of such shares there will be charged in favor of the State, shares having a value equivalent to the Balance Payable until the transfer of such balance, provided the payment is made within three months of the first date on which the shares may be sold; If the payment has not

been paid on due date, the State will take action to immediately realize the charge and sell the shares.

- (e) Notwithstanding the provisions of sub-sections (b)(1) and (2), if the application is to transfer know-how abroad as stated in such sub-section, incidental to a liquidation by reason of insolvency or receivership of the Approval Recipient, and the Sale Price of the know-how or of the Approval Recipient, as appropriate, is lower than the total investments that have been invested in executing the Approved Plan or invested in the Approval Recipient, as appropriate, the Research Committee may prescribe that the provision contained in such sub-section requiring the basic amount to be not less than the aggregate of the grants plus Annual Interest, will not apply; In the event of such determination by the Committee, the basic amount will not be reduced according to the provisions of sub-section (g).
- (f) If the Sale of the know-how or of the Approval Recipient as stated in sub-section (b)(1) or (2) is a Sale without consideration, a Sale between related corporations as defined in section 21 or a Merger, or the Research Committee believes that the consideration that has been received on account of the Sale is unrealistic, the Research Committee will fix the Sale Price for purposes of this section, based on an economic opinion of its own.
- (g) The basic amount according to sub-section (b)(1) or (2) will be reduced up to the aggregate of the grants received by the Approval Recipient, plus Annual Interest, less the royalties paid by it pursuant to the instructions to be prescribed by the Ministers. In such instructions the Ministers will fix the period during which the basic amount will be reduced according to this sub-section and the dates and the rates for the reduction, provided the period will start to run at least two years after the end of the period for executing the Approved Plan and terminate not later than 12 years after the end of such period.
- (h) If a payment required according to the provisions of this section has not been paid, linkage differentials and interest within the meaning of the Adjudication of Interest and Linkage Law, 5721-1961 will be added thereto; The payment will be collected in the same manner as the collection of tax, and the Taxes (Collection) Ordinance will apply as if the same were taxed within the meaning of such Ordinance.
- (i) In the event of an application to transfer know-how having been approved according to this section, save according to sub-sections (b)(3) or (c), the approval will be regarded as including an approval mentioned in section 19A(b) for the transfer of the entire manufacture and manufacturing rights of the Product which has been developed according to such know-how, save that the obligation to pay royalties according to section 21 will not apply with respect to the period commencing on the date of the approval.
- (j) The Ministers may affix:
 - (1) Rules for calculating the Sale Price in a manner that will take account of the shares that have been issued to entrepreneurs and employees otherwise than for cash.

- (2) Instructions and conditions regarding the grant of an authorization from the Approval Recipient to a party abroad to use the know-how, including payment to the State from the Approval Recipient by reason of granting such authorization.
- (k) The amounts of the payments that will be paid according to this section will be applied to encouraging industrial Research and Development.

Reports

20. Any party who has been given an Approval shall submit a report on the progress of the Research and Development and a financial report on the Research expenses, all at the dates and in accordance with the Rules to be prescribed by the Research Committee and published in the Official Gazette.

Royalties

21. (a) Any party who has been given an Approval shall pay royalties to the State treasury from any Income deriving from the Product developed within the framework of or deriving from the Plan, including services which are associated with the Product or which form a part of the Product, whether the income has accrued to the party who was given the Approval or to an Associated Person or Corporation; for this purpose -

"Associated Person or Corporation" – means one of the following:

- (1) A corporation, the Control of which, either directly or indirectly, is held by the party who has been given the Approval;
- (2) A party who Controls, either directly or indirectly, the party who has been given the approval;
- (3) A corporation the Control of which, either directly or indirectly, is held by the party to whom the provisions of sub-sections (1) or (2) apply, or held by the party who has received an approval in the manner set out in sub-section (4);
- (4) A party who has received an approval to manufacture the Product from the party who was given the approval or from the party to whom sub-sections (1) to (3) apply;

"Control" – bears the meaning ascribed thereto in the Securities Law 5728-1968.

"Income" – bears the meaning as to be prescribed by the Ministers in the Regulations.

- (b) All the amounts of the royalties that will be paid as aforesaid shall be applied in the encouragement of industrial Research and Development as prescribed by the Research Committee.

- (c) The royalties shall be paid at such rates and according to such rules as the Ministers shall prescribe by regulations after consultation with the Research Committee.
- (d) The royalties will be collected in the same manner as the collection of tax, and the Taxes (Collection) Ordinance will apply as if the royalties were taxed within the meaning of such Ordinance.

Discontinuance of Implementation

22. (a) Where it appears to the Head of the Administration that the Research and Development is not progressing in accordance to the Plan or that the results of the Research and Development at the stage it has reached indicate that the prospects of the success of the Plan have substantially diminished, he may, after hearing the party to whom the Approval was given, recommend to the Research Committee to revoke the Approval or vary the Approved Plan.
- (b) The Research Committee may accept the recommendation of the Head of the Administration, in whole or in part, or reject it, or may give a different decision in the matter, including a decision under section 45(b).
- (c) Where a report has not been submitted as provided in section 20, the Head of the Administration may regard the Research and Development as not progressing in accordance with the Approved Plan and may act as provided in sub-section (a).
- (d) Where the Research Committee has decided to revoke or vary the Approval as mentioned in sub-section (b), the Head of the Administration or a party who has been empowered by him in that behalf, may demand that the Approval Recipient repay all or part of the Benefits that he has received, as appropriate, unless it has been proved that the Approval Recipient has brought about the advancement of the objectives of this Law.

Further Hearing

- 22A. (a) The Research Committee may hold a further hearing on any decision that it has adopted, if within 30 days of the date of adopting the decision, the applicant that is the concern of the decision that was adopted by the Committee as aforesaid, has submitted a reasoned application in writing to hold a further hearing.
- (b) The filing of an application for a further hearing by the applicant requires the payment of a fee.

Appeals

23. (a) Any party who considers himself aggrieved by a decision of the Research Committee may submit an appeal with the Appeals Committee within forty-five days from the day on which the decision was communicated to him.

- (a1) Where the Research Committee has held a further hearing on its decision according as aforesaid in section 22(A), any party who considers himself aggrieved by the decision on the further hearing, may appeal to the Appeal Committee within 30 days from the day on which the decision was communicated to him.
- (b) The objection shall be in writing, setting out the reasons for it.
- (c) The filing of an appeal by the applicant requires the payment of a fee.

The Appeal Committee

24. (a) The Appeal Committee will consist of the following five members:
- (1) Two representatives of the Ministry of Industry and Trade having an academic degree in the fields pertaining to the work of the Committee, who will be appointed by the Minister of Industry and Trade from the employees of his Ministry, one of whom will be appointed to be the chairman of the Committee.
 - (2) A representative of the Ministry of Finance, to be appointed by the Minister of Finance from the employees of his Ministry;
 - (3) Two representatives of the public, not being civil servants, having at least ten years' business or industrial experience, which will be appointed by the Ministers.
- (a1) No person will be appointed member of the Appeal Committee who serves as a member of the Research Committee.
- (b) Three members of the Committee shall form a quorum for its deliberations, among them being the chairman, a civil servant and a member of the public.

Procedure of Appeal Committee

25. The Appeal Committee shall prescribe the procedures of its deliberations and work in so far as this is not provided for by regulations.

CHAPTER FIVE: BENEFITS

Right to a Benefit

26. Any party who has been given Approval under this Law shall be entitled to receive a Benefit, if he meets all the conditions of the Approval of the Plan and complies with the provisions of this Law and of the Rules set by the Research Committee under this Law.

Prevention of double Benefits

27. A Benefit shall not be paid more than once in respect of any Plan.

Rate of grant

28. (a) A grant shall be at the rate of 20%, 30%, 40% or 50% of the Research and Development Expenses, as prescribed by the Research Committee in accordance with the objectives of this Law.
- (b) In its decision as aforesaid in sub-section (a), the Research Committee will attribute significant weight to the Approval Recipient's statement regarding the original manufacture percentage in Israel.
- (c) The Ministers may, with the approval of the Finance Committee of the Knesset, fix rules regarding increments to the percentages prescribed by the Research Committee, in Regions of National Priority. For this purpose "**Regions of National Priority**" – means the regions that were prescribed according to section 40D of the Encouragement of Capital Investments Law, 5718-1959 or such other regions as are prescribed by the Government, from time to time, in regard to the Benefits under the aforesaid Law.

Securities

29. The Head of the Administration may, in accordance with to be prescribed by the Research Committee, demand security to ensure the return of the grant or Benefit as appropriate, in accordance with sections 22 and 47 and to any other matter, to ensure compliance with the provisions of this Law or the conditions on which the Plan was approved.

Time for payment of grant

30. The grant shall be paid not later than thirty days after the day on which the recipient of the Approval proves, to the satisfaction of the Head of the Administration, that he has executed the part of the Approved Plan and incurred the expenditure to which the application for the payment of grant relates.

Advance payments

31. (a) Notwithstanding the provisions of section 30, the Head of the Administration may, in accordance with Rules prescribed by the Research Committee, approve the payment of an advance payment on account of a grant.
- (b) For the purposes of sections 26, 29, 44, 45, 46 and 47, an advance payment on account of a grant shall be regarded as a grant.

Rules

32. The Head of the Administration may, with the approval of the Research Committee may prescribe rules for the implementation of the provisions of this Chapter, including procedures for making application for a Benefit, the details to be contained in the application and the documents to be attached to it, the securities required for the receipt of a grant, the manner and dates of payment of a grant, by installments or at one time, as well as rules for withholding part or all of the grant.

Loans

33. (a) The Research Committee may approve, upon the request of the applicant, that the applicant or a party that will invest in the Plan in his enterprise shall be given a loan instead of a grant under the provisions of this Chapter.
- (b) The loan shall be provided under a loan agreement with a bank approved for this purpose by the Minister of Finance; the bank shall advance the loan to the party entitled thereto, at a rate proportionate to the Research and Development Expenses of the Approved Plan and on conditions to be prescribed by the Minister of Finance after consultation with the Minister of Industry and Trade.
- (c) (Repealed)

Benefits for scientific workers

34. (a) The rate of tax on the income of a Scientific Worker as is derived from employment in an Approved Plan, or in another Research and Development Plan which the Head of the Administration has approved for these purposes, shall not exceed thirty-five per cent of such income; such income shall be deemed the highest bracket of his chargeable income; this Benefit shall not be granted for a period exceeding eighteen months.
- (b) In this section, "**Scientific Worker**" - means an employee who, under a collective agreement made in Israel and applying to him, is entitled to a sabbatical year with pay, and who in the sabbatical year, was employed within the framework of an Approved Plan, under this Law, or in another Research and Development Plan that the Head of the Administration approved for these purposes, and who, prior to such employment was not an employee of the same employer.
35. (Repealed)

CHAPTER SIX: THE FUND FOR THE ADVANCEMENT OF TECHNOLOGY

Establishment of the Fund

36. There is hereby established The Fund for the Advancement of Technology (hereinafter referred to as "**the Fund**").

Objective of the Fund

37. The objective of the Fund is to further technology in Israel and to assist the expansion of industrial Research and Development activity, inter alia by -
- (1) Assisting the establishment of a technological infrastructure, designed to Benefit a particular industrial sector or the industry as a whole, in spheres in which such an infrastructure does not exist at present or it is inadequate for the needs;
 - (2) Conducting Research, surveys and economic and technological inquiries in order to assist the shaping of government policy in aid of industrial Research and Development;
 - (3) Assisting the training of manpower for science-intensive industries.

Income of the Fund

38. The income of the Fund shall be -

- (1) An amount at the rate of 0.6 per cent of every grant or loan provided under this Law, to be deducted at the time of payment to the party entitled to receive the grant or loan;
- (2) (Repealed)
- (3) Money and appropriations from any person for the advancement of its objects and activities.

Use of the Fund's money

39. All the income of the Fund shall be earmarked solely for funding activities thereof approved by the Fund's management within the framework of the Fund's budget and objects.

Management of the Fund

40. (a) The Fund shall be managed by a management of five members (hereinafter - "**the Management**"), namely -
- (1) The Head of the Administration, who shall be the chairman of the Management;
 - (2) An employee of the Ministry of Industry and Trade appointed by the Minister of Industry and Trade;

- (3) An employee of the Ministry of Finance appointed by the Minister of Finance;
 - (4) Two members appointed by the Ministers on the recommendation of industrialists' organizations as mentioned in section 11.
- (b) A member of the Management shall be appointed for a period not exceeding three years; A member whose period of appointment has expired may be reappointed.

Procedure of Management's operations

41. The Management shall prescribe the procedure for its deliberations and work in so far as such are not prescribed in the regulations.

CHAPTER SEVEN: INTERNATIONAL COOPERATION IN INDUSTRIAL RESEARCH AND DEVELOPMENT

Joint funds and reciprocal agreements

42. The government may, on the recommendation of the Minister of Industry and Commerce, enter into reciprocal agreements with governments of other countries to encourage joint Research and Development ventures or the establishment of joint funds for the purpose of encouraging the co-operation in Research and Development between industrial enterprises in Israel and industrial enterprises in other countries, to further the objectives of this Law.

Special provisions with respect to Plans within the framework of international agreements

- 42A. The provisions of sections 17(a1), 19(b1) and 19A will apply, *mutatis mutandis*, and according to the Rules prescribed by the Research Committee, to Plan that have been approved according to this Law and are being executed within the scope of international co-operation agreements in industrial Research and Development to which Israel is a party.

Special provisions pertaining to schemes in the framework of agreements with international corporations

- 42B. The provisions of sections 17(a) and (c), 19(b1) and 19A will apply, *mutatis mutandis*, and according to Rules laid down by the Research Committee, to Plans that have been approved according to this Law and that are being executed within the framework of the engagement for cooperation between the Approval Recipient and a multinational company for the purpose of carrying out joint investments in industrial Research and Development.

CHAPTER EIGHT: GENERAL PROVISIONS

Duty to provide information

43. The party who has been given an Approval shall provide the Head of the Administration, at his request and within such period as he will prescribe, with any information, documents and other evidence with respect to the implementation of the Approved Plan, the fulfillment of the conditions of the Approval and the determination of the rate of Benefits and the determination of the liability for and rate of the royalties.

Benefits to be conditional on compliance with provisions

44. The provisions of this Law shall apply notwithstanding anything provided for in any other enactment; no Benefit shall be granted unless the provisions of this Law, the regulations and Rules thereunder, of the Approved Plan and every condition of the Approval, have been complied with, and the applicant has proved that he keeps acceptable books, within the meaning of the Income Tax Ordinance, and, if he has any other business, that he keeps a separate set of accounts for the purpose of the Approved Plan.

Suspension and revocation

45. (a) Where it appears to the Head of the Administration that a the party who has received an Approval has not complied with a provision of this Law or the or has not complied with the Approved Plan or any condition of the Approved Plan, he may send the recipient of the Approval notice of his intention to recommend that the Research Committee consider suspension or revocation of the Approval, prospectively or retrospectively.
- (b) Where such a notice as referred to in sub-section (a) has been given, the Research Committee may -
- (1) Authorize the continued execution of the Approved Plan, subject or not subject to any further conditions;
 - (2) Suspend or revoke the Approval, prospectively or retroactively;
 - (3) Withhold Benefits pending further clarification;
 - (4) Request the return of Benefits granted;
 - (5) Prevent or withhold the grant of Benefits in any other Plan that has been submitted by the Approval Recipient under this Law.

Revocation by reason of false statement

46. (a) Where it appears to the Research Committee that an Approval was obtained on the basis of false or knowingly misleading statements, it shall revoke the Approval retroactively to the day on which it was given.
- (b) Where an application has been lodged for a further hearing according to section 22A or an Appeal according to section 23, against a decision of the Research Committee according to this section, the Approval will be

suspended until a decision is made on the further hearing or appeal, as appropriate.

Return of Benefits

47. (a) The party requested under sections 22 or 45 to return Benefits granted to it shall comply with the request within ninety days from the date of the notice, or within such longer period as may be fixed in the notice, adding linkage differentials and interest, within the meaning of the Adjudication of Interest and Linkage Law, 5721-1961, but the Research Committee may, for special reasons which it shall record, waive all or part of the interest.
- (b) Where a corporation has received Benefits under this Law and a winding-up order or receivership order is made against it or it resolves upon a voluntary winding-up, before it has executed the whole of the Approved Plan and fulfilled all the conditions contained in the Approval, it shall be deemed to have undertaken to return the Benefits before the making of the winding-up order or receiving order or the passing of the resolution, unless the Research Committee decides that the Benefits shall not be returned or shall be returned only in part; the same shall apply in the case of an individual against whom a receiving order is made in bankruptcy proceedings. Nothing in this sub-section shall be taken as derogating from the right of the State to receive royalties under section 21, from any income within the meaning of the term in that section, received after a winding up order, receivership order or a decision on voluntary winding up.
- (c) Where an Approval is revoked under section 46, the Approval Recipient is obliged to return the Benefits it has received within sixty days from the day on which notice of the revocation is sent to him, together with linkage differentials and interest, within the meaning of the terms in the Adjudication of interest and Linkage Law, 5721-1961, from the date of receipt of the Benefits.
- (d) The provisions of this section shall not derogate from any other law, and where a condition concerning the payment of royalties or the prohibition on the transfer of know-how is infringed, the provisions of this section shall not affect the obligation of the party to whom the Approval was granted to comply with such a condition.
- (e) Any sum due to the State Treasury by reason of the repayment of Benefits, will be collected in the manner in which tax is collected, and the Taxes (Collection) Ordinance will apply as if such sums were tax within the meaning of such Ordinance.

Penalties

- 47A. One who, without the authorization of the Research Committee or in violation of the conditions of such an authorization, by act or omission, transferred or made the transfer possible outside Israel of know-how developed as part of an

Approved Plan or in consequence of its execution or intellectual property rights deriving from know-how that has been developed as aforesaid, shall be liable to three years imprisonment.

Financial sanction

- 47B. (a) (1) If the Head of the Administration has a reasonable ground for assuming that an Approval Recipient has infringed any of the duties set out below, he will give notice to him in writing that he was found to infringe any of the duties imposed upon him, and that if he fails to comply with such duty within 45 days of receiving the notice, he will be subject to a financial sanction:
- (a) The duty to report a change in Control or any change in the holding of the means of Control of the Approval Recipient, according to section 18;
 - (b) The duty to file a report according to section 20;
 - (c) The duty to furnish information, documents and evidences required by the Head of the Administration, according to section 43.
- (2) If the Approval Recipient has failed to perform the duty within the period prescribed in paragraph (1) the Head of the Administration may impose a financial sanction upon him in the amounts set out below, provided he has been given an opportunity to voice his claims.
- (a) In regard to a duty mentioned in paragraph (1)(a) – the amount of NIS 6,000;
 - (b) In regard to a duty mentioned in paragraph (1)(b) – the amount of NIS 24,000;
 - (c) In regard to a duty mentioned in paragraph (1)(c) – the amount of NIS 12,000;
- (b) A financial sanction will be paid on demand of the Head of the Administration, within 45 days of receiving such demand. In the event of the financial sanction not having been paid on due date, linkage differentials and interest will accrue thereon for the period of the delay, according to the Adjudication of Interest and Linkage Law, 5721-1961, until the payment thereof.
- (c) A financial sanction will be according to the up-to-date amount on the date of the demand for payment. Upon an appeal being submitted and the court dealing with such appeal instructed the stay of the payment thereof, the financial sanction will be in the up-to-date amount as of the date of the decision on the appeal being made.
- (d) The Head of the Administration may update the financial sanction amount on 1 January of each year, according to the rate of change that has occurred in the Index, from the last Index published before the update compared with the last Index published prior to the commencement of this Law; The Head of the Administration may further round up the amount of the financial sanction to the nearest multiple of NIS 10; the Head of the

Administration will publish in the Official Gazette notice of the amount of the up-to-date financial sanction.

- (e) The Taxes (Collection) Ordinance will apply to the collection of a financial sanction.

Demand for a financial sanction from an officer of the Approval Recipient

47C. (a) If a financial sanction imposed according to section 47B remains unpaid, the Head of the Administration may demand the payment thereof from any person acting as director or general manager of the Approval Recipient at the time of the infringement, unless any of the following has been proved:

- (1) That he has taken all appropriate measures to prevent the infringement;
 - (2) That he did not know and could not have known of the infringement.
- (b) If the financial sanction has been paid by a director or general manager, the Approval Recipient will not be required to pay the same, and the payor shall be entitled to indemnity from the Approval Recipient.

Appeal against financial sanction

- 47D. (a) A demand to pay a financial sanction may be appealed to the Magistrates Court within 30 days of the demand for payment of such financial sanction having been served.
- (b) The appeal does not of itself operate to stay the payment of the financial sanction unless the Head of the Administration or the court has instructed otherwise.
 - (c) If the appeal is allowed, after the financial sanction has been paid, the financial sanction will be refunded with the addition of linkage differentials and interest from the date of payment thereof until it has been repaid.
 - (d) An appeal may be brought against the decision of the Court by leave, and the Court will try the appeal by a sole judge.

Publication of Rules of Research Committee

48. Rules prescribed by the Research Committee under this Law shall be published in the Official Gazette.

Publication of appointments

49. Notice of appointments under this Law shall be published in the Official Gazette.

Delegation of powers of the Head of Administration

50. The Head of the Administration may, with the approval of the Research Committee, delegate any of his powers under this Law, except the power to

serve as
member and chairman of the Research Committee.

Saving of powers

51. The powers conferred by this Law shall not derogate from powers under any other enactment.

Regulations and Fees

52. The Ministers may with the approval of the Finance Committee of the Knesset, make regulations on any matter relating to the implementation of this Law, including the determination of fees, the amounts thereof and rules concerning payments for handling applications or any other service provided by the Administration.

Commencement and transitional provisions

53. This Law shall come into force on 8th day of Tevet 5745 (1st of January, 1985).