

Key Facts Sefer Mishpatim (Judgements)

THE LAWS OF EMPLOYER – EMPLOYEE RELATIONS (*SECHIRUT*)

Business Relationships between people that do not involve damages

INTRODUCTION.

📖 | The laws of a *sachir* (hired worker) and a *shomer sachir* (paid watchman)

There are **four** types of watchmen

- *shomer chinam* (unpaid guardian)
- *shoel* (borrower)
- *nosei sachar* (paid worker)
- *socher* (renter)

There are **three** rules governing these watchmen. (These relate only to movable property)

- *Din shomer chinam* (the law regarding an unpaid guardian)
- *Din shoel* (the law regarding a borrower)
- *Din sachir* (the law regarding a renter and paid guard)
- Non-movable property

Included in the exemption are:

- Landed property
- Slaves
- Promissory notes
- Consecrated property
- Property owned by Gentiles
- Produce growing on land (considered as landed property regarding Watchmen)
- When a conflict arises, other oaths can be used
 - *Shvuat hesset* (used when someone denies a claim completely)
 - *Gilgul shvuah* (once one oath can be administered, the plaintiff can force the defendant to include in the oath other items of conflict)

When a person claims that he returned it or that he never took it to begin with, he is believed, and he only has to take a *shvuat hesset*.

However, if the defendant had signed a legal document in above case, then he would have to take a Rabbinical oath - whereby he must hold a Sefer Torah - that it was returned or that it was never received and (only then will he) then be believed. He is believed since he could have taken a similar (Biblical) oath that it wasn't his fault.

This formula (that the defendant is believed if he takes an oath holding a Sefer Torah because he would have been believed had he claimed something else and taken a similar oath) is exceptional.

Usually a person must bring proof that he was not negligent i.e. he cannot just free himself with an oath. This proof must take the form of witnesses.

If however, incident took place where one does not normally find witnesses, then the watchman can take an oath instead.

📖 | To allow commerce to flow more easily, the Rabanim eased the laws where damages occur.

- Renting out of animals, ships, houses, fields.

Renter either :

1. pays in money
2. pays in produce a fixed amount – *chocher*
3. pays a percentage of the harvest – *mekabel* (sharecropper). Also called *aris*.

- Workers

- Terms between employer and workers
- Food (should be provided, or not, according to local custom)
- Wages
- Hours

Worker's wages.

📖 | To pay a worker when his wage is due.

Not to delay payment of a worker's wage after it falls due.

This also applies to fees due for hiring animals or utensils.

📖 | A worker may not take more than what he eats.

Worker not allowed to take food home. A worker may eat much but it is not good to be a glutton. He should eat only what he needs. Worker may not give this food to his wife and children.

Animals eating while working.

📖 | Not to muzzle an ox while threshing.

This applies not only to an ox, but all animals - kosher and non-kosher.

Similarly applies to all kinds of work, not only threshing.

- Just as the employer is warned not to 'steal' the wages of the poor person (i.e. withhold his wages), similarly the poor person is warned not to steal from the time he owes the employer i.e. he neglects his work and spends the entire day in being deceitful.

Instead he is obligated to be precise about his time to the extent of leaving out the 4th *brachah* of *bentching* (because it is *Derabanan*)!

And also, he is obligated to work with all his strength as we learnt from *Yaakov* the *Tzadik* that he served *Lavan* with all his strength. And *Yaakov* became exceedingly wealthy.

The *Rambam* is implying that through this approach one will receive even reward in this world (besides the World to Come)

THE LAWS OF BORROWED AND ENTRUSTED OBJECTS (*SHEELAH UPIKADON*)

📖 | • *Din Hashoel* (Laws pertaining to borrowers).

Using borrowed article strictly as arranged. (Moveable property)

As stated previously a *shoel* (borrower) is responsible for loss or damage to the article borrowed even if it is beyond his control. However, if the damage occurs beyond his control

while he is working with the object i.e. doing what he had borrowed it for, then he is not liable i.e. the *shoel* has been sincere to use the borrowed article only for the requested purpose.

To be free of this liability the *shoel* must bring witnesses to prove his claim.

If it was not possible to bring witnesses then *shoel* either has to bring proof or take the 'oath of watchmen'.

The precise wording used between lender and borrower, dictates the terms of the loan.



• Laws pertaining to a *shomer chinam* (an unpaid watchman).

Guarded item known as a *pikadon*.

Laws more lenient than *shoel* and *shomer sachar* i.e. he is not liable for loss or damages.

However, *shomer chinam*

- Always must take an oath to confirm that entity was lost or stolen, and include in the oath that
 - ◇ he was not negligent
 - ◇ the article was not used for personal use of *shomer chinam*
- Neglect however does make him liable, even for forces that were beyond his control.