



**ISRAEL – SOGI LEGISLATION COUNTRY REPORT
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Summary

The [*Israeli Penal Code*](#) (1977) sets the age of consent for same-sex sexual relations involving any kind of penetration as 16 (the same as the age of consent for opposite-sex sexual relations involving any kind of penetration).

[*Prevention of Sexual Harassment Act*](#) (1998) prohibits sexual harassment, which includes insulting a person based on his or her sexual preference.

[*Employment \(Equal Opportunities\) Law*](#) (1988) prohibits discrimination by an employer on the basis of sexual orientation. This includes discrimination with respect to dismissal, advancement, and acceptance.

Israeli law does not permit same-sex marriages to be performed in Israel, but same-sex common law couples enjoy similar spousal benefits as a result of various judicial decisions.

In 2006 the Israeli Supreme Court ruled that same-sex couples who were legally married abroad would be recognized in the population registry in Israel as “married” ([*Ben-Ari v Director of Population Administration*](#)). However, the decision also noted that this ruling was not meant to suggest “that marriage between persons of the same sex is recognized in Israel” and that “[they were] not recognizing a new status of such marriages” (paragraph 22).

In 1994 the Israeli Supreme Court ruled employers are required to provide same-sex partners with the same benefits afforded to opposite-sex partners ([*El-Al Israel Airlines Ltd v Danielowitz*](#)). The Supreme Court ruled that “not giving the respondent a free ticket for his same-sex companion amounted to discrimination, since a distinction on the basis of the difference between a heterosexual and a homosexual relationship is unjustified in the context of employee benefits”.

In 2005, the Israel Supreme Court ruled that individuals may adopt the biological child of their same-sex partner ([Yaros-Hakak v Attorney General](#)).

In 2011, the Interior Ministry applied the [Law of Return](#) (giving Jewish people the right of return and settlement in Israel, with immediate citizenship) to a same-sex couple, allowing the non-Jewish same-sex spouse of a Jewish individual to immigrate to Israel (<http://www.haaretz.com/weekend/anglo-file/ministry-grants-citizenship-to-gay-spouse-of-immigrant-1.382066>).

In 1993, the *Manpower Division Standing Order* was amended to allow gay and lesbian individuals to serve openly in the military without restriction on positions they are allowed to hold.

Legal Provisions

SEXUAL ACTIVITY AND AGE OF CONSENT

[Penal Law, 5737-1977](#): Amended in 2000 to set the age of consent for same-sex couples at 16, making it equal with that of opposite-sex couples (prior to amendment, the age of consent had been 18).

346. (a) (1) If a person had intercourse with a minor who has reached age 14, but has not yet reached age 16 and who is not married to him, or if a person has intercourse with a minor who has reached age 16, but has not yet reached age 18, by exploiting a relationship of dependence, authority, education or supervision, or by a false promise of marriage, then he is liable to five years imprisonment.

[...]

347. (a) (1) If a person committed sodomy on a person who has reached age 14, but has not yet reached age 16, or if he committed sodomy on a person who has reached age 16, but has not yet reached age 18 by exploiting relations of dependence, authority, education or supervision, then he is liable to five years imprisonment.

(2) For the purposes of this subsection, if a person who provides mental health treatment to a minor who has reached age 16, but has not yet reached age 18, committed sodomy on that person during the period in which he gave him mental health treatment, then he shall be deemed to have performed the said act by exploiting a relationship of dependence; the said presumption shall not apply if such relations began in a pair relationship before the mental health treatments began.

(a1) If a person committed sodomy upon a person who has reached age 18 or more, by exploiting his authority in employment or service, then he is liable to three years imprisonment.

(b) If a person committed sodomy upon a person under one of the circumstances specified in section 345, mutatis mutandis, then he is liable to the penalties of a rapist.

(c) For purposes of this Article, "sodomy" – introduction of a bodily organ or an

object into a person's anus, or introduction of a sex organ into a person's mouth.

<http://www.oecd.org/investment/briberyininternationalbusiness/anti-briberyconvention/43289694.pdf>

ANTI-DISCRIMINATION

[Prevention of Sexual Harassment Act, 5758-1998:](#)

1. The purpose of this law is to prohibit sexual harassment in order to defend human dignity, freedom and privacy and in order to promote equality between the sexes.

3. (a) Sexual harassment is any one of the following acts:

[...]

(5) an insulting or debasing reference to a person in connection with his gender or sexuality, including his sexual preference;

http://www.knesset.gov.il/review/data/eng/law/kns14_harassment_eng.pdf

[Employment \(Equal Opportunities\) Law, 5748-1988:](#) Prohibits discrimination by an employer on the basis of "sexual tendencies".

2. (a) An employer shall not discriminate among his employees or among persons seeking employment on account of their sex, sexual tendencies, personal status or because of their age, race, religion, nationality, country of origin, views, party or duration of reserve service, within the meaning thereof under the Defence Service (Consolidated Version) Law 5746-1986, in any of the following:

- (1) acceptance for employment;
- (2) terms of employment;
- (3) advancement in employment;
- (4) vocational training or supplementary vocational training;
- (5) dismissal or severance pay.
- (6) benefits and payments for employees in connection with their retirement from employment.

http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---ilo_aids/documents/legaldocument/wcms_127881.pdf

MILITARY SERVICE

Manpower Division Standing Order: Allows lesbian and gay individuals to serve openly (prior to amendment in 1993, the Order prohibited gay and lesbian individuals from serving in sensitive intelligence divisions).

1. In this order *soldier* includes a female soldier and a male or female IDF employee
2. Recognizing that homosexuals are entitled to serve in the military as are others, the IDF drafts those of this orientation for service on condition that they are fit for security service according to the criteria in force for all candidates for security service.
3. As a rule, the hiring of IDF employees or the placement of homosexual soldiers in basic service or reserve duty or their advancement shall not be restricted. Nevertheless, in certain cases there's a possibility of creating a security risk, and in those cases the placement and hiring of such individuals will be examined on an individual basis

PARTNERSHIP RECOGNITION AND BENEFITS

[Prevention of Family Violence Law, 5751-1991](#): Defines "spouse" to include common law (including same-sex) spouses.

Section 1. Definitions (Amendment: 5755, 5756)

In this Law - [. . .] "spouse" - including common-law spouse

http://www.knesset.gov.il/review/data/eng/law/kns12_familyviolence_eng.pdf