

# The Consumer's Guide to *Shemita*

**A concise halachic guide  
on the laws of *shemita*  
for the home and private garden in Israel**

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## Foreword

The guide before you is a translation of the sixth edition of the Hebrew-language guide (for the *shemita* year of 5782, 2021–1), based on previous guides from the *shemita* years of 5747 (1986–7), 5754 (1993–4), 5761 (2000–1), 5768 (2007–8), 5775 (2014–5).

This is the first year that we have translated this guide into English for the benefit of the large English-speaking population living in Israel, interested in observing the *shemita*-related laws in the most *mehudar* fashion while preferring to read the guidelines in their native language.

In the English edition, we made minor changes in several places, primarily in the footnotes, for clarity's sake. Note that there is another guide for farmers (available in Hebrew: *hamadrach lachaklai*).

In this guide, we attempt to present the practical halachic rulings as briefly and clearly as possible. In the footnotes, we refer to the basic disputes and various opinions and explain the rationale behind the rulings which we cite for each subject. It is superfluous to note that there are many disputes on the laws of *shemita* (as there are in many other halachic matters). This is why in other books on *shemita*, the guidelines may be somewhat different than the ones that appear here—some more stringent, and some, *post facto*, more lenient. In the footnotes, we also attempt to cite opinions that differ from our rulings, so readers encountering such opinions elsewhere will understand the context and the point at issue. Furthermore, in extenuating or *bedi'avad* circumstances, readers will be aware of other more lenient opinions and will be able to ask their rabbi if it is possible to follow a lenient opinion, or whether they should nevertheless adopt the stringent one.

On references: all references to Rambam, Chazon Ish, and other *Rishonim* and *Acharonim* are to their works on *shemita* (*Hilchot Shemita*, *Shevi'it*, and some on *Seder Zera'im*), unless specifically noted otherwise. References to *Hilchot Shevi'it* refer to the work by Rabbi Binyamin Zilber (there are several works by this name). The title

"Rabbi Kook" refers to Rabbi Avraham Yitzchak HaKohen Kook (not to his son Rabbi Tzvi Yehuda).

Throughout this guide, we make abundant reference to the book *Shabbat Ha'aretz*, published by the Torah VeHa'aretz Institute, which expounds on the book of that name by Rabbi Kook on Rambam (*Shabbat Ha'aretz*). Its notes include many references to sources written by rabbis of the Institute. *Shabbat Ha'aretz* can be accessed on the Jewish digital online library *Otzar HaHochma*; readers can look there for more information on topics of interest.

*Katif Shevi'it* is another Torah VeHa'aretz Institute publication (5767), which includes extensive footnotes and explanations on the halachic rulings we bring here. In certain cases, we refer to this book as well.

Besides translating the Torah VeHa'aretz Institute's books into English, the English Department is involved in giving lectures and halachic-agricultural tours, answering questions on *shemita* (and other topics related to land-dependent *mitzvot*), writing articles in English, and posting related materials on our English website.

I would like to thank Shoshan Raiz, our translator, for her dedicated work. I would also like to take this opportunity to thank my parents and father-in-law for reviewing the guide and giving their expert advice and critique. Last, I want to thank my wife for making it possible for me to dedicate my time to teach the land-dependent *mitzvot*. Without her support, this English-language guide would not have been published.

It is my hope and prayer that this guide will increase awareness of the precious *mitzvah* of *shemita* and will help readers observe it properly.

Rabbi Moshe Bloom

Head of English Department, translation advisor and editor.

*Tamuz* 5781 (June 2021), the sixth year of the *shemita* cycle

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## Instructions to the reader

The goal of the Consumer's Guide to *Shemita* is to provide everyone with the tools properly to observe the laws and values of the *shemita* year.

This guide is based on publications by the Torah VeHa'aretz Institute issued since the *shemita* year of 5747 (1986–7), under the guidance of Israel's chief rabbis at that time—Rabbi Avraham Shapiro *z"l* and Rabbi Mordechai Eliahu *z"l*; Rabbi Shaul Yisraeli *z"l*, then chairman of the *Shemita* Committee; and Rabbi Yaakov Ariel *shlit"a*, president of Torah VeHa'aretz Institute.

These great rabbis paved the path for proper *shemita* observance as it applies to all parts of our lives. Our Torah is a Torah of life, which accompanies our every step and is with us in everything we do. For this reason, it is necessary to update the *shemita* guide every *shemita* year.

We do our best to present readers with the various approaches, the rationale for halachic decisions, and their ramifications. "May the favor of the L-rd our G-d, be upon us; let the work of our hands prosper, O prosper the work of our hands!" (*Tehillim* 90:17).

Sincerely,

Rabbi David Eigner,

Editor of the Hebrew version

## Introduction: *Shemita*—a national *mitzvah*

Rabbi Yaakov Ariel, President of Torah VeHa'aretz Institute<sup>1</sup>

The *mitzvah* of *shemita* is based on two principles: the general public (*klal*) and the private individual (*perat*). Both its general rules and its specific details are from Mt. Sinai. The *mitzvah* is a biblical injunction only when: (1) all of the Jewish People, as a collective, reside in the Land of Israel: "all its inhabitants reside on it (the Land)," and (2) when all specific individuals know where their ancestral fields and vineyards are located. Unfortunately, today both conditions are absent: the Jewish People as a whole do not live in the Land of Israel and no one knows where their ancestral portions are located. For this reason, the obligation of *shemita* is not complete; thus according to most *posekim*, the *mitzvah* today is rabbinic.

This *mitzvah* is nevertheless extremely important. *Shabbat* is to the days of the week what *shemita* is to years. Furthermore, *Shabbat* is for man what *shemita* is for the land. Just as *Shabbat* is a turning point in man's relationship with his Creator, *shemita* is a turning point for the relationship between the nation and its land. *Shemita* imbues the Land of Israel with morality and sanctity: "for the land is Mine" (*Vayikra* 25:23).

We are only bound to observe *shemita* as a biblical obligation—and it seems we can only observe it in its entirety—when the general whole and all of its specific individual parts enjoy a symbiotic relationship: the collective whole depends on specific individuals and the individuals depend on the whole. The general public cannot provide for its consumption needs without the individual farmers, who, in turn, bear the burden of nourishing the entire nation. Yet the individual also

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1. Translator's note: Rabbi Ariel employs the Hebrew terms *kelal* and *perat*, which connote general rules vs. details (respectively), general vs. specific, or the whole (i.e. group/general population/collective) vs. the individual. I use the terms in English as appropriate to their specific context.

needs the general population and cannot possibly provide for its needs or cover its expenses without the former's assistance.

One of the most basic principles in the laws of *shemita* is that the land and its agricultural produce are taken from the individual and transferred to the whole—the population at large. This is especially salient concerning the prohibition against harvesting grain and grapes. "You shall not reap the aftergrowth of your harvest or gather the grapes of your untrimmed vines; it shall be a year of complete rest for the land" (ibid., 25:5). The intent is not that the produce will rot in the fields or on the vines. The Torah clearly states (in the next verse): "But you may eat whatever the land during its Sabbath will produce" (ibid., 25:6). *Chazal* understand this verse to mean that there is a prohibition of harvesting in the standard manner, where farmers take all of the produce for themselves. However, when the public harvests in order to distribute the produce to the general population, such harvest is permitted (according to the Chazon Ish).

The main idea behind this *mitzvah* is to move people from their egocentric worldview and develop their sensitivity towards others, public responsibility, and patriotism. Interestingly enough, we find another distinction in the laws governing the collective group versus the individual. The individual is forbidden to pressure borrowers from repaying their debt. However, a rabbinical court—that is, the representatives of the public—may collect the debt. This is the source for the loophole allowing the transfer of debts to rabbinical courts (*prozbul*). The court has the right to determine from whom to collect the debt (such as a wealthy businessperson who would otherwise exploit the *shemita* year to become even wealthier) and from whom to waive the debt (such as someone who is destitute and cannot pay it).

Mutual responsibility is an even more significant component of this *mitzvah*. We have already seen that the Torah transfers the farmer's ownership of the crops of his fields to the general public: "Let the needy among your people partake of it" (*Shemot* 23:11).

The Torah's vision for the *shemita* year is that the "haves" will share their wealth with the "have nots." Albeit, *halachah* does not take into consideration each farmer's economic situation. The command is absolute. The land belongs to G-d and not to its private owners. However, it is apparent that the spirit of the law during the *shemita* year insists that responsibility is mutual: just as the farmer is responsible to take care of the poor, so too consumers should consider the farmers' situation. We should all shoulder the responsibility to observe this *mitzvah*. Thus, it seems that the *hiddur mitzvah* (the most meritorious manner of full filling the commandment) for consumers during the *shemita* year is to help farmers shoulder their financial burden. Otherwise, consumers would not be fully observing the *mitzvah* of *shemita*: they do not own fields or orchards, so they cannot remit their ownership of the land and its produce. How can consumers nevertheless fulfill this great and important *mitzvah*? It seems that the only way is through helping farmers to observe the *mitzvah*.

The *mitzvah* of eating the *shemita* year's produce is thus imbued with new significance. According to Ramban, there is a *mitzvah* to eat the sacred produce of this year (just like *terumah* and *bikkurim*). While Rambam does not list this as a *mitzvah*, consumers of produce with *kedushat shevi'it* (*shemita* sanctity) do support farmers who observe the *shemita* year properly; without their help, farmers would not be able to do so. This means that even according to Rambam, eating such produce would be a *mitzvah*. The Land of Israel belongs to all of us and the *mitzvah* applies equally to the entire nation. If economic need forces farmers to work the land during the *shemita* year due, their sin rests upon us all.

*Hiddur mitzvah* during the *shemita* year must consider the population at large. This is the very nature of this *mitzvah*. Yet this responsibility belongs to each and every individual as well: who knows where their ancestral portion is today? Perhaps he who compels a farmer to work during the *shemita* year (by not aiding him) is actually the true owner of the field being tilled—his ancestral portion?!

This perspective has many ramifications: for instance, should one prefer imported fruits and vegetables to those from *otzar beit din* and produce grown on detached platforms? A consumer-centered approach, from the individual's perspective, would certainly view imports as optimal. The status of imported produce is clear-cut, without any debatable halachic issues. However, the larger question remains: has the consumer in this way fulfilled his obligation in the most optimal and *mehudar* way—since he is essentially forcing Jewish farmers to work their land? Without detached platforms or *otzar beit din*, they will certainly need to do so—since the religious market, on behalf of whom they otherwise would be willing to risk such agricultural gambles, is not interested in their produce.

As for those who prefer crops grown by non-Jews in the Land of Israel, they are not aware that increasing the quotas for non-Jewish produce is halachically problematic. In order to provide for the needs of all of the *shemita* observers, it is necessary to order ahead of time larger quantities of non-Jewish produce. This entails increasing the produce quotas of the non-Jewish population. Those ordering such produce are not observing *shemita* in a *mehudar* fashion, since we all share the responsibility to ensure that the Land of Israel is not worked during the *shemita* year, even by non-Jews. In the Netziv of Volozhin's commentary on the Torah (*Vayikra* 25:4), he states that it is a *mitzvah* to redeem the land from the hands of the gentiles who do not observe *shemita*, and transfer them to Jewish ownership so that the latter will be able to properly observe *shemita*.

Those who order produce grown in the southern Aravah—which seems to be within the borders of *olei Mitzrayim*—also directly cause our land to be worked during the *shemita* year. While *sefichin* are permitted there, sowing is forbidden. The consumer is convinced that he is observing the *mitzvah* in the most *mehudar* fashion, without realizing that his *mitzvah* is coming at the expense of others' sins. The responsibility is on our shoulders.

The responsibility for the general public relates not only to the observance of the *shemita* year, but also to our very existence. An individual cannot exist outside the framework of the general public. Hostile countries surround the State of Israel on all sides. Each and every one of us is in a constant state of existential danger. Jewish settlements that line our borders ensure the existence and safety of every individual living in Central Israel. Through the taxes we each pay, the government offers significant benefits to those living on the country's periphery and encourages them to settle these areas. Without these settlements, Israel would have to barricade itself behind security walls from Gadera to Hadera. Farmers living near the northern borders are given production quota privileges. Whoever wants the residents of Israel's frontier to continue securing our land on all sides of the country must provide them with the means they need to live there. In this way, each one of us can observe the *mitzvah* of settling the Land of Israel, the *mitzvah* of "and he shall live by them" (*Vayikra* 18:5), as well as "let him live by your side as your kinsman" (*ibid.* 25:36). Since we cannot abandon the frontier settlements and expect them to fend for themselves during *shemita*, the Israeli public at large should help underwrite their living expenses for the duration of the *shemita* year.

To those who truly desire to observe the *mitzvah* of *shemita* without relying on flimsy leniencies, I would suggest, for instance, depositing money in the Farmers' Bank. At the end of the *shemita* year, they can observe the *mitzvah* of remitting loans, as it appears in the Torah, and remit the deposit. No urban consumer has the moral right to sign a *prozbul* and at the same time deprecate their brothers in the agricultural frontier settlements for relying on halachic leniencies which are intended for extenuating circumstances.

There is a better, worthier way, which will facilitate the mutual observance of the *shemita* year in the best fashion by both consumers and producers: *otzar beit din*. That is: farmers sign over their produce to a *beit din* (rabbinical court), which distributes it to the consumers in

the urban centers. At the same time, the urban consumers will exclusively eat this produce and compensate the producers for all of their expenses, without a speculative margin, with their living expenses included. In this way, we can fulfill the Torah's desire that we keep *shemita* properly, with mutual responsibility and consideration for one another.

For vegetables, this is more complicated. It is forbidden to sow vegetables throughout the *shemita* year. However, certain types of vegetables are permitted to be sown prior to the onset of *shemita* and gathered during the *shemita* year through the *otzar beit din* (and in this way it is possible to supply potatoes and carrots until the summer of the *shemita* year!). According to Rambam, however, these vegetables are considered *sefichin* and are prohibited. Yet, Ramban and Rash permit them. Cultivating vegetables is also problematic. According to Rabbi Kook, it is forbidden to water or otherwise cultivate them. The Chazon Ish, however, permits this.

What should someone do who truly desires to observe the *mitzvot* in the most *mehudar* manner? Should one follow the opinions of Rambam and Rabbi Kook and avoid consuming these vegetables, while purchasing instead non-Jewish produce or imports? Or, perhaps, rely on the lenient opinions? Here we can clearly see the difference between the individual and the communal perspective. From the latter, *hiddur mitzvah* is to be "stringent" and to follow the lenient opinions in order to help the *shemita*-observant farmers. Had Rambam and Rabbi Kook been faced by the catch-22 situation that we are in today, it is possible that even they would have preferred an alternative path. At least we are certain that in Rabbi Kook's opinion the *otzar beit din* allows the cultivation of *shemita* vegetables.

On this matter, *Chazal* state: "an ignoramus is not righteous." To be righteous, we need to be familiar with the various halachic approaches and carefully consider the ramifications of our actions: "Calculate the cost of a *mitzvah* against its reward and the reward of a sin against its

cost" (*Avot* 2:1). Truly scrupulous individuals will observe the *mitzvot* in the most *mehudar* way when they consider the effects of their actions on others.<sup>2</sup>

There are fresh vegetables that can be grown while disconnected from the soil in hothouses. The *posekim* of our generation permit this method under certain conditions. These crops do not possess *kedushat shevi'it* and one need not be concerned about wasting them. Here, too, *mehadrin* Israeli-grown produce is preferable to non-Jewish produce, both in order to limit the area of non-Jewish farming and to discourage Jewish farmers from directly planting in their fields. Farmers are willing to risk cultivating produce with this unique technique only if there is a chance that their expenses will be covered and they will make some profit.

The cost of Israeli produce may be higher than other produce. Here, however, lies the litmus test of one who wants to perform *mitzvot* in their most *mehudar* form. If one is willing to pay more for meat with a higher standard of *kashrut*, would he not also be willing to pay more for agricultural produce that is more *kosher*?

Only through long-term planning, which would include a sabbatical year fund for farmers, will it be possible to achieve optimal *shemitah* observance. This too, though, would have to be funded by the public just as advanced-studies funds for teachers are supported primarily by the public. Then too, the land would need to be in use during the

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2. *Mesilat Yesharim* (Path of the Just), ch. 20:

"What a person needs to understand is that one should not judge the matters of *chasidut* according to their superficial appearance. Rather, one must examine and contemplate the full extent of where the future consequences of the deed lead. For sometimes, the deed itself may appear to be good but since the consequences are evil one must abstain from it. For doing it would not have made him a *chasid* but rather a sinner...

"Thus we learn, that one who aspires to true piety must weigh all of his deeds according to their consequences and circumstances, namely, their times, company, subject, and place. If abstaining leads to more sanctification of the Name of Heaven and gratification to G-d than doing it, he should abstain and not do it."

*shemita* year by sowing before *shemita* or gently plowing it during the *shemita* year itself.<sup>3</sup> These are not *kulot*, rather *chumrot* and *hiddurim* on the public level. However, as long as the public does not set up such a fund, no one has the moral right to demand that farmers give up their source of livelihood and even sever their commercial ties with consumers abroad, which they painstakingly built over many years.

The issue of exports is even more problematic. Some growers export the vast majority of their produce abroad. Halting exports for a year can cause them to lose their markets completely. There is no choice other than relying on certain halachic opinions that allow exporting produce of *otzar beit din* under special conditions. We should call upon Jews living in the Diaspora to prefer exported *shemita* produce, to ensure that fewer non-Jews partake of it. For the same reason, Jews living in the Land of Israel, especially those who know how to handle produce with *kedushat shevi'it* properly, should serve as an example to their brethren living abroad: they too should prefer buying Israeli produce with *kedushat shevi'it* to reduce its export abroad.

The topic of *shemita* is complex. It necessitates a high level of fear of Heaven while considering the big picture, as a whole, along with all its details. This combination, in which we constantly strive to observe *shemita* in its entirety and in the most *mehudar* fashion, while considering the constraints that do not yet make it possible, will guide us on a path of safe and steady progress in protecting both the Land and observing of its sabbatical year.

The key question for anyone involved in the laws of the *shemita* is the following: does Israeli agriculture in the Land of Israel constitute an ideological value or only a necessity? The *mitzvah* of *shemita* answers this question. It sanctifies the land, its crops and its growers, elevating

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3. The Chazon Ish permits Jews to plow land superficially in extenuating circumstances, in areas where Arabs would seize the land if Jews are not cultivating it. This may be what Rabbi Ariel is referring to (M.B.).

them from a necessity to a value. Just as *Shabbat* is not merely a necessary day of rest, but is intrinsically sacred, so too the Sabbatical year for the land is intrinsically sacred: its purpose is to highlight the dimension of sanctity and the inherent value of the Land of Israel. This outlook has far-reaching ramifications in all areas of our lives, both private and public, and is not limited to *shemita* alone. May *Hashem* grant us the merit to observe this great *mitzvah* in its entirety, with all of its general rules and specific details, both its *mitzvot* and the ideas behind them: "And the land shall observe a Sabbath of the Lord."

## Introduction: Safeguards of sanctity

Rabbi Yehuda HaLevy Amichay, Head of the Halachah Department at Torah VeHa'arets Institute

"But you may eat whatever the land will produce for you during its Sabbath" (*Vayikra* 25:6). *Chazal* (*Yerushalmi, Shevi'it* 7:1) understood from the phrase "for you" that the produce of the land during the *shemita* year is permitted for all human needs: eating, drinking, bathing, and ointments. However, a different source (*Torat Kohanim, Behar* §1:1) understood this verse as a limitation: "for you and not for others." From here, *Chazal* teach us that *shemita* belongs to the Jewish People only; gentiles do not have a part in this direct connection between G-d and the Jewish People.

We find an example of this in our weekly sabbatical—*Chazal* (*Sanhedrin* 58b) inform us that "A gentile who observed the *Shabbat* is liable to receive the death penalty;" non-Jews have no portion in our weekly *Shabbat*. *Shabbat* is a covenant between G-d and the Jewish People and not with other nations; similarly, the sabbatical year and the sacred fruit that grows during this year are meant for the Jewish people exclusively. The holy Jewish People are privileged of eating the holy *shemita* produce of the holy Land of Israel.

Whenever there is sanctity, there are decrees and safeguards instituted to protect its unique sanctity. The sacred Jewish People erected fences to safeguard their holiness, and the *soferim* decreed additional forbidden marriages (*sheniyot la'arayot*). Likewise, *Chazal* instituted ordinances and safeguards to protect the *Shabbat*'s sanctity. So too, *Chazal* issued ordinances and guidelines for how properly to use and enjoy the sacred produce of the *shemita* year. While these fences and safeguards impose limitations on us in a plain, external sense, at the same time they reveal the internal sanctity of the entity in question. In this way, while the rules of *muktzeh* and *nolad* on *Shabbat* limit the use of certain things, at the same time we know that this is due to the sanctity of *Shabbat* and the holidays. Thus, we are filled with joy that we are able to live lives of sanctity.

The same holds true for the *shemita* year: there are specific guidelines and limitations on how to eat and use sacred *shemita* fruit. One might say: "Why do I need to concern myself with all of these problems? I would be better off buying fruits and vegetables that are not subject to any limitations. Then I will not need to be careful about the sanctity of the food—I can do whatever I want, and even discard or spoil it." However, this is not the way of the Torah. The Torah wants us to eat these sacred foods; the limitations and safeguards remind us that every fruit and vegetable is infused with the sanctity of the Land of Israel.

At times, people desire to be *machmir* (stringent) and expand the safeguards and fences that *Chazal* instituted, yet from this, we arrive at *tafastah merubeh lo tafastah* (if you attempt to grab too much you will be left with nothing). This then brings people to throw it all away, since they see that the stringencies lead to negative outcomes that are far from the original *mitzvot* and *Chazal's* ordinances. In order to keep everything straight and view matters in their proper light, we need to read the words of *Chazal*, learn them from their halachic sources, see what *Chazal* instituted, and weed out the excessive stringencies that our predecessors never dreamed of.

This Consumer's Guide for *Shemita*, presented here to the public at large, attempts to strike this delicate balance. On the one hand, it underscores the sanctity of the produce of the land's sabbatical year and the obligation to eat sacred produce. At the same time, the handbook reviews the sources for the safeguards and shows how they were put in place to sanctify man and the produce—not to needlessly make the *shemita* year difficult. In general, it is hard to know when and where it is appropriate to be cautious when striving to act righteously. It is our hope and prayer that this halachic guide will help every Jew add sanctity to the sanctity of the *shemita* year, with joy and gratitude to G-d that we have merited to eat from the land's sabbatical year: "But you may eat whatever the land will produce for you during its Sabbath" (*Vayikra* 25:6).

## Part I

# General Principles

An overview of the halachic principles governing the laws of *shemita*.



## Chapter 1

### Forbidden activities during the *shemita* year

#### A. Overview

1. The *mitzvah* of *shemita* includes a *lo ta'aseh* (negative biblical injunction) to avoid certain *melachot* (activities, as specified below) and an *aseh* (positive biblical injunction) of allowing the land<sup>1</sup> to rest from work by people who are obligated by the *mitzvot*.<sup>2</sup> For this reason, it is forbidden for landowners to work their fields. Likewise, it is forbidden to employ other Jews to work their fields.<sup>3</sup>
2. These *mitzvot* apply today *miderabanan* (as rabbinic injunctions).<sup>4</sup>
3. There are four *melachot* written explicitly in the Torah that are prohibited to perform during the *shemita* year:<sup>5</sup> *zeri'ah* (sowing), *zemirah* (pruning), *ketzirah* (harvesting grain), and *betzirah* (harvesting grapes).
4. The other agricultural *melachot* are *toladot* (derivatives or subcategories) of the *melachot* listed above. Some are

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1. *Avodah Zara* 15b; Rambam (*Introduction to Hilchot Shemita*); Rambam, *Hilchot Shemita 1:1*; *Shabbat Ha'aretz*, 1:1, §§1–5.
  2. There is a dispute whether a Jew is allowed to lease his fields to a gentile during the *shemita* year, who then works the fields. That is: does the prohibition relate to the object (*cheftzah*) — is it the land belonging to a Jew that needs to rest (and then it is also forbidden for a gentile to work it)? Or is there a personal prohibition (*gavra*) for **Jews** to work the land; however, if a gentile works it for his own purposes, it is not forbidden. See *Shabbat Ha'aretz* 1:2 §2; 4:30 §4.
  3. *Ibid.*, 1:1, §§3–4. See (*ibid.*) the dispute on whether a Jew is permitted to lease his field to another Jew whom he suspects will work the soil: does the prohibition relate only to the lease/worker, or also to the field owner?
  4. According to *Mo'ed Katan* 2b: "Abaye said: The Sabbatical year today is rabbinic"; for a comprehensive overview of the various approaches, see the introduction to *Shabbat Ha'aretz*, ch. 1–9 and *Shabbat Ha'aretz* 4:25 §2.
  5. Rambam 1:2.

prohibited *miderabanan*, while others are permitted. The forbidden *melachot* are those whose purpose is *avruei ilana* (to increase plant growth); while the permitted *melachot* are those whose purpose is *ukmei ilana* (maintenance).<sup>6</sup>

5. It is possible to be lenient with the *melachot* that are forbidden *miderabanan* if they are vital to prevent the loss of a tree or the crop. Likewise, it is possible to be lenient when there is an additional reason for leniency: planting a non-fruit tree with its clod of earth and *melachot derabanan* performed by a non-Jew.<sup>7</sup> The same is true if the act is performed for two reasons—both for maintenance and for increasing the yield.<sup>8</sup>
6. The *melachot* that are Torah prohibitions may not be performed by a non-Jew or by a *gerama* (in an indirect fashion). In borderline cases, when the *melachah* is permitted only in extenuating circumstances, it is preferable that they be performed by a non-Jew or by a *gerama* rather than directly (*bayadayim*, lit. "manually").<sup>9</sup>

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6. See chapters below, specifying the various *melachot*.  
The *melachot derabanan* that are prohibited are listed in the *Mishnah (Shevi'it 2)* and *Gemara (Mo'ed Katan 3b)* and are summarized by Rambam (1:5). The Chazon Ish (*Shevi'it 17:19*) lists 22 prohibited *melachot derabanan*. We brought these *melachot* in the order they appear in *Shabbat Ha'aretz I 5:2–25*: ייבול, פירוק, נטילת עלה מהאשכול, 5:2–25: זיהום להרחקת מזיקים, סיכת שמן לגיזום, השקיה, זיבול, כריכה, קטימה, פיסוג, ניכוש, עשיית איבוק, עישון, זיהום להרחקת מזיקים, סיכת שמן לגיזום, השקיה, זיבול, כריכה, קטימה, פיסוג, ניכוש, עשיית בתים, כיוון, צידוד, סיתות, ויתור, שימוט, זיהום, גיזום, האבקה, סיכת פנים, קינוח שרף בעיקר, קויון, קיבוץ, קיטום. There are several others as well; at times there are disputes on the definition of the actions mentioned by *Chazal* (this is why we are not translating them here). In modern agriculture, farmers perform most of the above acts in one way or another. Since this guide is meant for the layman, however, we will only delve into the relevant *melachot*. For additional information on the various *melachot*, see the *Encyclopedia of Agriculture and Halachah* (Hebrew), by Torah VeHa'aretz Institute: [toraland.org.il/אנציקלופדיה-הלכתית-חקלאית/](http://toraland.org.il/אנציקלופדיה-הלכתית-חקלאית/).
  7. As it is with every *safek miderabanan*; see Tosafot, *Pesachim* 30a, s.v. *leshahinehu*.
  8. According to Rabbi Kook, it is possible to permit acts that are performed both for maintenance and for increasing plant growth. See *Shabbat Ha'aretz* 1:5 §27-2.
  9. For more on commissioning non-Jews to perform certain actions during *shemitah*, see *Shabbat Ha'aretz* 1:1 §2 and 4:30 §4. About *gerama*, see *ibid.*, 1:1 §6.

7. Performing a *melachah* with a tractor or any other machine is considered *bayadayim*.<sup>10</sup>

### **B. *Charishah* (plowing) and its *toladot***

The *posekim* were divided as to whether plowing is a biblical or a rabbinic prohibition.<sup>11</sup> Therefore, any act that improves the soil or prepares it for sowing—whether or not done by tilling the soil—is forbidden during the *shemita* year.

### **C. *Zeri'ah* (sowing) and its *toladot***

Besides *zeri'ah*, which involves burying seeds in the soil so they will sprout, there are other *melachot* that are forbidden as *toladot* of sowing. Some are biblical prohibitions while others are rabbinic:

1. Planting trees or planting vegetables, whether their roots are bare or are already lodged in a clod of soil.
2. Grafting trees.
3. Propagation through layering (*havrachah*, bending a branch of a plant and inserting it into the ground so that it will strike roots and become an independent plant) or any other type of vegetative propagation technique (shoot extensions, etc.).
4. A fruit tree that was planted in a prohibited fashion during the *shemita* year is forbidden for use and must be uprooted.<sup>12</sup> Similarly, it is forbidden to purchase such a tree. We should be stringent about this and not buy such a tree even after the *shemita* year.

### **D. *Zemirah* (pruning) and its *toladot***

1. *Zemirah* is the act of pruning grapevine branches so that new branches will grow from them. This act constitutes a Torah

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10. Rabbi Uziel, *HaTorah Vehamedinah* IV 5712-1952, p. 141; Chazon Ish, *Shevi'it* §25:38, §27:1.

11. See *Shabbat Ha'aretz* 1:2 §2: according to the Rash (*Shevi'it* 1:4, 2:2), plowing is a Torah prohibition. According to Rambam, 1:2-4, 10 and *Kiryat Sefer*, ch. 1, plowing is a rabbinic prohibition.

12. Rambam 1:12, 3:11.

prohibition.<sup>13</sup> As for pruning other types of trees, there is a debate whether this is a biblical or rabbinic prohibition.<sup>14</sup>

2. Other types of pruning are rabbinic prohibitions.
3. All actions that promote growth are prohibited *miderabanan*<sup>15</sup> since they are derivatives of *zeri'ah* or *zemirah*.

### **E. *Ketzirah* and *betzirah* (grain and grape harvest)**

It is permissible to harvest grains, grapes, fruit, and collect crops only for household needs and only in small quantities. For fruit harvest of trees belonging to the *otzar beit din*, see Chapter 6 §A.9.

### **F. Additional laws**

1. Agricultural actions performed for non-agricultural purposes, such as removing soil for construction or clipping branches for *sechach* are permitted,<sup>16</sup> provided that the goal is clear and the act is performed with a *shinuy* (not in the usual manner).<sup>17</sup>
2. Pruning for non-agricultural reasons is permitted only if: (1) done differently than in professional pruning and (2) in a way that is not the best for the tree.<sup>18</sup>

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13. See *Shabbat Ha'aretz* 1:20 §1.

14. While *Chazon Ish* (21:15) maintains that this is rabbinic while Rabbi Kook believes it is a biblical prohibition. See *Shabbat Ha'aretz* 1:15 §5 and *Betzet Hashanah*, p. 31 §5 and n. 5, p. 47 and n. 8.

15. Such as *menakesh* (weeding, i.e. uprooting weeds) and *mechapeh* (covering the seed with soil), *oder* (hoeing), *mekase'ach* (cutting weeds), and *mezabel* (fertilizing). See *Mo'ed Katan* 2b-3a; Rambam, *ibid.*, 1:3,5, 10. For the parameters of an *av melachah* and a *toladah* (primary and derivative, respectively), see *Shabbat Ha'aretz* 1:3 §1.

16. According to Rambam 1:15-21; 2:2-8; *Shabbat Ha'aretz* 1:18, §5; 1:20, §3-3. See also Rabbi Yoel Friedemann, "Non-agricultural acts performed during *shemitah*, *HaTorah VeHa'aretz* VI (5761), pp. 143-148.

17. Rambam 2:7; *Shabbat Ha'aretz* 1:18, n. 22; 20, n. 35; 25, §1 and n. 5. See also *Kuntres Acharon* (end of *Shabbat Ha'aretz* II) §9. However, it is possible to be lenient when the nature of the act is obvious to others present who are familiar with such actions (while those unfamiliar with agriculture would probably not notice a difference).

18. See below, Chapter 22 §H.

## Chapter 2

### Where do the laws of *shemita* apply?

#### A. Geographical areas where *kedushat shevi'it* applies

1. The prohibition of engaging in various forms of agricultural labor during the *shemita* year applies to all areas of the Land of Israel that were conquered during the First Temple period<sup>1</sup> (*gevulot olei Mitzrayim*, lit "the territory of those who emerged from Egypt," i.e. 'the first sanctification'). According to the majority of the *posekim*, this area includes the entire State of Israel and beyond.
2. In the borders of the Land of Israel sanctified during the Second Temple period (*olei Bavel*, lit. "those who emerged from Babylon," returning the Land of Israel following the Babylonian exile, i.e. 'the second sanctification'), all of the *shemita* laws apply. This area is smaller than the *olei Mitzrayim* borders.
3. In the areas of the Land of Israel that were not sanctified during the Second Temple period, the prohibition of *sefichin*<sup>2</sup> does not apply, yet the crops are considered to have *kedushat shevi'it* (*shemita* sanctity) out of doubt<sup>3</sup> (see Appendix G).

#### B. Types of planters

1. The laws of *shemita* apply to perforated planters (*atzitz nakuv*) sitting indoors and to planters sitting on detached platforms outside. No biblical prohibitions may be performed

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1. Rambam 4:26. Some are lenient that sowing is allowed (Rashi, *Chagigah* 3b): see *Shabbat Ha'aretz* 4:26 §4. In any case, most halachic authorities are lenient about *heter mechirah* in *olei Mitzrayim* territory (which is not also *olei Bavel* territory): see *Shabbat Ha'aretz*, *ibid.*, §6.

2. Rambam, *ibid.*; on the concept of *sefichin*, see Chapter 7.

3. There is a dispute among the *posekim* if *kedushat shevi'it* applies to *olei Mitzrayim* territory; see *Shabbat Ha'aretz* 4:26 §2. For the parameters of *kedushat shevi'it*, see Chapter 3.

in such cases, even when the status of biblical prohibition is in doubt.<sup>4</sup>

2. Furthermore, the laws governing *kedushat shevi'it* apply, owing to doubt, to crops growing indoors in perforated planters.<sup>5</sup> This applies to all of the related *mitzvot*, viz.: the injunction to render the plant ownerless, the prohibition of harvest, prohibition of trade, the sanctity of the crops, and the *mitzvah* of *bi'ur*.
3. *Shemita* prohibitions do not apply to unperforated planters (*atzitz sheino nakuv*) placed on detached platforms (*matza menutak*) or to plants grown hydroponically indoors, as described below.<sup>6</sup> Even a perforated planter inside the house sitting on a surface that disconnects it from the soil, such as a plastic or metal dish, is considered an unperforated planter. On perforated planters sitting directly on the house tiles, see C §§3–4.
4. In such cases (unperforated flowerpots indoors), one may be lenient with the rabbinically prohibited *melachot* (even without additional permissive rulings, *heterim*), listed in Chapter 1 §A.5. Furthermore, they do not have *kedushat shevi'it*.

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4. *Yerushalmi* (*Orlah* 1:2) deliberates whether the laws governing *shemita* are similar to those governing *ma'aserot* (about which the term "field," is used) and plants growing indoors are biblically exempt from tithing, since the verse states about *shemita*, "You shall not sow your **field**," which would seem to exclude the home. Alternatively, if *shemita* is similar to the laws of *orlah* (where the Torah employs the term "land" and is a biblical prohibition indoors as well), since about *shemita* the Torah states: "And the **land** will rest," implying that this includes indoors as well. See *Shabbat Ha'aretz* 1:3 §2.

5. See *Kerem Tzion* ch. 3, *Gidulei Zion* §6; *Shabbat Ha'aretz*, *Kuntres Acharon* §3, who is lenient only in instances of substantial monetary loss. Nevertheless, it is possible to be lenient with exports; see Rabbi Yaakov Ariel, "Notes on the *shemita* matters – on *kedushat shevi'it* in the home," *HaTorah VeHa'aretz* I (5749), p. 174.

6. On planting in hothouses, see Appendix E; see also Rabbi Ariel, "Planting in hothouses during *shemita*," *Be'ohalah Shel Torah* III §10.

5. In principle, it is forbidden for a Jew to perform the forbidden *melachot* on land belonging to a non-Jew.<sup>7</sup> However, the prohibition of *sefichin* does not apply<sup>8</sup> nor does *kedushat shevi'it*.<sup>9</sup>

### C. Growing plants in private homes

1. There are several areas in private homes where people grow various plants:
  - a. Gardens outside the home in regular soil or on top of various surfaces.
  - b. Patios in the home.
  - c. Planters inside the home.
  - d. On the windowsill.
  - e. On the roof of a building.
2. Various laws govern planting and cultivating plants in these places at home:
  - a. An outdoor garden, whether in regular soil, on a surface, or on the roof of a building is considered like a garden planted in the ground. No forbidden *melachah* may be performed during the *shemitah* year.
  - b. *Shemitah* laws do not apply to plants growing indoors: (1) planted in an unperforated planter or sitting on an impermeable tray or (2) sitting on a patio with less than 330 L of soil, on top of concrete.
  - c. Planting in the following areas is akin to planting in the ground: (1) indoor planters with a perforation, (2) planters placed in a patio with more than 330 L of soil, and (3) planters placed in patios located to the ground without a concrete surface underneath.

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7. *Shabbat Ha'aretz* 8:8 §§3–4. However, for land sold through *heter mechirah*, it is possible to perform *melachot* that are prohibited rabbinically. Biblical prohibitions, however, should be avoided.

8. Rambam 4:29.

9. This is the accepted practice in Jerusalem. See *Shabbat Ha'aretz* 4:29 §§2, 6.

3. For ground-floor apartment buildings, some *posekim*<sup>10</sup> are more stringent and considering plants sitting on the apartment tiles as if they were sitting on regular soil (even if growing in an unperforated planter). However, if a planter is sitting on a plastic, metal, or rock tray, which, in turn, is placed on the floor tiles, all opinions concur that the plant is disconnected from the soil.

However, if:

- a. The plant is sitting on a ceramic or wooden tray, a Palrig surface (black porous nylon sheets used in gardening), or another type of perforated nylon sheet (all considered surfaces that do not disconnect plants from the soil);
  - b. The pot is sitting directly on the tile floor (generally relevant with large planters);
  - c. The plant is hanging and does not have a tray beneath it;
- In all these cases, some are stringent who consider the planter to be perforated.
4. Even according to the stringent opinions (see above), planting on the first floor and higher is considered planting on detached platforms.
  5. Planting on the roof of the penthouse apartment is akin to planting in the ground.

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10. Rabbi Auerbach, *Minchat Shlomo* I 41:2.

## Chapter 3

***Kedushat shevi'it* in produce****A. What is *kedushat shevi'it*?**

The various types of produce that "belong" to the seventh year have *kedushat shevi'it* (*shemita* sanctity); albeit, each type has particular guidelines that govern when this is so. This sanctity is manifest in several major *halachot*:

1. Fruits and vegetables with *kedushat shevi'it* are *hefker* (ownerless) and belong to every Jew.<sup>1</sup>
2. It is forbidden to buy and sell produce with *kedushat shevi'it*.<sup>2</sup>
3. It is forbidden to destroy produce with *kedushat shevi'it*.<sup>3</sup>
4. It is forbidden to eat produce with *kedushat shevi'it* or process it (cook, squeeze, etc.) in an unconventional manner (for each type of produce).<sup>4</sup>
5. It is permissible to use produce with *kedushat shevi'it* for lighting candles but not for medicine or detergent.<sup>5</sup>
6. When a particular crop no longer grows in the field or grove, if crops of that type are left over at home they should be declared ownerless. This is the *mitzvah* of *bi'ur*.<sup>6</sup>

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1. Rambam 4:24.
  2. Since the Torah states explicitly "for you to eat" (*Vayikra* 25:6). *Chazal* expound that this produce is meant "for eating but not for trade" (*Avodah Zarah* 62a). Rambam 6:1. For the parameters of the prohibition on trade with *kedushat shevi'it* produce, see Chapter 9.
  3. Rambam 5:17. For the parameters of *hefkes*, see Chapter 18.
  4. Rambam 5:3. See Chapter 16.
  5. Rambam 5:1. See Chapter 16.
  6. The *Rishonim* disagree on the definition of *bi'ur*. While Rambam (7:1-3) maintains that *bi'ur* implies destruction (lit. "annihilation"), most *Rishonim* hold that *hefker* is also considered *bi'ur*. This is the ruling of mainstream *posekim* today. See, for example: Ramban, *Vayikra* 25:7; *Semag, aseh* §148. For more on the topic, see Chapter 24.

7. *Shemita* produce is exempt from *terumot* and *ma'aserot*.<sup>7</sup>

**B. When does *shemita* produce assume *kedushat shevi'it*?**

1. *Kedushat shevi'it* applies under the following conditions to fruits and vegetables that grow during the *shemita* year:
  - a. The produce grew in the Land of Israel.<sup>8</sup>
  - b. The land belongs to a Jew (even if the work and *gemar melachah*<sup>9</sup> is performed by a non-Jew).<sup>10</sup>
  - c. *Kedushat shevi'it* applies to this type of crop.<sup>11</sup>
  - d. The crop reached the stage of growth that determines that it has *kedushat shevi'it* during the *shemita* year (different types of crops have different parameters).<sup>12</sup>
2. *Kedushat shevi'it* does not apply to produce imported from outside the Land of Israel (such as rice, sugar, soy oil, various spices, etc.). Nevertheless, agricultural produce that grows in areas conquered during the First Temple period (*olei Mitzrayim*), but were not sanctified during the Second Temple

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7. Rambam, *Hilchot Matanot Aniyim* 6:5; *Shulchan Aruch*, YD §331:19. See also Chapter 10.

8. Rambam 4:25. On the status of *Suria* (roughly modern-day Syria), see *Shabbat Ha'aretz* 4:27, 8:9.

9. *Gemar melachah*: an action performed that attests to the completion of the harvesting process.

10. *Kessef Mishneh*, *ibid.*, 4:29; *Avkat Rochel* §24. This is the ruling of: Rabbi Kook, *Shabbat Ha'aretz* 4:29 §6, cited also in the introduction to *Shabbat Ha'aretz* ch. 11 and *Mishpat Kohen* §70; Rabbi Frank, *Har Tzvi*, *Zera'im* II, §39 and *Kerem Tziyon* 19:1; Rabbi Auerbach, *Ma'adanei Eretz* §2, s.v. *veta'amam* and *ibid.* (5768 ed.), 2:23; Rabbi Yisraeli, *Eretz Chemdah*, addition to gate 5:2; *Chavot Binyamin* I §9:12; Rabbi Yossef, *Yabiya Omer* III, YD §19:6–8. According to Mabit I §11 (and others), *kedushat shevi'it* applies even to land owned by non-Jews. This is the ruling of the Chazon Ish §3:8. For a comprehensive discussion, see *Shabbat Ha'aretz* 4:29 §2.

11. See Chapter 4.

12. See Chapter 5.

period (*olei Bavel*), should be handled as having *kedushat shevi'it*.<sup>13</sup>

3. *Kedushat shevi'it* does not apply to crops that grew on land owned by non-Jews.<sup>14</sup> This is also true of crops grown on land sold to a non-Jew through *heter mechirah*.<sup>15</sup>
4. *Kedushat shevi'it* applies to crops growing in hothouses in the ground<sup>16</sup> as well as to crops growing on detached platforms in

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13. Following Rambam's opinion (4:26); Rambam's Gloss on the *Mishnah, Hilchot Shevi'it* 6:1. This is the ruling of *Torat Hashemitah* §16:85. See also Chazon Ish §3:21. However, according to the Gra, *Shenot Eliyahu* I, 6:1, *kedushat shevi'it* does not apply to *olei Mitzrayim* territory. See *Shabbat Ha'arets* 4:26 §2. With regard to separating *terumot* and *ma'aserot* in the *olei Mitzrayim* area during *shemita*, see *Shabbat Ha'arets*, *ibid.*, nn. 12, 15, 19–20. For these boundaries, see Appendix G.
  14. See above §1b; according to some, the Sages of Tzfat excommunicated anyone who considered and handled these crops as sacred: *Avkat Rochel* §25 on *terumot* and *ma'aserot*. If the land belongs to a non-Jew but the *gemar melachah* is performed by a Jew, Mabit holds that the produce has *kedushat shevi'it*. This means that *terumot* and *ma'aserot* need not be separated. However, according to Rabbi Yosef Karo and the Sages of Tzfat, the produce is devoid of *kedushat shevi'it*, so *terumot* and *ma'aserot* are necessary. For this reason, they excommunicated those who fail to separate *terumot* and *ma'aserot* from produce growing on a non-Jew's land when a Jew performs the *gemar melachah*. See *Mishpat Kohen* §70 and *Iggerot Hara'ayah* I §289 stating that we should be concerned about this excommunication, and thus avoid ascribing *kedushat shevi'it* to such produce.
  15. Aderet (Rabbi Eliyahu David Rabinowitz Te'omim), *Beshemen Ra'anah* II, *Kuntres Shevach Ha'arets* §32; Rabbi Kook, *Shabbat Ha'arets* 8:8 §5; see also *Mishpat Kohen*, *ibid.*; *Iggerot Hara'ayah*, *ibid.*; see also the other *posekim* mentioned above in n. 10: *Ma'adanei Eretz* (*ibid.*); *Betzet Hashanah*, p. 45 and n. 9, p. 56 §1; *Torat Hashemitah* §16:87 writes that some are lenient in this regard, but notes that it is proper to be stringent; see also: *Kerem Tziyon* 19:5; Rabbi Yisraeli, *Chavot Binyamin* §9:12; Rabbi Yossef, *Yabiya Omer* III, *YD* §19 and *Yalkut Yosef, Shevi'it* 25:8–9. Some, however, handle *heter mechirah* produce as having *kedushat shevi'it*; see *Katif Shevi'it* 58:4.
  16. This law stems from doubt. See *Kerem Tziyon*, ch. 3, *Gidulei Tziyon* n. 6. According to Rabbi Kook, (*Kuntres Acharon* §3), Rabbi Kleirs (*Torat Ha'arets* 6:25, notes), and Rabbi Frank (*Har Tzvi, Zera'im* II §35, s.v. *vehineh*), this doubt also relates to the sanctity of the produce. However, even according to this opinion, it seems that

areas under the open sky.<sup>17</sup> However, it does not apply to produce growing in hothouses on detached platforms. For this reason, vegetables and spices all have *kedushat shevi'it* when grown on (1) an open rooftop of a house; (2) an open, unroofed porch; or (3) in the yard. However, plants that grow indoors and in unperforated pots do not have *kedushat shevi'it*.

5. *Kedushat shevi'it* applies also to cooked or baked goods where one of its ingredients has *kedushat shevi'it* (such as soup containing some vegetables with *kedushat shevi'it*). This is true provided that the quantity of *kedushat shevi'it* produce constitutes more than 1:60 of the mixture.<sup>18</sup>
6. Coins used to purchase *kedushat shevi'it* produce assume *kedushat shevi'it*. These coins transfer their *kedushat shevi'it* to other foods purchased with them thereafter.<sup>19</sup>
7. It is possible to find *kedushat shevi'it* produce in the following places:
  - a. Produce growing in private gardens.
  - b. Agricultural produce sold through *otzar beit din*.

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it is proper to be stringent regarding the sanctity of produce and its derivatives, as it is a biblical prohibition. This is the conclusion of Rabbi Ariel, "Notes on *shemita*-related matters: on *kedushat shevi'it* in the home," *HaTorah VeHa'aretz* I, p. 174. See also *Shabbat Ha'aretz* 1:3 §3.

17. *Kerem Tziyon*, ch. 11, *Gidulei Tziyon*, n. 5. According to Rabbi Eliahu, *kedushat shevi'it* in these areas is uncertain. See *Shabbat Ha'aretz* 1:6 §4.
18. Rambam 7:22. See also *Shabbat Ha'aretz* §2. Regarding *bi'ur* for such products, see Chapter 24 §B.9; with regard to buying and selling such products, see Chapter 9 §A.5.
19. Rambam 6:6. With regard to *bi'ur* for these coins, see Chapter 25 §C.8. The original produce retains its *kedushat shevi'it* and the money used to purchase it becomes sacred as well. If other food products are purchased with this newly sacred money, the money's sanctity is transferred to the food (2<sup>nd</sup> degree sanctity, as it were) and the money becomes desacralized. If afterwards the newly sacred food is sold, the food's sanctity is fully transferred to the money; the money from the sale becomes sacred and the sold food becomes desacralized.

8. For a detailed list of the stages of growth that determine *kedushat shevi'it* for fruit, vegetables, grains, and legumes, see Chapter 5.

### C. Miscellaneous laws

1. There are *posekim* who hold that it is a biblical *mitzvah* to eat *shemita* produce.<sup>20</sup>
2. *Kedushat shevi'it* produce should not be taken outside the Land of Israel (unless under extenuating circumstances).<sup>21</sup> However, it is permitted to transport *shemita* produce all over Israel,<sup>22</sup> including Eilat and its environs.<sup>23</sup>
3. In extenuating circumstances, those traveling outside the Land of Israel may take *kedushat shevi'it* produce with them for the way.<sup>24</sup>

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20. This is the opinion of Ramban in *Sefer Hamitzvot, Hosafot asef* §3, as explained by *Megillat Esther*. Rabbi Kook is inclined towards this opinion. See *Da'at Kohan* §240; *Mishpat Kohan* §85; *Shabbat Ha'aretz* 5:1 §1, 6:1 §2; *Kuntres Acharon* §21. With regards to *netilat yadayim* before eating *kedushat shevi'it* produce, see Rabbi Kook, *Shabbat Ha'aretz* 5:7 §2, *Kuntres Acharon* §25.

21. Rambam 5:13. See *Shabbat Ha'aretz* 5:13 §1, 7:12 §2, 8:5 §§1-2.

22. Including those areas not settled by *olei Bavel*. See Chazon Ish §13:3, and as stated above in §B.2, that *kedushat shevi'it* does apply to the *olei Mitzrayim* borders—the obligation of *bi'ur* included, so it would not be problematic to take *kedushat shevi'it* produce from *olei Bavel* to *olei Mitzrayim* territory. According to *Torat Ha'aretz* I 8:61, however, this is forbidden. See also *Shabbat Ha'aretz* 5:13 §2.

23. See Appendix G. See also Rabbi Ariel, "Bringing *shemita* produce to Eilat," *Emunat Itecha* 104 (5774), who permits this.

24. This is the ruling of Rabbi Yisraeli, Rabbi Elyashiv, and Rabbi Vosner; see *Mishpatei Eretz* 20:2. Rabbi Eliahu forbids this, however.

## Chapter 4

### Which types of produce have *kedushat shevi'it*?

#### A. Halachic principles

1. *Kedushat shevi'it* applies only to produce that is consumed as it is enjoyed.<sup>1</sup>
2. Crops assume *kedushat shevi'it* provided that all the following conditions apply:
  - a. *Kedushat shevi'it* applies to the particular type of crop, as detailed below.
  - b. The crop belongs to the *shemitah* year.
  - c. The crop grows on land belonging to a Jew.
3. To crops with *kedushat shevi'it*, all the following laws apply: the obligation of *hefker* (to render it ownerless), the prohibitions of *ketzirah* and *betzirah* (harvest of grains and grapes, respectively), the prohibition of *hefsed* (to damage it or render it inedible), the prohibition to trade with it, and the obligation of *bi'ur* (see Chapter 3 §A.6).

#### B. Crops with *kedushat shevi'it*

A crop grown for any one of the following purposes assumes *kedushat shevi'it*:<sup>2</sup>

1. Human consumption.<sup>3</sup>

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1. *Mahari Kurkus* 5:10.

2. Regarding borderline crops, there is a halachic discussion about whether we go according to the crop's standard use or according to a possible use; see: *Shabbat Ha'aretz* 7:13 §3; *Shevet Halevi* II §199; *Mishnat Yosef* I §30, n. 2; Chazon Ish §14:10, s.v. *nireh* and *vekol*; *Ma'aserot* §1:30; Rabbi Auerbach (who maintains that we follow the plant's standard use, qtd. in *Mishnat Yosef* I §30); *Hilchot Shevi'it* §5, *Kisse David* n. 9. On the question of when human intent can void *kedushat shevi'it* from crops, see *Shabbat Ha'aretz* 5:21, end of §5; 5:3 §3; 5:11 §3; 7:14. See also *Har Tzvi* II §55.

3. Rambam 5:2, 5:11. "Human food" includes foods that are only edible in extenuating circumstances, see *Shabbat Ha'aretz* 7:13 §3.

Which types of produce have kedushat shevi'it?

2. Food intended for animal consumption,<sup>4</sup> such as barley, sorghum, etc.
3. *Etrogim* grown for the *arba minim*.<sup>5</sup>
4. Spices,<sup>6</sup> including: tea leaves, *za'atar*, rosemary, etc.
5. Cosmetics,<sup>7</sup> such as jujube.
6. Paint, including gall for ink to paint *tefillin* and to write Torah scrolls (*mezuzot*, etc.).<sup>8</sup>
7. Detergent.<sup>9</sup>
8. Cottonseeds and cottonseed oil.<sup>10</sup>

### C. Crops devoid of *kedushat shevi'it*

In contrast, the following crops do not contain *kedushat shevi'it*:

1. Unscented flowers.<sup>11</sup>
2. *Hadasim* planted for the *arba minim*.<sup>12</sup>

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4. Rambam 7:13. It turns out that camels are not included in the definition of *beheimah*, as they also eat thorns. Neither are animals in the zoo. *Beheimah* refers to domesticated animals that are usually raised as livestock, such as cows, sheep, goats, and chickens.
  5. *Kerem Tziyon* 13:26. See also *Shabbat Ha'aretz* 4:12 §8. *Etrogim* for the *arba minim* have *kedushat shevi'it* only because they are edible.
  6. *Shabbat Ha'aretz* 5:22; 5:3 §5.
  7. According to Rambam 5:10, especially if its standard use is in a manner that its consumption and benefit coincide.
  8. *Minchat Shlomo* §42, 51:13. See also *Shabbat Ha'aretz* 5:10 §2.
  9. On the *kedushat shevi'it* status of plants used for laundry detergent, see *Shabbat Ha'aretz, ibid*.
  10. On cotton seeds, see Rabbi Sternbuch, *Shemita Kehilchatah* 2:10. Since cotton seeds are used for animal fodder, they are imbued with *kedushat shevi'it*. Furthermore, cottonseed oil is edible so it also has *kedushat shevi'it*. Most *posekim* hold that the cotton fibers are not sacred, since their benefit and consumption do not coincide. However, Rabbi Eliahu holds that they are nevertheless sacred.
  11. *Betzet Hashanah*, p. 48 §3:2; *Yeshu'at Moshe* IV §30:2; *Mishnat Yosef* I §24, II §9. See also *Shabbat Ha'aretz* 7:19 §4.
  12. Since *hadasim* are grown for a *mitzvah* and not for their pleasant aroma, and "*mitzvot* were not given for enjoyment" (*Rosh Hashanah* 28a). See *Sefer Hashemita* pp. 33–34, n. 11, *Kerem Tziyon* 13:26; Rabbi Auerbach, qtd. in *Mishnat*

3. *Lulavim*.<sup>13</sup>
4. Trees planted for firewood for heating.<sup>14</sup>
5. Plants cultivated exclusively for medical uses (or to create homeopathic medicine) that are not used as food by healthy people.<sup>15</sup>
6. Seeds and bulbs that are neither edible for humans or animals (such as onion seeds).
7. Grass lawns.<sup>16</sup>
8. Weeds.<sup>17</sup>

#### **D. Crops with *kedushat shevi'it* owing to doubt**

Today, we handle the following crops as having *kedushat shevi'it* owing to doubt:

1. Fragrant plants,<sup>18</sup> such as narcissus.
2. Mushrooms.<sup>19</sup>

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*Yosef I* §30. This is also the opinion of Rabbi Yisraeli. See Maharil Diskin (qtd. in *Tzitz Hakodesh I* §15:1), who writes that *hadasim* do not have *kedushat shevi'it*; however, *Kerem Tziyon* (ch. 13, *Gidulei Tziyon* §16) maintains that this was possibly because in his time *hadasim* were grown on gentile property (however, if grown on Jewish property they may have *kedushat shevi'it* status). According to Rabbi Eliahu, *hadasim* do have *kedushat shevi'it* since for the rest of the year they are grown for their pleasant scent.

13. The plain understanding of Rambam 8:11. *Minchat Shlomo* 51:23, qtd. also in *Mishnat Yosef I* §30. See also *Shabbat Ha'aretz* 8:11 §1.
14. According to Rambam 5:21, 7:14. See also *Shabbat Ha'aretz* 7:15 §1 and n. 6, that Rabbi Kook is stringent, and 8:11 §1 and n. 4.
15. For the *halachot* governing *kedushat shevi'it* for medicinal plants, see *Shabbat Ha'aretz* 5:11 §2, that some who are stringent in this matter.
16. Rabbi Zilber, *Az Nidberu IV* §66 and *Mishnat Binyamin* §36; *Mishnat Yosef I* §7 and §30 n. 2.
17. *Mishnat Yosef I* §30; this is also the ruling of Rabbi Yisraeli.
18. *Yerushalmi, Shevi'it* 7:1, deliberates on this matter. See *Betzet Hashanah*, p. 48, §3:3, who is stringent owing to this doubt. This was the ruling of Rabbi Eliahu. See also *Shabbat Ha'aretz* 7:19 §3. "Fragrant flowers" are flowers whose fragrance is one of the main purposes for their cultivation. As of this year (5781), the vast majority of flowers do not fall into this category.
19. According to Rabbi Kook (cited in *Kerem Tziyon* ch. 13, *Gidulei Tziyon* §12),

Which types of produce have kedushat shevi'it?

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mushrooms have *kedushat shevi'it*. Rabbi Yisraeli rules accordingly. According to Rabbi Frank (*Gidulei Tziyon*, *ibid.*), mushrooms do not have *kedushat shevi'it*. This is the ruling of *Kerem Tziyon*, *ibid.*, §22 and *Brit Olam* §3:67 based on Me'iri, *Avodah Zarah* 14b. Rabbi Eliahu rules that mushrooms should be handled having *kedushat shevi'it* due to doubt, unless grown indoors. Today (5781), most mushrooms in Israel are cultivated in closed buildings.

## Chapter 5

### The stage of growth that determines *kedushat shevi'it*

#### A. Halachic principles

1. The date that determines whether crops belong to the *shemita* year is *Rosh Hashanah*.<sup>1</sup> The laws of *shemita* do not apply to most crops that belong to the sixth year, even if harvested during the *shemita* year.<sup>2</sup> However, these rules do apply to vegetables and *etrogim* that grew during the sixth year and were harvested during the *shemita* year.
2. The laws of *shemita* apply to crops that belong to the *shemita* year even during the eighth year (the year following *shemita*).<sup>3</sup>
3. The stage of growth that determines *kedushat shevi'it* for various crops depends on their halachic classification:
  - a. Fruits
  - b. Vegetables
  - c. Grains and legumes

#### B. Fruit

The determining stage of growth for various types of fruits vis-à-vis *kedushat shevi'it* is *chanatah*, the beginning of the fruit's formation.<sup>4</sup> For *chanatah* and *bi'ur* times for various fruits, see Appendix A.

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1. Rambam 4:9; *Shabbat Ha'aretz* 4:9 §4, 4:13 §1. However, according to the *Shelah* (*Sha'ar Ha'otiyot*, letter *kuf* [ק] §144), the determining date for fruit is 15 *Shevat* (*Tu Bishevat*).
  2. Rambam, *ibid*.
  3. Rambam 4:13.
  4. Tosafot, *Rosh Hashanah* 12b, s.v. *hatevu'ah*. However, according to Rambam (4:9,13), the determining stage is *onat hama'aserot* (and not *chanatah*); this is the ruling of the *Shulchan Aruch*, *YD* §331:125 dealing with *terumot* and *ma'aserot*.

### C. Vegetables and annuals

1. The determining stage of growth for vegetables is harvest.<sup>5</sup>
2. The determining stage of growth for grains and legumes is when they reach a third of their growth (for grains, this stage generally coincides with the soft dough stage).<sup>6</sup>
3. "Grains and legumes" include all annual crops where the main part eaten is its seeds,<sup>7</sup> such as corn, hummus, sunflowers, caraway, and peanuts. This is not necessarily identical to their

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There are several opinions on how to define *onat hama'aserot*: (1) when the fruit is edible in extenuating circumstances, (2) when the fruit's seeds can be used to plant new trees, or (3) when the seeds grow in the fruit. In any event, *chanatah* is the stage preceding *onat hama'aserot*. For more on the definition of *onat hama'aserot* and the basic dispute of Tosafot and Rambam, see *Shabbat Ha'aretz* 4:9 §§1–2.

For *etrogim*, we are stringent according to both opinions (*chanatah* and harvest). See Rambam 4:12, and *ibid.*, *Ma'aser Sheni* 1:5; *Betzet Hashanah*, p. 44, s.v. *etrogim*, p. 57 §6. If one of the two stages occurs during *shemitah*, we handle the *etrog* with *kedushat shevi'it* but also separate *terumot* and *ma'aserot*. Yet, since there is a doubt, we tithe without a blessing. All other citrus fruits follow the laws of all other types of fruit trees. See Rabbi Kook, qtd. in *Sefer Hashemitah*, p. 11 and n. 5; *Shabbat Ha'aretz* 4:12 §9.

5. However, according to the Tosafot (*Rosh Hashanah* 13b, s.v. *achar*), for vegetables we follow the completion of their development, not harvest. See *Shabbat Ha'aretz* 4:12 §2. On the status of onions, see *Shabbat Ha'aretz* 4:20–21; 4:7, n. 17; 4:6, n. 6a. Pumpkin and watermelon seeds are considered vegetables (and not legumes), since the main part eaten is the fruit and not the seeds. Peas in a pod are considered vegetables. See *Hilchot Shevi'it* §3, *Kisse David* §75.
6. See Rambam 4:9. On the various opinions as to the definitions of *shelish* ("one-third": one-third of the fruit's weight, size, or ripeness) and *onat hama'aserot*, and the relationship between them vis-à-vis grains and legumes, see *Shabbat Ha'aretz* 4:9 §§1–3; 4:11 §§1–2. Rabbi Yisraeli is uncertain: perhaps the determining stage for legumes is when the fruit completes its formation (and not one-third), based on Rashi, *Rosh Hashanah* 13–14. See "*Kedushat shevi'it for peanuts and sunflower seeds*," *HaTorah VeHa'aretz* III, pp. 110–114.
7. Rambam, *Hilchot Kila'im* 1:8; *Shulchan Aruch*, YD §297:3; Chazon Ish §27:7, s.v.  $\text{צ"ע}$ . Vegetables are annual plants with inedible seeds, as opposed to legumes where the seed is the part of the plant that is eaten. For additional definitions on vegetables vs. legumes, see *Shabbat Ha'aretz* 4:12 §1.

botanic definition. For the *kedushat shevi'it* calendar for grains and legumes, see Appendix B.

4. Summer crops (vegetables) such as onions for seeds, paprika, and pumpkins are often left on the ground for drying or convenience. If such crops were no longer irrigated before *Rosh Hashanah* of the *shemita* year, they belong to the sixth year—even if they were harvested during the *shemita* year. This is provided that they did not continue growing after *Rosh Hashanah*.<sup>8</sup>
5. Watermelons grown for their seeds follow the final stage of seed growth if the watermelons rotted before *Rosh Hashanah*.<sup>9</sup>
6. Vegetables have *kedushat shevi'it* even during the eighth year (if they are not prohibited due to *sefichin*), unless it is clear that most of the growth of a particular type of vegetable occurs after the onset of *shemita*. This is only when the vegetables began growing during the *shemita* year. If they were planted during the eighth year, they are not sacred.<sup>10</sup> For the *kedushat shevi'it* calendar for vegetables, see Appendix C.
7. There are certain types of plants whose classification as plant or tree is disputed among the *posekim*, such as passionfruit, papaya, babaco, goji berry, and golden berry. Since there is a halachic doubt regarding these plants, it is possible to be lenient and treat them as having *kedushat shevi'it* at the beginning of the *shemita* year only if they reach the stage of *chanatah* at this time, and not *onat hama'aserot* (since *chanatah* precedes *onat hama'aserot*, if *chanatah* occurs in the sixth year and *onat hama'aserot* in the seventh, the fruit would not have *kedushat shevi'it* status).

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8. That is, following the completion of the fruit's formation and not its harvest, although they are vegetables. Based on Rashi, *Rosh Hashanah* 14a, s.v. *ika*. For the various opinions on this topic, see *Shabbat Ha'aretz* 4:17 §1 and n. 5.

9. According to Rambam 4:14, 18.

10. Chazon Ish §9:13, s.v. *י"ב*. See also *Shabbat Ha'aretz* 4:6 §1b, 4:7.

The stage of growth that determines kedushat shevi'it

Furthermore, we can be lenient at the end of the *shemitah* year and follow *onat hama'aserot* and not *chanatah* (so if *chanatah* occurred in the seventh year and *onat hama'aserot* in the eighth, the fruit would not have *shemitah* status either).<sup>11</sup>

#### **D. Branches and flowers**

1. Branches and flowers on annual bushes, on non-woody perennial bushes that are grown for their fragrance, and herbs follow the laws of vegetables. For this reason, the determining stage is harvest.<sup>12</sup>
2. Perennial bushes are halachically treated as trees.
3. For fragrant flowers that grow on such bushes, the determining stage is the appearance of the bud.<sup>13</sup>
4. Fragrant branches and herbs on perennial bushes have *kedushat shevi'it* from the beginning of the branch's formation. It is generally possible to discern young branches from mature branches, especially from spring and on. The older branches belong to the sixth year while the younger branches belong to the *shemitah* year. For the *kedushat shevi'it* calendar for herbs, see Appendix D.

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11. According to the guidelines of Rabbi Ariel.

12. This is the ruling of Rabbi Eliahu (based on *Magen Avraham*, OC §216:9 and *Ben Ish Chai*, Year 1, *Va'etchanan* §5, who maintains that plants with hard stalks are considered trees vis-à-vis blessings over fragrances).

13. A phenomenon that parallels *chanatah* for fruit trees; see *Betzet Hashanah*, p. 48, §3 nn. 5, 27.

## Chapter 6

### Laws of crops growing during *shemita*

#### A. Rendering crops ownerless

1. The fruits and vegetables that belong to the *shemita* year have *kedushat shevi'it* and should be rendered *hefker* (ownerless).<sup>1</sup> The produce is free for all Jews.<sup>2</sup> One should allow any Jew to enter one's garden<sup>3</sup> and pick crops for his family.
2. There is no need to make a verbal declaration. It is sufficient to treat the crops as if they are not one's personal property.<sup>4</sup>
3. It is only permissible to pick small amounts of produce at a time for home use.<sup>5</sup> This harvest should be performed in a different way than usual.<sup>6</sup>
4. It is forbidden to fence in one's garden to prevent Jews from taking the produce.<sup>7</sup> However, there is no need to tear down

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1. Rambam 4:24.

2. Rambam, *ibid.*, 4:30. On the question of whether *shemita* produce should also be ownerless for non-Jews, or if it is sufficient to render it ownerless for Jews, see *Shabbat Ha'aretz* 4:30 §§1–2; *Nitzanei Eretz* IV, pp. 54–55; the letter of the Aderet, *ibid.*, p. 21.

3. On the question of whether produce is considered ownerless if the owner did not render it as such (הפקירא דידיה or אפקעתא דמלכא); that is, whether the party rendering the produce ownerless is the King, here G-d, or the owner): according to Maharit, the produce is automatically ownerless. *Beit Yosef*, however, rules that it is incumbent upon the owner to do so. See *Minchat Chinuch* 84:1; *Shabbat Ha'aretz* 4:24 §4, 6:15 §1. The land—not only the produce—also becomes ownerless; that is, anyone can enter the grove or garden. See *Nedarim* 42b; Rambam, *ibid.*; *Shabbat Ha'aretz* 4:24 §1, 7:18. However, trees do not become ownerless. See Rash, *Kila'im* 7:4.

4. Rabbi Kook, introduction to *Shabbat Ha'aretz*, ch. 11. Some necessitate a verbal declaration. See *Shabbat Ha'aretz* 4:24 §4; 4:22 §3.

5. Rambam 4:22–24. See *Shabbat Ha'aretz* 4:22 §§1–2.

6. Rambam 4:1, 22–24; *Betzet Hashanah* p. 59 §18. See also *Shabbat Ha'aretz* 4:1 §§3–4, 22 §1, that some permit harvesting without a *shinuy* if the land was properly rendered ownerless: *ibid.*, 23 §§1–6.

7. Rambam 4:24. This is prohibited even if the owner intends to distribute the fruit to the poor. See *Shabbat Ha'aretz*, *ibid.*, §2.

fences (or to make openings in them) that are already standing prior to the start of the *shemita* year.<sup>8</sup>

5. It is permissible to prevent entry to the following:
6. People who might harm the trees, plants, and equipment in one's garden.
7. Non-Jews.<sup>9</sup>
8. Animals.
9. When necessary, it is permissible to erect a fence and notify where it is possible to receive a key.<sup>10</sup> It is also permissible to hang up a sign at the entrance of the garden requesting that people come only at certain times.
10. Permission should be asked to pick produce.<sup>11</sup> The owner may not deny permission, however, because the produce is ownerless. If there is a sign declaring that the produce is ownerless, it is permissible to pick produce without first asking permission.

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8. *Kessef Mishneh* 4:24. See also *Shabbat Ha'aretz*, *ibid*.
  9. Rambam 4:30; *Shabbat Ha'aretz* 4:30 §1. See Responsa Rashbash §258, s.v. *vele'inyan*, who writes that fencing and stationing guards are only permissible for the *otzar beit din*. See *Mishnat Yosef* II §20.
  10. This was stated in the name of the Chazon Ish, *Mitzvot Ha'aretz (Kahana)* §44, n. 89. It seems that this is permitted if the owner wants to lock the garden to prevent non-Jews from trespassing. This is permitted, providing that he puts up a sign notifying Jews that they can receive a key. However, if he is concerned that Jews will enter, it is not clear that erecting a fence while putting up a sign would be permitted. See *Hilchot Shevi'it* §4, *Kisse David* §90.
  11. Rabbi Kook, *Shabbat Ha'aretz* 6:15 §1, based on Ra'avad and Tosafot Shantz, *Eduyot* 5:1. *Chazal* instituted that people ask for permission even during the *shemita* year, so they do not become accustomed to eating others' produce without permission on non-*shemita* years. He adds that if the owner transgresses and does not permit others to partake of the produce, it is forbidden to take the produce without his consent. See *Kerem Tziyon* ch. 12, *Gidulei Tziyon* §2a, who disagrees with this ruling. See Rabbi Zilber (*Hilchot Shevi'it* §§7, 15 and *Kisse David* §110), who maintains that if one requests permission and the landowner refuses, it is permissible to take the produce even without permission.

11. One may lock the garden at night to prevent entry to those who do not know how to properly handle the sacred crops, when there is no way to inform them.<sup>12</sup>
12. It is permissible to harvest fruit in a grove whose ownership was transferred to an *otzar beit din*, but the *beit din* should be reimbursed for its participation in the expenses of the fruit's cultivation.<sup>13</sup> For more on *otzar beit din*, see Chapter 11 §B.1.
13. If the landowner fails to render his produce ownerless, the crops are nevertheless permissible to eat.<sup>14</sup>

## **B. Using *kedushat shevi'it* crops**

1. It is a biblical prohibition to harvest fruit to strengthen the tree or to enhance fruit remaining on the trees (thinning).<sup>15</sup>
2. Unripe produce should not be harvested. It is only permissible to harvest unripe produce that is edible in extenuating circumstances<sup>16</sup> or through artificial ripening processes.
3. *Shemitah* produce should not be given to non-Jews.<sup>17</sup> However, if hosting non-Jews at one's home, it is permissible to offer them *shemitah* produce.<sup>18</sup>
4. It is forbidden to destroy fruits and vegetables that have *kedushat shevi'it*.<sup>19</sup> For detailed guidelines on using *kedushat shevi'it* produce in the kitchen, see Chapter 16.

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12. Guidelines of Rabbi Eliahu.

13. *Betzet Hashanah*, p. 42 s.v. *yerakot* and n. 10.

14. See Chapter 8 §2.

15. Rambam 4:22; *Shabbat Ha'aretz* 4:22 §§3–4.

16. Rambam 5:15; *Shabbat Ha'aretz*, *ibid.*

17. Tosefta, *Shevi'it* 6:20; Rambam 5:13; *Shabbat Ha'aretz* *ibid.* Here the prohibition is because this causes *shemitah* produce to be degraded or spoiled. The *Aruch Hashulchan* (§24:4) permits this, maintaining that the prohibition applies only if the *shemitah* produce is used to repay a debt to non-Jew.

18. Rabbi Kook, *Shabbat Ha'aretz* 5:13 §5, that Rambam allows giving fruit to guests, even if they are non-Jews; *Betzet Hashanah*, p. 58 §12.

19. Rambam 5:17. See also *Shabbat Ha'aretz* 5:3 §5.

## Chapter 7

### The *sefichin* prohibition

#### A. Halachic principles

1. It is rabbinically<sup>1</sup> prohibited to eat annual plants that began to grow during the *shemittah* year; this is known as the *sefichin* prohibition.<sup>2</sup>
2. While it is prohibited to harvest and eat these vegetables, it is not forbidden to derive all forms of benefit from this produce.<sup>3</sup>
3. These vegetables have *kedushat shevi'it*.<sup>4</sup> They may not be destroyed or handled in a manner forbidden for handling *kedushat shevi'it* produce.<sup>5</sup>

#### B. Instances where *sefichin* does and does not apply

1. The *sefichin* prohibition does not apply to the following:
  - a. Perennial vegetables that renew each year from the root

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1. There is an opinion that the injunction against eating *sefichin* (lit. self-seeding plants) is a biblical prohibition, but this opinion was not accepted.
  2. Rambam 4:1–10. Eating *sefichin* is biblically permitted, but rabbinically prohibited to avoid a situation in which transgressors surreptitiously plant vegetables in the field and claim that they sprouted on their own and are thus *sefichin*, which are permitted for consumption. See Rambam 4:2.
  3. Ibid. 4:3. See also *Shabbat Ha'aretz* 4:3 §1, 4:5 §2, 6:2 §3. There is a major dispute whether it is prohibited to derive benefit from *sefichin*. Rambam permits allowing livestock to go to a pasture with *sefichin*, even though the animal will enjoy grazing from the *sefichin*. However, he forbids actively feeding livestock *sefichin*. Rabbi Auerbach, *Minchat Shlomo* 51 §11, allows deriving benefit from *sefichin* when it is not the food's designated purpose. See *Katif Shevi'it*, ch. 16, n. 4.
  4. *Aruch Hashulchan* §22:9. See also *Shabbat Ha'aretz* 4:5 nn. 5–6; 18:4. It seems that such vegetables are considered *kedushat shevi'it de'oraita*; even though Chazal decreed that we may not eat them, they nevertheless have *kedushat shevi'it*.
  5. *Aruch Hashulchan*, *ibid.*; *Beit Ridbaz* §3:5. Some maintain that self-seeding *sefichin* should be uprooted, while others hold that one need not do so. Other authorities, however, believe that uprooting such plants is forbidden, since by doing so one actively and directly destroys the plants; see *Shabbat Ha'aretz* 4:18 §§4–5.

and began to grow during the sixth year,<sup>6</sup> such as pineapple or artichoke. However, if these vegetables are planted during the sixth year but sprout only during *shemitah*, they are considered *sefichin* and are forbidden to be eaten.<sup>7</sup>

- b. Plants that do not have *kedushat shevi'it*;<sup>8</sup> see Chapter 4 for their definition.
- c. Crops grown for their seeds, if the plants are unsuitable for human consumption before *Rosh Hashanah*. However, if they are edible at the beginning of *shemitah* and rot only after *Rosh Hashanah*, they are forbidden.<sup>9</sup>
- d. Crops grown for animal fodder.<sup>10</sup>
- e. Plants grown on property belonging to a non-Jew or crops belonging to a non-Jew.<sup>11</sup>
- f. Crops grown in fields sold via *heter mechirah*.<sup>12</sup>

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6. Rashes 5:3, s.v. *be'aleh luf*, explains wild *luf* according to Rash, *Shevi'it* 9:1, s.v. *kol*. See also *Shabbat Ha'aretz* 4:18 §§6–7.
  7. Rashes, *ibid*. This is the ruling of Rabbi Nissim Karelitz, qtd. in *Shevi'it Lehalachah Ulema'aseh*, p. 70 §7 and n. 59. The *sefichin* prohibition does not apply to bananas in any case, since the bananas begin to grow during the *shemitah* year and ripen only during the eighth year, when this is permitted. If they began growing during the sixth year, the *sefichin* prohibition does not apply to them, as noted above. See *Katif Shevi'it* 16:4.
  8. *Ma'adanei Eretz* §3:9, s.v. *ukemo*; *Minchat Shlomo* §51:11. See also *Shabbat Ha'aretz* 8:14 §2.
  9. Rambam 4:18. See also Chazon Ish §9:4, s.v. *nimtzah*, 9:17, s.v. *mihu*; *Shabbat Ha'aretz* 4:18 §3.
  10. This is the subject of dispute; we are lenient and follow the approach of Rashes 9:1 s.v. *aval ha'emet*. See *Shabbat Ha'aretz* 4:4 §7 and n. 18.
  11. Regarding a field owned by a non-Jew, see Rambam 4:29 and *Shabbat Ha'aretz* 4:29 §2. There is a dispute regarding Jews who sowed in a non-Jew's field; see *Shabbat Ha'aretz* 4:29 nn. 12–15. For crops belonging to a non-Jew when the land belongs to a Jew (such as when a Jew leases the land to a non-Jew), see *Mabit* I §21: 217; *Shabbat Ha'aretz*, *Kuntres Acharon* §1:1 s.v. *vekeivan shelefi*. See *Shabbat Ha'aretz* 4:29 §3.
  12. Introduction to *Shabbat Ha'aretz*, ch. 11. *Shabbat Ha'aretz* 4:29 n. 18; *ibid.*, 8:8 §5 and n. 15.

- g. Crops grown in areas that were not sanctified during the time of the Second Temple (*olei Mitzrayim* territory).<sup>13</sup>
  - h. Crops grown in areas that are unfit for agricultural cultivation or where they harm another crop.<sup>14</sup>
  - i. Plants grown indoors, in hothouses, or in unperforated planters.<sup>15</sup>
  - j. Vegetables that sprout during the sixth year.
  - k. Seed crops that reach a third of their growth during the sixth year.
  - l. Vegetables encased in a clod of earth, planted in a permitted fashion.<sup>16</sup>
2. The *sefichin* prohibition applies to the following:
- a. For vegetables, the *sefichin* prohibition applies when the vegetable begins to grow during *shemitah*.<sup>17</sup>

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13. Although these areas are considered part of the Land of Israel in terms of its sanctity and the *mitzvah* to settle it. Rambam 4:26, *Teshuvot HaRambam* §128; see also *Shabbat Ha'aretz* 4:26 §2 and n. 16. Regarding the southern border, see Appendix G.

14. Rambam 4:4.

15. Rabbi Chaim Berlin, qtd. in *Sefer Hashemitah* p. 28, n. 2; see *Shabbat Ha'aretz* 4:4 nn. 11–12. On unperforated pots, see *Sefer Hashemitah*, p. 28 §6 and *Shabbat Ha'aretz* 1:6, n. 22.

16. For vegetable seedlings prepared in a permitted fashion, such as in hothouses on platforms disconnected from the ground ("disconnected platforms"; *matza menutak*), one can commission a non-Jew to transplant them into land sold through *heter mechirah*. Since these crops began their growth in a permitted fashion, the *sefichin* prohibition does not apply to them, following the opinion of the Rash 9:1, s.v. *kol*: The act of planting them in the ground does not create a new *sefichin* prohibition, since it is not a new plant, and no biblical *shemitah* prohibitions apply to these plants. See *Shabbat Ha'aretz* 1:4 §3. Furthermore, some hold that the *sefichin* prohibition applies only to vegetables that are sown and not to those that are planted: *Yeshu'at Moshe* 1:2, p. 30. Rabbi Eliahu notes that according to Rambam, planting in this manner is forbidden.

17. According to Rambam, even if the plant begins to grow during the sixth year, it is nevertheless considered *sefichin*. Rash disagrees. The mainstream ruling is

- b. For grains and legumes that are eaten dry, the prohibition applies also to plants that begin growing during the sixth year but do not reach a third of their final size before *shemitah*.<sup>18</sup>
    - c. Legumes eaten moist in their pods, such as peas, are considered vegetables. The beginning of their growth determines which year's crop they are considered.<sup>19</sup>
  3. The end of the period for the *sefichin* prohibition during the eighth year is discussed in Chapter 27 §B.2-7.

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lenient, following Rash. See *Shabbat Ha'aretz* 4:2 §1, 3 §5; Chazon Ish 9:17, s.v. *yerek*.

18. Rambam 4:9,13; Chazon Ish 9:17, s.v. *dinim*; *Shabbat Ha'aretz* 4:3 §§2-3.

19. *Hilchot Shevi'it* §3, *Kisse David* §75, based on Rashes 2:8. See also *Shabbat Ha'aretz* 4:14 §1.

## Chapter 8

**Ne'evad and shamur prohibitions**

1. It is permissible to eat fruit from fruit trees that grow during *shemittah* as a result of prohibited actions (i.e. working the land, *ne'evad*) performed during the *shemittah* year, even on land not sold to a non-Jew.<sup>1</sup> However, eating vegetables that grow in a prohibited fashion is forbidden owing to the *sefichin* prohibition, as stated above in Chapter 7 §A.
2. It is permissible to eat fruit that is guarded (*shamur*) and not rendered ownerless by the grove owner, even on land that is not sold to a non-Jew.<sup>2</sup>
3. However, in both above cases, it is forbidden to aid transgressors and to purchase their fruit that grew in a forbidden manner.<sup>3</sup> It is only permissible to purchase fruit from growers who cultivate the fruit in permissible methods:<sup>4</sup> either through *heter mechirah*,<sup>5</sup> or by employing the *heterim* used by the *otzar beit din*.

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1. Rambam 4: 15; Chazon Ish §10:6. See also *Shabbat Ha'aretz* 4:1 §1, 15 §2, that some are stringent even with fruit.
  2. Rashi, *Yevamot* 122a, s.v. *shel azikah*. *Mishnat Rabbi Akivah* (Rabbi Akivah Porush passed away in Jerusalem, 5682 [1921]) §4 attests that the custom in Jerusalem was to be lenient with guarded fruit. This is the ruling of Rabbi Eliahu. See also *Shabbat Ha'aretz* 4:1 §2.
  3. Rambam 8:14; *Shabbat Ha'aretz*, ibid. §1; Chazon Ish §10:5, s.v. *ubeito*; §10:6, s.v. *veyeish*.
  4. Mabit I §21. See also *Shabbat Ha'aretz* 8:14 §7.
  5. *Minchat Shlomo* §44–45 writes that even someone who maintains that a field sold to a non-Jew retains its *kedushat shevi'it* can nevertheless purchase such produce, since the farmer and grocer are following their rabbi's guidelines.

## Chapter 9

# Prohibition of transacting with *shemita* produce

### A. Parameters of the prohibition

1. It is forbidden to transact with *shemita* produce.<sup>1</sup> This is a biblical prohibition.<sup>2</sup>
2. While the Torah prohibits transacting with *shemita* produce,<sup>3</sup> someone who buys this produce for home use and has leftovers may sell the extra produce to neighbors.<sup>4</sup>
3. The prohibition of transaction applies only to the seller<sup>5</sup> and to traders.<sup>6</sup> However, it is permitted to give *shemita* produce to others as a gift.<sup>7</sup>

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1. Rambam 6:1. That is, anything with *kedushat shevi'it*. Regarding transactions with animal fodder, see *Kerem Tziyon* §15, *Gidulei Tziyon* §1, who is stringent.
  2. As the Torah states, "But you may eat whatever the land will produce during its Sabbath" (*Vayikra* 25:6). *Chazal* understand from here that eating the produce is permissible, but not transacting with it: *Avodah Zarah* 62a; *Bechorot* 12b. Ramban, *Sefer Hamitzvot*, additions to *mitzvah* 3, counts as a positive injunction that produce with *kedushat shevi'it* is meant for consumption and not for transaction. See *Shabbat Ha'aretz* 6:1, n. 1; *ibid.*, §2, nn. 16, 22. However, some maintain that this is only a rabbinic prohibition. See *Shabbat Ha'aretz*, *ibid.*, n. 23.
  3. According to Tosafot, *Sukkah* 39a, s.v. *veleiteiv*. See *Shabbat Ha'aretz* 6:1 §2. There the question discussed is whether the prohibition is the sale for profit or the fact that this produce should not be used in any way other than consumption (and the practical differences between the two). Rabbi Kook *ibid.*, §3.3 explains that some are lenient when "one person harvests, while another sells," and allow this even if there is an intent to make a profit. Others doubt this; see *Shabbat Ha'aretz*, *ibid.*
  4. *Mishnah* 7:3; Rambam 6:2. See *Shabbat Ha'aretz* 6:1 §4.
  5. *Kapot Temarim*, *Sukkah* 39a. Some disagree and maintain that this prohibition applies even to the buyer. See *Shabbat Ha'aretz* 6:1 §6 and n. 55.
  6. Tosafot, *Avodah Zarah* 62a, s.v. *nimzah*; *Sukkah* 39a, s.v. *veleiteiv*. According to *Pe'at Hashulchan* §26, *Beit Yisrael* §4, the prohibition is only if one harvests to sell (and not buys to sell). See *Shabbat Ha'aretz* 6:1 §§3–4, 6.
  7. *Mishnah* 8:5; *Sukkah* 41a; *Avodah Zarah* 62b. See *Shabbat Ha'aretz* 6: 11 §2, 10 §5,

4. It is forbidden to purchase *shemita* produce from someone selling it in a forbidden fashion, since this places a stumbling block before the seller and aids a transgressor (*mesaye'ah beyedei ovrei aveirah*).<sup>8</sup>
5. It is permitted to sell *shemita* produce together with non-*kedushat shevi'it* produce, while the payment is nominally for the non-*kedushat shevi'it* product. This is called *havla'ah*.<sup>9</sup>

## B. Prohibition of weighing and measuring

1. Even when selling *shemita* produce in a permitted manner, it should not be weighed precisely. Rather, its weight should be estimated.<sup>10</sup>
2. This prohibition applies also to produce that is not generally weighed but sold as individual units.<sup>11</sup>

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15 §3, 8:20 §§1–2. Rabbi Eliahu notes that one should not give *kedushat shevi'it* produce to those who will not handle it properly.

8. *Mishnah, Bechorot* 4:8. Some even prohibit receiving *shemita* produce as a gift from such individuals, See *Shabbat Ha'aretz* 8:14 §6. About the prohibition to assist sinners and placing a stumbling block before a blind person, see *Shabbat Ha'aretz* 8:1 §§1–2.
9. Literally, "swallowed up." *Sukkah* 39a; Rash 7:3 s.v. *yerushalmi*; Rashes 7:1 s.v. *aval mocher, ha'avtalah* 1:6, s.v. *ule'inyan keniyatan*; Rabbi Kook, *Shabbat Ha'aretz* 6:1 §3.5, 8:11 §2, 5:13 §1.2; Rabbi Frank, *Kerem Tziyon* §17, *Ga'on Tzvi* §1, on buying cucumbers pickled with grape leaves with *kedushat shevi'it*. He permits the transaction since the leaves and their taste are sold through *havla'ah* with the non-*kedushat shevi'it* cucumbers.
10. *Mishnah* 8:3; Rambam 6:3. Some maintain that the rationale for the prohibition is that it will be apparent that this is *kedushat shevi'it* produce so people handle it accordingly. Others maintain that it is a *mitzvah* to sell *shemita* produce inexpensively, so it should not be sold in the standard manners of transactions. The prohibition against weighing and measuring applies to the seller. Others hold that it applies also to buyers; see *Shabbat Ha'aretz* 6:3 §§1–2. Someone who knows how to precisely estimate produce weight may not sell the produce in this manner: *Kerem Tziyon* 15, *Gidulei Tziyon* §2. See Rabbi Kook, *Shabbat Ha'aretz* 6:4 §2.
11. *Tosafot Yom Tov, Shevi'it* 8:3. See also *Shabbat Ha'aretz* 6:3 §3 that some are lenient. On buying canned goods not through *otzar beit din*, see *Az Nidbero* §10:45.

3. *Chazal* enacted a prohibition against weighing and measuring imported produce and produce grown by non-Jews out of concern for *marit ayin* (appearances).<sup>12</sup>

### C. *Demei shevi'it* – *shemitah* money

1. When selling *kedushat shevi'it* produce (even in a permitted manner), its sanctity, as it were, is duplicated: the original produce remains sacred<sup>13</sup> and the money paid becomes sacred as well.<sup>14</sup> The same is true for *kedushat shevi'it* produce bartered for regular produce: the original produce remains sacred and the regular produce also assumes *kedushat shevi'it*.<sup>15</sup>
2. *Demei shevi'it* (sacred *shemitah* money), may only be used to purchase food products.<sup>16</sup> The money's sanctity is then transferred to the food purchased.<sup>17</sup> If non-food products are

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12. Rambam 6:5. However, if it is apparent (by its shape) that the produce is imported, it is permitted to weigh it. It also seems that when there is a sign noting that the produce is imported, we can be lenient.

13. *Mishnah* 8:7; Rambam 6:1. For this reason, if the buyer sells this produce another time, the money also acquires *kedushat shevi'it*: *Kerem Tziyon* 16, *Gidulei Tziyon* §1; *Minchat Yitzchak* VI §129.

14. *Sukkah* 40b; *Kiddushin* 58a; *Avodah Zarah* 54b. See *Shabbat Ha'aretz* 6:6, 7 §1, 8 §§1–2. On paper bills being acceptable today, see *Shabbat Ha'aretz* 8:11 §§1, 3, n. 18. See Chatam Sofer, *YD* §134, who writes that paper bills are halachically considered coins, and do not have the halachic status of a *shetar* ("bill," and the laws of interest apply to them); Responsa *Oneg Yom Tov* §102 disagrees, arguing that paper bills are not considered coins and the status of *shetar* does apply to them. This means that they cannot be used to redeem a firstborn. See *Shabbat Ha'aretz* 6:7 §2 on whether *shemitah* produce purchased after the time of *bi'ur* (so it is forbidden to derive benefit from it) imparts *kedushat shevi'it* to money.

15. *Mishnah* 8:4; Rambam 6:14. See also *Shabbat Ha'aretz*, *ibid.*, §§1–2. On the possibility of bartering with *kedushat shevi'it* produce, Rabbi Kook is lenient: *Shabbat Ha'aretz* 8:20 §5.4. This is the opinion of the majority of the *posekim*: *Shabbat Ha'aretz* 6:10 §10, 14 §§1–2.

16. *Mishnah* 8:8; Rambam 6:9–11. According to Ramban and Ritva, *Avodah Zarah* 62a, s.v. *nimtzah*, this is a biblical obligation. Tosafot, *ibid.*, s.v. *nimtzah*, implies that it is rabbinic. See *Shabbat Ha'aretz* 6: 10 §6.

17. The laws of *bi'ur* also apply to this food: *Mishnah* 7:1; Rambam 7:7. See also *Shabbat Ha'aretz*, *ibid.*, §§1–3. See also Chapter 25 §C.8. There is a difference

accidentally purchased with *demei shevi'it*, one should take a non-sacred food item and consume it according to the laws of *kedushat shevi'it*.<sup>18</sup>

3. *Kedushat shevi'it* is removed from the money in one of two ways:<sup>19</sup>

- a. When the money is used to purchase non-sacred food.
- b. When transferring its sanctity to food. This is called *chillul* (lit., desacralization). The formula for *chillul* is as follows:

”כל דמי שביעית או חילופי שביעית הנמצאים ברשותי, יהיו מחוללים על מאכל זה.”

"All of the *shemita* money or that (money/food) exchanged for *shemita* produce that is in my possession will hereby be desacralized on this food."<sup>20</sup>

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between *kedushat shevi'it* produce and *demei shevi'it*: it is permissible to use *kedushat shevi'it* produce for fuel, ointment, and dye, while *demei shevi'it* may not be used to purchase produce that will be used for these purposes; it is only permitted to use it to purchase produce that will be eaten. See *Sefer Hashemita*, pp. 38–39; *Shabbat Ha'aretz* 5:8 §1, 6:10 §6 and nn. 25–26.

18. Rambam 6:10. See also *Shabbat Ha'aretz* 6:9,10 §6.2. According to Rabbi Kook, *ibid.*, 6:10 §7, if possible, one can force the seller to void the sale. However, *Aruch Laner, Sukkah* 39a, s.v. *ma'ot*, does not deem it necessary to do so.

19. Rambam 6:8. See *Shabbat Ha'aretz* 6:8 §1, 6:10 §11. Some hold that it is permissible to purchase *kedushat shevi'it* produce with *demei shevi'it*, even though the money does not then lose its sacred status—since the produce was previously sacred. When purchasing a non-food item, some maintain that it is not sufficient to desacralize the money: Ramban and Ritva, *Avodah Zarah* 62b, s.v. *nimtzah*; *Minchat Yitzchak* VI §129, s.v. *vehineh*. According to the Chazon Ish §13:13, non-food items do desacralize the money if one clearly states that he wants the sanctity to transfer from the money to the item purchased. See *Shabbat Ha'aretz* 6:10 §6.2.

*Sefer Hashemita*, p. 40 §11, argues that it is possible to transfer the sanctity of *demei shevi'it* onto non-sacred money. Rabbi Eliahu, however, notes that the sanctity of *demei shevi'it* can only be transferred to other money by purchasing food and not by *chillul*.

20. *Yeshu'ot Malko, YD* §54. On the question of whether one person can perform *chillul* on another person's *demei shevi'it*, see *Shabbat Ha'aretz* 6:10 §7.2.

4. Optimally, the *chillul* should be performed on food that is equal in value to the *shemitah* money.<sup>21</sup> *Bedi'avad*, it is also possible to perform the *chillul* onto something worth a *perutah* (similar to the *chillul* performed today to redeem *ma'aser sheni* and *neta revay* produce).<sup>22</sup>
5. There are cases where the money never becomes infused with *kedushat shevi'it* (in order of halachic preference):
  - a. The produce is sold through *otzar beit din*.<sup>23</sup>
  - b. *Havla'ah* (lit. "swallowed up"): *shemitah* produce is purchased together with non-sacred items.<sup>24</sup>
  - c. The transaction is made with a credit card.<sup>25</sup>
  - d. Payment is made a day in advance.<sup>26</sup>
  - e. Payment is made by check<sup>27</sup> (optimally post-dated or non-negotiable, with two lines).<sup>28</sup>
  - f. When purchasing on credit, when payment is made after

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21. *Mishnah* 8:5; Rambam 6:9–11. Optimally, the food should be of equivalent value: *Minchat Yitzchak* VI §129. See *Shabbat Ha'aretz* 6:8 §2 and n. 6.
  22. According to Rashas, 9:8 s.v. *le'inyan keniyatam*. See also *Shabbat Ha'aretz* 6:8 §2 and n. 7. Rabbi Eliahu rules that one should rely on this leniency only in extremely extenuating circumstances.
  23. Since then the payment is a repayment for expenses, not for the price of the produce. Note that today the price of *otzar beit din* produce is comparable to that of regular produce, although the money is for reimbursing expenses only. The reason for this is that the guidelines given by the *beit din* for cultivating the trees, the costs of production, distribution, and marketing are much greater than the costs for regular produce.
  24. *Sukkah* 39a; Rambam 8:11. See also *Shabbat Ha'aretz* 8:11 §2. See n. 9 above.
  25. Since nothing tangible changed hands onto which sanctity can be transmitted to; this is the ruling of Rabbi Eliahu.
  26. *Az Nidberu* X §44. See *Shabbat Ha'aretz* 8:11, n. 18.
  27. *Az Nidberu*, *ibid.*, IV §64, adding that a bank check is equivalent to a bill, so *kedushat shevi'it* can be transferred to it.
  28. Guidelines of Rabbi Eliahu, so that the check will be considered a promissory note and not negotiable money.

- eating the *shemitah* produce<sup>29</sup> or after the ownership of the produce is transferred to another person.<sup>30</sup>
- g. According to some: when purchasing *shemitah* produce from non-Jews.<sup>31</sup>
  - h. Some add: when purchasing on credit, when the payment is made several moments after the purchase, providing that there is a relationship of trust between the buyer and seller (so that the transaction is not conditional upon immediate payment).<sup>32</sup>
6. Since *kedushat shevi'it* produce sold in a prohibited fashion is rarely found in the marketplace, one need not be concerned that ordinary money has *kedushat shevi'it*.<sup>33</sup>

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29. *Avodah Zarah* 62b; Rashi and Tosafot, *ibid.*, s.v. *ye'ot*. This is also the opinion of Rabbi Kook, *Shabbat Ha'aretz* 8:20 §5.1, 6:10 §9.

30. Tosafot, *ibid.*, quoting Rabbi Elchanan. See also *Shabbat Ha'aretz* 8:20 §5.2 and n. 17.

31. Maharit end of I §43, s.v. *ve'odt*; *Minchat Chinuch*, end of *mitzvah* 329. While they maintain that produce grown by non-Jews in the Land of Israel has *kedushat shevi'it*, they believe it is permitted to buy such produce from them in the regular manner. This is because the money only assumes *kedushat shevi'it* upon receipt by the seller. Since in this case the seller is a non-Jew, the coins would not become sacred at all. Others disagree: Rashas (9:6) and *Shelah* (*Sha'ar Ha'otiyot*, letter *kuf*, p. 138) maintain that the money would assume *kedushat shevi'it*. In this case, there is concern that the money will reach a Jew who will be unaware of the money's sacred status. Furthermore, it would be problematic for non-Jews to have sacred money in their possession which they do not know how to handle properly. See *Shabbat Ha'aretz* 8:11 §3.

32. Chazon Ish 10:13, s.v. *vehacha*, *bemah shekatuv debehakafah*. See *Shabbat Ha'aretz* 8:20 §5.2.

33. Since it is possible to rely on the majority (*batar rubah azlinan*), and most agricultural produce is sold either as part of *otzar beit din* or as *heter mechirah* produce; Chazon Ish §10:17, s.v. *bemah shekatuv*. See also *Minchat Yitzchak*, *ibid.*, s.v. *vehine kol hanal*; *Shabbat Ha'aretz* 6:7 §3. Rabbi Eliahu notes that whoever rejects the validity of *heter mechirah* needs to take precautions to account for *demei shevi'it*.

#### D. Paying a debt with *shemita* produce

1. Just as it is forbidden to perform transactions with *kedushat shevi'it* produce, such produce should not be given as payment for a debt.<sup>34</sup> This prohibition relates also to money that became infused with *kedushat shevi'it*, and is relevant even in areas where there is no prohibition of transaction.<sup>35</sup>
2. Even a payment of what is not a legal, but rather a moral debt, should not be made with *kedushat shevi'it* produce.<sup>36</sup>
3. When sending *mishlo'ach manot* on *Purim*, the first *mishlo'ach manot* given during the day should preferably include at least two items that do not contain *kedushat shevi'it*.<sup>37</sup>

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34. *Mishnah* 8:4; Rambam 6:10. See also *Shabbat Ha'aretz* 6:10 §§1, 5. *Beit Ridbaz* §7:10 s.v. *demei shevi'it*, writes that it is possible to be lenient with a debt created as a result of purchasing *shemita* produce. See *Shabbat Ha'aretz* 8:20 §5.4.
  35. *Tosafot Anshei Shem, Shevi'it* end of 8:4, for instance when it is less than the price of three meals. According to most *posekim*, the prohibition against paying debt is biblical; the Chazon Ish maintains that it is rabbinic. See *Shabbat Ha'aretz* 6:10 §1.
  36. For instance, if a friend did one a favor for which he did not expect repayment, but one feels a moral obligation to do so: *Mishnat Yosef* I §27:3, on Rambam 6:10. See also *Tosefta Kepeshutah, Pe'ah* 4:16, p. 189. Some are lenient for such debts: *Hilchot Shevi'it* §7, *Kisse David* §65. See also *Shabbat Ha'aretz* 6:10 §§2–5. Someone who generally provides his Jewish or non-Jewish employees with food (such as providing lunch every day as part of their work contract, *katzatz mezonot lapo'el*) it is possible to give them *shemita* produce since they are considered part of the members of his household whom he is responsible to feed. Rambam 10:13; *Pe'at Hashulchan* §24:58. This is also the opinion of Rabbi Kook, *Shabbat Ha'aretz* 5:13 §4, 6:2 §3 n. 22. Mahari Kurkus (5:13) maintains that this is forbidden for a Jewish employee but allowed only for a non-Jewish employee. See *Shabbat Ha'aretz* 5:13 §4 and nn. 34–35.
  37. See *Mishnat Yosef* I §27, that *mitzvot* should not be performed with *shemita* produce, just as bird offerings of *zavim* may not be purchased with *demei shevi'it* (see *Mishnah* 8:8). Furthermore, he writes that one may not reciprocate with *mishlo'ach manot* containing *shemita* produce, owing to the prohibition of paying a debt with this produce. Rabbi Eliahu argues, however, that while one should not give the first *mishlo'ach manot* from *shemita* produce, it is permitted to reciprocate with *mishlo'ach manot* containing such produce. This is because

4. *Kedushat shevi'it* produce or *demei shevi'it* should not be given as wages, since this constitutes repayment of debt.<sup>38</sup>
5. It is permissible to give workers *shemitah* produce as a gift if this is not included in the work contract. This is even true if workers decide to forego part of their salary as a result.<sup>39</sup>

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reciprocation is not actually repaying a debt, but is rather done for politeness's sake. See *Shabbat Ha'aretz* 6:10 §5 and n. 22.

38. *Mishnah* 8:5; Rambam 6:11. See also *Shabbat Ha'aretz* 6:11 §1, 5:13 §4, 6:2 §3.

39. Rosh 8:5. Some limit this leniency to certain conditions. See *Shabbat Ha'aretz* 6:11 §2.

## Chapter 10

### Land-dependent *mitzvot* during *shemita*

#### A. Halachic principles of *terumot* and *ma'aserot*

1. The produce of the *shemita* year is ownerless and is therefore exempt from *terumot* and *ma'aserot*.<sup>1</sup>
2. Crops are subject to *terumot* and *ma'aserot* during the *shemita* year when:
  - a. They grow on land sold through *heter mechirah*.
  - b. They grow on land belonging to a non-Jew, but the *gemar melachah* (final processing) is performed by a Jew.<sup>2</sup>
  - c. Grains and legumes that begin to grow before the *shemita* year and reach a third of their growth by *Rosh Hashanah* (see Chapter 5 §C.2) on land belonging to a Jew. This is true even if by the end of their growth they belong to a non-Jew and their *gemar melachah* is performed by a non-Jew.<sup>3</sup>

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1. Rambam, *Hilchot Matanot Aniyim* 6:5; *Shulchan Aruch*, YD §331:19; *Betzet Hashanah*, p. 44, s.v. *yerakot*.

2. Rambam, *Hilchot Terumot* 1:11; *Shulchan Aruch*, YD §331:4. In this case, there is also no obligation to give the produce to a *levi* or poor person. This is because the Jew tells them that he is acting in place of the non-Jew, from which neither the *levi* nor poor person may take presents. See also Remah (YD §331:19), who implies that *ma'aserot* should nonetheless be given to the appropriate people. See also *Shabbat Ha'aretz* 4:29 §4.

In principle, those who maintain that land belonging to a non-Jew has *kedushat shevi'it* hold that the produce would be exempt from *terumot* and *ma'aserot*, even if the *gemar melachah* is performed by a Jew.

3. Rambam, *ibid.*, 1:13; *Shulchan Aruch*, YD §331:6. According to the Mabit (II §196, p. 51, column 3), this produce is exempt from *terumot* and *ma'aserot* since the final act (*gemar melachah*; here *miru'ach*, flattening) performed by the non-Jew totally exempts the produce from *terumot* and *ma'aserot* in our days (not only during *shemita*). Rabbi Elyashiv (*Halichot Sadeh* §75, p. 7) writes that we take this opinion into consideration with regard to the blessing. That is, it is necessary to separate *terumot* and *ma'aserot* without a blessing if the produce reaches a

3. Crops are exempt from *terumot* and *ma'aserot* when:
  - a. They began their growth in the ownership of a Jew, but reached a third of their growth when owned by a non-Jew;  
**and**
  - b. The *gemar melachah* is performed by a non-Jew.<sup>4</sup>

**B. *Terumot* and *ma'aserot* for sixth-year produce**

1. Fruits and vegetables that halachically "belong" to the sixth year (see Chapter 5), but were harvested during the *shemita* year, are subject to *terumot* and *ma'aserot* laws, as explained below.
2. For fruit, there is a distinction among three different situations:
  - a. If the fruit grows on property that was not sold to a non-Jew, *terumot* and *ma'aserot* should be separated with a blessing. *Ma'aser ani* (and not *ma'aser sheni*) should be separated from this produce.<sup>5</sup>
  - b. Fruit that reaches *onat hama'aserot* (*ma'aser* season) before the land is sold to a non-Jew through *heter mechirah*, but is harvested after the land is sold: *terumot* and *ma'aserot* should be separated with a blessing.<sup>6</sup>
  - c. Fruit that reaches *chanatah*, the beginning of the fruit's development (which is the determining stage of growth for *terumot* and *ma'aserot*) at the beginning of the eighth year, before 15 *Shevat*: *terumot* and *ma'aserot* should be

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third of its growth when owned by a Jew, but the *gemar melachah* is performed by a non-Jew. This is also the opinion of Rabbi Eliahu.

4. Rambam, *ibid.*; *Shulchan Aruch*, *ibid.*
5. This fruit belongs to the sixth year and are considered owned by a Jew for all intents and purposes.
6. It seems a blessing should be said, following *Beit Yosef's* opinion (not Mabit's opinion, see n. 3). In this case, there is also an obligation to give the *ma'aser rishon* and *ma'aser ani* to a *levi* and poor person, respectively. See Rambam, *ibid.*; *Shulchan Aruch*, *ibid.*; on the obligation of giving *ma'aser rishon* and on the various doubts regarding the obligation of separating *terumot* and *ma'aserot* (throughout all years, regardless of *shemita*), see *Hatorah Veha'aretz* II, pp. 49–123.

separated without a blessing.<sup>7</sup> *Ma'aser sheni* should be separated.<sup>8</sup>

3. For vegetables, there are two different scenarios:
  - a. Vegetables harvested in the sixth year, even after the land is sold (during *Elul*), are subject to *terumot* and *ma'aserot*—even if the *gemar melachah* is performed by non-Jewish workers.<sup>9</sup>
  - b. Vegetables that reach a third of their growth during the sixth year before being sold to a non-Jew, and are harvested during *shemita*, are subject to *terumot* and *ma'aserot*—even if the *gemar melachah* is performed by non-Jewish workers.<sup>10</sup>

### C. *Terumot* and *ma'aserot* for *shemita* crops

1. Separating *terumot* and *ma'aserot* during *shemita* differs in several ways from the procedure during other years. For this reason, a competent halachic authority should be consulted to determine the order of separation for this year.<sup>11</sup>

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7. See *Shabbat Ha'aretz* 4:13 §1 and n. 3. According to the *Shelah* (see Chapter 5, n. 1), who maintains that the determining stage for trees is 15 *Shevat* and not *Rosh Hashanah*, this fruit would still be considered *shemita* fruit and not subject to *terumot* and *ma'aserot* laws. In practice, we take his opinion into account with regard to the blessing, and we do not say a blessing on the separation. About vegetables that grew during *shemita* but were harvested during the eighth year, meaning that they would be subject to *terumot* and *ma'aserot* although they have *kedushat shevi'it*; see *Shabbat Ha'aretz* 4:8 §7.

8. Chazon Ish §9:18, s.v. *yoreh de'ah* (ת"י).

9. Rambam, *ibid*; *Shulchan Aruch*, *ibid*.

10. Rambam, *ibid*; *Shulchan Aruch*, *ibid*. For other types of crops, where *kedushat shevi'it* is determined according to various stages of growth, one should consider the relevant halachic ramifications (they may have *kedushat shevi'it*). It seems that one should say a blessing on this separation, since the *halachah* follows Beit Yosef: vegetables belonging to a non-Jew do not have *kedushat shevi'it* and they are definitely subject to *terumot* and *ma'aserot* during this time. See n. 3 for the opinion that this separation should be made without a blessing.

11. When farmers separate *terumot* and *ma'aserot* during *shemita*, the fact that they are not the owners of the produce should be taken into consideration. A

2. For fruit and vegetables that grow during *shemita* on land sold to a non-Jew through *heter mechirah*, there are two different possibilities:
  - a. When the *gemar melachah* is performed by non-Jews, the produce is exempt from *terumot* and *ma'aserot*, just like during other, non-*shemita* years.<sup>12</sup>
  - b. When the *gemar melachah* is performed by Jews, the produce is subject to *terumot* and *ma'aserot*<sup>13</sup> but without a blessing.<sup>14</sup>
3. *Ma'aser ani*<sup>15</sup> should be separated from produce subject to *terumot* and *ma'aserot* during the *shemita* year. One should also separate *ma'aser sheni* owing to doubt,<sup>16</sup> using the

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separation of *terumot* and *ma'aserot* performed as a non-Jew's agent (*shali'ach*) is invalid, since the concept of *shelichut* does not apply to non-Jews. Rabbi Ariel rules that farmers can separate *terumot* and *ma'aserot* thanks to the unlimited authority the non-Jew gave the farmer to cultivate the produce. For more on this, see the booklet, "Separating *terumot* and *ma'aserot* in the public system," 1:4, 7.

12. Rambam, *Hilchot Terumot* 1:13; *Shulchan Aruch*, YD §331:6.
13. *Beit Yosef*, YD §331, s.v. *ve'ei' bah*; Remah §19. See also *Shabbat Ha'aretz* 4:29 §4. The obligation to separate *terumot* and *ma'aserot* follows the rule of any produce grown on land owned by a non-Jew when the *gemar melachah* is performed by a Jew. See *Betzet Hashanah*, p. 45, that *terumot* and *ma'aserot* should be separated from such produce. Note that in this case, the crops do not have *kedushat shevi'it*, even when the *gemar melachah* is performed by a Jew.
14. Maharit (I §43) attested that this was the practice of the Beit Yosef. This is also the ruling of: *Pe'at Hashulchan* §23:12; *Eretz Chayim*, §331:19, s.v. *vehinei maharimat*; *Kerem Tziyon* 19:1, 5; *Torat Hashemita* 16:85–87. See also *Yabiya Omer* V, YD §28:1 s.v. *vele'inyan* about whether grapes are subject to *terumot* and *ma'aserot* laws if a Jew purchases them from a non-Jew and subsequently prepares wine from them; *Shabbat Ha'aretz* 4:29 §4. *Kerem Tziyon*, *Shevi'it*, 19:1, *Kerem Tziyon Hashalem* IV *Terumot*, 2:8 p. 20, writes that even during standard years we do not say a blessing on produce grown by a non-Jew when the *gemar melachah* is performed by a Jew.
15. The source of this *halachah* is *Mishnah*, *Yadain* 4:3. See *Kaftor Vaferach*, ch. 47; *Beit Yosef*, YD §331 s.v. *ve'ei' bah*; Remah §19; *Pe'at Hashulchan*, *ibid.*; *Yaskil Avdi* VI, *Hashmatot*, YD §§7, 13; *Tzitz Eliezer* XI §66, s.v. *ba'anavim*.
16. While *ma'aser ani* was instituted for the *shemita* year on behalf of the poor (*takanat*

conditional phrase "if *ma'aser ani* is required, then it is *ma'aser ani*"<sup>17</sup> (this is the standard text issued by Torah VeHa'aretz Institute's *Beit Ha'otzar*). In any case, it is not required to give *ma'aserot* to a *levi* or poor person.<sup>18</sup>

4. In areas and for crops where *kedushat shevi'it* is observed only out of doubt,<sup>19</sup> one should declare the crops ownerless before harvest, so that they should not become subject to *terumot* and *ma'aserot*.<sup>20</sup>
5. Imported agricultural produce that is processed in Israel (and the *gemar melachah* is performed by Jews) is subject to *terumot* and *ma'aserot* even during the *shemita* year.<sup>21</sup> *Ma'aser ani* is separated from these products.<sup>22</sup>

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*aniyim*), today we only separate *ma'aser ani* but are not obligated to give it. The reasoning for this rests on the principle of *hamotzi mechavero alav hare'ayah* (one who claims something from another's possession must prove that it is his); that is, the poor person has to prove that halachically this year obliges *ma'aser ani* and not *ma'aser sheni*, according to all opinions. Since he will not be able to prove this in light of the dispute among the halachic authorities on this matter, the owner does not have the obligation to give it to the poor person. One should also separate *ma'aser sheni*, since this is the regular order: since the sixth year was a *ma'aser ani* year, the seventh year, *shemita*, would be a *ma'aser sheni* year. See Rabbi Shmuel Salant and the Aderet, *Eder Hayakar, Iggerot Ha'aderet* §15; *Da'at Kohen* §239:1–2; *Minchat Shlomo* §37 believes that the main *ma'aser* today is *ma'aser sheni*; *Kerem Tziyon* 19, *Gidulei Tziyon* §1; *Shabbat Ha'aretz*, *ibid.*, nn. 29–30.

17. Rabbi Kook concludes with the following (*ibid.*): "It is good and proper first to separate *ma'aser sheni* and redeem it without a blessing, and then to say: 'and if it is necessary to separate *ma'aser ani* during this year, then what I called *ma'aser sheni* shall be *ma'aser ani*.'"
18. Rambam, *ibid.*; *Shulchan Aruch, YD* §331:4.
19. Such as the *olei Mitzrayim* territory (see Chapter 2 §A.3) or for fruit when *Rosh Hashanah* occurs between the stage of a third of its growth and a third of the ripening process (see Chapter 5 §C.2).
20. *Da'at Kohen* §240.
21. *Torah Hashemita* §16:167; *Hama'aser Vehaterumah* 2:11. See also Aderet, *Beshemen Ra'anah II; Kuntres Shevach Ha'aretz* §36. See also booklet, "Separating *terumot* and *ma'aserot* in the public system," 8:2.
22. This is the ruling of Rabbi Eliahu.

6. For the laws of *terumot* and *ma'aserot* unique to the beginning of the eighth year, see Chapter 27 §C.

#### D. *Orlah*

1. The laws of *orlah* apply to the *shemita* year, as in all other years.<sup>23</sup>
2. *Orlah* applies also in land belonging to non-Jews.<sup>24</sup> This includes land sold through *heter mechirah*.
3. *Orlah* fruit does not have *kedushat shevi'it*.<sup>25</sup>
4. It is permissible to remove *orlah* fruit from trees in the following cases:
  - a. If there is a concern that others will pick the fruit from the tree without asking for permission and there is no other way to prevent them from doing so.
  - b. If failing to remove the fruit will cause substantial damage to the tree's future development.<sup>26</sup>

#### E. *Neta revay*

1. The laws of *neta revay* apply during *shemita* year just like any other year. Fruit that is *neta revay* are redeemed during the *shemita* year in the usual manner:<sup>27</sup> The one redeeming the fruit adds one-fifth of the fruit's value (*chomesh*), even if he is not the tree's owner.<sup>28</sup> If the fruit is definitely *neta revay*, the

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23. *Mishnah, Ma'aser Sheni* 5:1.

24. *Mishnah, Orlah* 1:2; Rambam, *Hilchot Ma'aser Sheni and Neta Revay* 10:5; Rosh, *Kiddushin*, ch. 1 §62; *Neta Hillulim* §5:23.

25. *Betzet Hashanah*, p. 54 n. 1. Rabbi Eliahu noted that it is best to destroy them when they are small.

26. Just like the rule for *ukmei ilana*, see Chapter 1 §A.4. *Mishnah, Ma'aser Sheni* 5:1 states that one should mark *orlah* trees during the *shemita* year since during this year it is permissible for anyone to pick the fruit. However, if people will disregard the sign and eat the fruit anyway, it is permissible to remove the fruit before it is taken by others.

27. Rambam, *Hilchot Ma'aser Sheni and Neta Revay* 9:6.

28. *Betzet Hashanah*, p. 54 §5. This is because during the *shemita* year, all Jews are considered the legal owners of the fruit.

redemption is performed with a blessing.<sup>29</sup>

2. The redemption of *neta revay* fruit from land sold to non-Jews is performed without a blessing.<sup>30</sup>
3. If the trees are *orlah* or *neta revay* and require redemption, it is important to put up a sign notifying those who come to pick the fruit.<sup>31</sup>

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29. Ibid.; bare-rooted trees planted in 5778 before 15 Av, and seedlings prepared in a halachically supervised nursery in 5778 until 15 Av and also planted under supervision (to ensure that the clod of earth did not crumble and for other halachic issues), should be redeemed with a blessing. These trees are called *du-shenati*, "two-year" trees; the supervision allows farmers to "gain" an extra *orlah* year before the trees are transplanted to their groves. Fruit with *neta revay* sanctity are only those that began developing between 15 Shevat 5781 and 15 Shevat 5782. Fruit that begins to develop after 15 Shevat 5782 is considered a product of the tree's fifth year, and is not sacred. Similarly, if the tree is planted by 15 Av 5779, *neta revay* fruit will be the fruit that begins developing after 15 Shevat 5782 until 15 Shevat 5783. Other trees planted in a clod of earth should be redeemed without a blessing since there is a doubt regarding the number of years (the doubt is whether we can rely on the tree's years growing in the nursery and add them to the *orlah* count). On planting trees with their clod of dirt from nurseries not under halachic supervision, see *Hatorah Veha'aretz* I, p. 195 §4.
  30. Rambam implies (*Hilchot Ma'aser Sheni* and *Neta Revay* 10:10) that *neta revay* applies to land owned by a non-Jew. *Aruch Hashulchan* (§294:8) maintains, however, that *neta revay* does not apply to trees owned by non-Jews. See Chazon Ish (*Ma'aserot* §7:26), who writes that according to Rambam, a non-Jew's trees would be considered *neta revay* only if the non-Jew intends that the tree will be *neta revay* at the beginning of its growth. That is, in a standard situation where the non-Jew is unaware of the concept of *neta revay* or does not want his fruit to be sacred, the fruit will not be sacred according to Chazon Ish. See also *Minchat Chinuch* (*mitzvah* 247:11) and *Kerem Tziyon* (*Hilchot Orlah* 18:15 and n. 29), who write that *neta revay* exists for trees of a non-Jew, and do not mention that the non-Jew should specifically have this intention; *Neta Hillulim* 5:20 and §24. The ruling of Israel's Chief Rabbinate (*Betzet Hashanah*, p. 54 §10) is to redeem trees in their fourth year sold to a non-Jew but without a blessing.
  31. Rambam, *ibid.*, 9:7. This subject is explained at length in *Halichot Sadeh* 49, pp. 20–26.

## F. *Challah*

Dough made by a Jew is subject to the laws of *challah* even if the flour in the dough is from grain with *kedushat shevi'it*<sup>32</sup> or grain grown on land sold to a non-Jew.<sup>33</sup>

## G. *Kila'im*

1. During the *shemita* year it is unnecessary to uproot weeds (that normally would be removed because of the *kila'im* prohibition) that grow in vineyards, unless they were sold through *heter mechirah*.<sup>34</sup> This is because the prohibition of *kilei hakerem* (interplanting with grapevines) does not apply to ownerless grapevines, nor to vineyards owned by *otzar beit din*.
2. The *kilei hakerem* prohibition does apply both in vineyards belonging to non-Jews<sup>35</sup> and those sold to non-Jews through *heter mechirah*. One should consider this when purchasing grapes from non-Jews and vegetables that they generally interplant in vineyards.<sup>36</sup>
3. It is forbidden for Jews to sow and cultivate *kilei zera'im* (interplanted crops) on land sold to a non-Jew.<sup>37</sup> However, it is permitted for a Jew to instruct a non-Jew to interplant diverse crops when the non-Jew is responsible for their cultivation.<sup>38</sup>

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32. *Mishnah, Shevi'it* 9:9; Rambam, *Hilchot Bikkurim* 6:4; *Shabbat Ha'aretz* 8:20 §4 and n. 13. Rabbi Eliahu notes that if the wheat has *kedushat shevi'it*, the *challah* should not be burned. Instead, the *challah* should be bagged until it spoils on its own.

33. See *Mishnah, Challah* 3:5.

34. *Mishnah, Kila'im* 7:5; Rambam, *Hilchot Kila'im* 5:8.

35. See Rabbi Gidon Pearl, "Kila'im in non-Jews' vineyards," *Techumin* 7, p. 94 and on; *Halichot Sadeh* 47, p. 7.

36. *Iggerot Hara'ayah* I §316. Rabbi Eliahu rules accordingly.

37. Rambam, *ibid.*, 1:3.

38. *Ibid.*, according to the understanding of *Kessef Mishneh*, Mahari Kurkus, and Radbaz, *ibid.*; Ra'avad, however, maintains that this is forbidden (*ibid.*).



## Part II

# Buying Fruits and Vegetables

Issues, challenges, and halachic solutions for growing and purchasing fresh produce during the *shemittah* year.



## Chapter 11

**Supplying agricultural produce****A. Introduction**

1. In general, fruits on the market in Israel during the *shemita* year come from various orchards and groves throughout Israel. The produce is either from *otzar beit din* or *heter mechirah*. There are also quantities of imported fruit (during *shemita* there are several *kashrut* agencies whose main agricultural supply is from imports) or fruit grown during the sixth year and stored in refrigeration.
2. Below is a chart detailing how vegetables are supplied and their halachic status:

| Modes of Supply                              | <i>Kedushat shevi'it</i> | <i>Sefichin</i> | Performing <i>melachah</i> <sup>1</sup> | Notes  |
|--|--------------------------|-----------------|---|--|
| Storage from the sixth year                  | Yes                      | No              | Permitted                               | Generally relevant for root vegetables, e.g.: potatoes, carrots and onions |
| Vegetables that sprout before <i>shemita</i> | Yes                      | No <sup>2</sup> | Prohibited                              |  |
| Detached platforms ( <i>matza menutak</i> )  | No                       | No              | Permitted                               | Expensive and not necessarily profitable                                   |

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1. During the *shemita* year, *melachot* will either be forbidden or permitted based on the parameters of *ukmei* and *avruei* (אִקְמֵי וְאַרְוֵי). *Ukmei* refers to acts performed to maintain the tree's current state and prevent it from dying. *Avruei* refers to acts that increase the growth of the tree and its fruit. See Chapter 1 §A.4.
  2. There is a dispute among the *Rishonim* on this matter. See *Shabbat Ha'aretz* 4:3 §2 and n. 11.

| Modes of Supply   | <i>Kedushat shevi'it</i>                                     | <i>Sefichin</i> | Performing <i>melachah</i> <sup>1</sup>                | Notes   |
|---|--|-----------------|--|---|
| Territory conquered only by <i>olei Mitzrayim</i>                                   | Disputed: <i>lechatechilah</i> we are stringent <sup>3</sup> | No              | Prohibited   | In the Southern Aravah and the Western Negev <sup>4</sup> |
| Territory settled by <i>olei Bavel</i>  | Yes  | Yes             | Prohibited   | Most areas in Israel today                                |
| <i>Heter mechirah</i> : open areas and hothouses sold through <i>heter mechirah</i> | No   | No              | <i>Melachot de'oraita</i> may not be performed by Jews |   |
| <i>Yivul nochri</i> —produce grown by non-Jews in Israel                            | No <sup>5</sup>  | No              | Prohibited   |   |
| Imports   | No   | No              | Prohibited   |   |

## B. *Otzar beit din*

1. *Otzar beit din* is an institution cited in the *Tosefta*. It is based on the fact that all agricultural produce grown during the *shemita* year is ownerless and everyone can use it equally.<sup>6</sup>

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3. For an explanation of the dispute, see above, Chapter 2 §A.3 and *Shabbat Ha'aretz* 4:26 §2.

4. For more on the lines dividing *olei Mitzrayim* and *olei Bavel*, see §B.4–5.

5. This is the custom in Jerusalem, following the *Beit Yosef*, that crops grown by non-Jews on non-Jewish land are not sacred.

6. The source of this institution is cited in the *Tosefta*, *Shevi'it* 8:1–2; Ramban (*Vayikra* 25:7) and Rashbash (§258) cite this as a practical solution. Other rabbis who agree with this solution: Chazon Ish §11:7; *Kerem Tziyon* ch. 17, *Gidulei Tziyon* §13; *Betzet Hashanah* p. 42. Rabbi Kook (*Iggerot Hara'ayah* I §313) instituted *otzar beit din* in addition to *heter mechirah*, while *heter mechirah* was the primary solution employed and *otzar beit din* was an additional stringency. For a discussion on this issue today, and a list of contemporary rabbis who oppose *otzar beit din*, see *Katif Shevi'it*, ch. 22 and 60.

2. The institution works as follows: the *beit din* (rabbinical court) appoints messengers (farmers) to tend to fruit trees. These messengers cultivate the fruit on their own, and supply them to people living in the city. Today this institution has been expanded. The court even distributes vegetables that were sown or planted before the onset of *shemita* as well as vegetables grown during the sixth year that were stored in various ways. The farmers may engage in activities involved in cultivating the plants and fruits depending on the guidelines of the rabbinical court.
3. This mode of agricultural production poses the challenge of avoiding the various forbidden acts during *shemita*, as well as observing the parameters of *kedushat shevi'it*. This applies to farmers as well as to consumers. See *Katif Shevi'it*, Chapter 22, for the halachic sources and principles of *otzar beit din*.

### C. *Heter mechirah*

*Heter mechirah* is based on the ruling of Responsa *Shemen Hamor*,<sup>7</sup> employed for the first time during the *shemita* year of 5649 (1888–9) by Rabbi Yitzchak Elchanan Spector, Rabbi Shmuel

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7. YD §4. Rabbi Mordechai Rubio, rabbi of Chevron (d. 5744, 1783), was the first to propose selling a vineyard to a non-Jew. On the theoretical level, *heter mechirah* is similar to *mechirat chemetz*, selling *chametz* to a non-Jew before *Pesach* and buying it back after *Pesach*. The process is performed to avoid Jewish ownership of *chametz* for the duration of *Pesach*, while making it possible to buy it back afterwards, thereby avoiding the loss of significant funds and resources. The *heter of mechirat chametz* is meant primarily for the commercial market and less so for the homes of private individuals. The sale of cows, goats, and sheep birthing for the first time to a non-Jew to exempt the firstborn foal, kid, or lamb from *bechor* sanctity for pure animals also operates on the same principle. So too, the sale of new vessels to a non-Jew to exempt them from the obligation of ritual immersion in a *mikveh*, works similarly (used often for hotels and restaurants). *Heter mechirah*, similar to *mechirat chametz*, is primarily employed to facilitate the continuation of Jewish agriculture in the Land of Israel. It is not recommended to sell private gardens to non-Jews, since the *heter* is meant primarily for farmers and not for private gardens.

Moholiver, and Rabbi Yehoshua Trunk of Kutna. It became established over the years under the chief rabbis of Israel. What *heter mechirah* essentially means is that the land is sold to a non-Jew, who then becomes the owner of the land. Subsequently, the land no longer has *kedushat shevi'it* and the *sefichin* prohibition does not apply to the agricultural produce.<sup>8</sup> According to most halachic authorities, however, even when *heter mechirah* is employed, the *melachot* that are biblical prohibitions should not be performed by Jews.<sup>9</sup>

The Chief Rabbinate, throughout the generations, has relied on this *heter* for the entire Israeli population. *Heter mechirah* produce is cultivated, handled, bought, sold, and used just like regular produce during non-*shemita* years. See *Katif Shevi'it*, Chapter 24, for the halachic sources and principles of *heter mechirah* as well as the dissenting opinions to this *heter*.<sup>10</sup>

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8. The *heter* is based on the opinion of Rabbi Yosef Karo; namely, that *shemita* laws and *kedushat shevi'it* do not apply to land owned by non-Jews: it is not forbidden to work the land, the produce does not have *kedushat shevi'it*, and there is no prohibition of *sefichin*.
  9. See Chapter 1 §3 for the biblically prohibited actions during the *shemita* year: *zeri'ah*, *zemirah*, *ketzirah*, *betzirah*, and some add *charishah*.
  10. The main reasons for this *heter* are as follows: (1) Today *shemita* is *derabanan*; (2) *Kedushat shevi'it* does not apply to land owned by a non-Jew and thus the prohibitions against performing various *melachot* do not apply; (3) The prohibition of selling land to a non-Jew in the Land of Israel applies to the actual taking over of the land by a non-Jew, not the sale itself. And since this sale is only temporary, and is meant to increase the Jewish stronghold on the Land of Israel, it is permitted; (4) The sale is valid under Torah law and is also legally valid under State law; (5) Observing *shemita* in its original format will not only incur enormous economic losses, but is also liable to bring about the collapse of a significant portion of agriculture settlement in the Land of Israel, some of which are on Israel's periphery. In light of the above, it is permissible halachically to use this sale given the situation. Additional rationales include: (a) Some maintain that today *shemita* observance is only a *midat chasidut* (an act of piety), which is a lesser level than a rabbinic decree; (b) There is a doubt as to the accuracy of the *shemita* count; (c) The *heter* of Rabbi Yannai (*Sanhedrin* 26a).

#### D. *Matza menutak* – detached platforms

During the *shemita* year it is permitted to grow plants indoors when the growing medium is disconnected from the ground (see Chapter 2 §§4–5, and *Katif Shevi'it*, ch. 18, on halachic guidelines for crops grown in this manner). Sowing and planting vegetables are performed in the usual manner, as well as all other actions involved in cultivating the plants. This solution is expensive, logistically complex, and is not always profitable. On setting up a hothouse with detached platforms, see Appendix E.

#### E. *Olei Mitzrayim*

The territory conquered by the Yehoshua bin Nun and the Israelites who left Egypt. This area includes the vast majority of modern Israel.<sup>11</sup> For vegetables and fruits that grow in this area (and outside the *olei Bavel* territory, see below) there is a dispute whether or not they have *kedushat shevi'it*.<sup>12</sup> While the *sefichin* prohibition does not apply to this area, the prohibition of performing forbidden *melachot* does apply. Furthermore, since there are halachic authorities who maintain that the prohibition of *lo techonem*<sup>13</sup> does not apply to this area,<sup>14</sup> *heter mechirah* is more

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11. There are halachic authorities who maintain that the Southern Aravah is outside of the *olei Mitzrayim* territory, and does not have any *kedushat shevi'it* as it is officially outside of the Land of Israel. Some draw the borderline between *olei Mitzrayim* and outside of the Land of Israel at Ein Yahav on the West, through Wadi Nekarot, to Mt. Harif (Jabal Kharuf) (30°18' N). Others draw the line at 30° N, which runs between Lotan and Mt. Keturah. In practice, the consensus does not follow this opinion; rather, that all of Southern Israel is considered *olei Mitzrayim*.
  12. Rash and Rambam dispute this. According to Rambam, these crops have *kedushat shevi'it*, while Rash believes that there is a doubt in this regard. See *Shabbat Ha'aretz* 4:26 §2 and the article by Rabbi Yoel Friedemann on the advantages of *heter mechirah* in the *olei Mitzrayim*, *Emunat Itecha* 103.
  13. This includes not selling the Land of Israel to non-Jews: *Chazal* understand the phrase *lo techonem*, lit. "you should not show them mercy" (*Devarim* 7:2) as "you should not give them a chance to encamp" (*chanayah*, i.e. acquire land) in the Land of Israel, meaning that it is prohibited to sell land and houses to non-Jews in the Land of Israel (*Avodah Zarah* 20a).
  14. *Minchat Chinuch*, mitzvah 94; *Shemen Hamor* (ibid.) and other *Acharonim*.

widespread than in areas sanctified by *olei Bavel*. On the borders of *olei Mitzrayim*, see §F.1 below.

## F. *Olei Bavel*

1. The territory sanctified by the Jews who returned to the Land of Israel with Ezra and Nechemiah from Babylon in the early Second Temple period. This area is smaller than the area conquered by *olei Mitzrayim*.<sup>15</sup> According to most opinions, the border between *olei Bavel* and *olei Mitzrayim* in Southern Israel, is as follows:

The border begins from the southern tip of the Dead Sea and continues along Nahal Tzin (Wadi Tzin), which runs from south of Sedeh Boker eastwards to Nahal Lavan (Wadi Abiad), adjacent to Nitzana. The southernmost tip of the wadi is at 30°48' N. Whatever is north of this line is considered *olei Bavel* territory, while south of this line is *olei Mitzrayim*. From Nitzana, the line runs north to Ashkelon,<sup>16</sup> near 34°25' W. East of this line is *olei Bavel* territory, while west of the line is *olei Mitzrayim* (that is, Cholot Chalutzah, most of the Eshkol Regional Council, and the former Gush Katif settlements are part of the *olei Mitzrayim* territory) according to *halachah*.

2. All the laws of *shemita* apply in this area, including the prohibition of performing *melachah* and the *sefichin* prohibition. All agricultural produce from this area has *kedushat shevi'it*.

Note that today we do not have precise knowledge as to the territory that was not sanctified, and some limit the *olei Bavel* territory (suggesting that the border between *olei Bavel* and *olei Mitzrayim* is more to the north). However, the

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15. Note that while the Hasmoneans conquered more extensive territories, the areas of their conquest are not considered sanctified.

16. The border running north-to-south begins from the Old City of Ashkelon and runs southwards to Ein Kadis (biblical Kadesh) in the Sinai, adjacent to Israel's boundary, at the coordinates: 30°43' N longitude, 34°28' W.

identification above is accepted among many halachic authorities. See Appendix G.

### **G. *Yivul nochri* and imports**

Non-Jews grow crops in their land in Israel, and the produce is not sacred.<sup>17</sup> Purchasing vegetables from non-Jews is possible when there is supervision that ensures that they are indeed the landowners. However, it is best to avoid purchasing such produce when this helps them increase their stronghold on the land (such as when the contract is signed with them ahead of time, before sowing or planting).<sup>18</sup> Halachically, the status of produce imported from abroad is equivalent to produce grown in Israel by a non-Jew, and does not have *kedushat shevi'it*.

### **H. Halachic order of preference for vegetables (not fruit)**

The main objective consumers should keep in mind is to observe *shemita* in the best way possible. The order of preference is as follows:<sup>19</sup>

1. Stored vegetables grown during the sixth year.<sup>20</sup>
2. Vegetables grown in hothouses on disconnected platforms.

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17. Some halachic authorities follow Mabit's opinion that produce grown by non-Jews has *kedushat shevi'it*. However, the main custom is that of Jerusalem, namely to follow *Beit Yosef's* ruling that there is no sanctity whatsoever in this produce.

18. There are non-Jewish farmers in Israel and PA-controlled territory and Gaza who sell specific vegetables to the Israeli market every year. Some authorities deliberate whether buying from these farmers during *shemita* more than during other years is also considered strengthening their hold on the Land of Israel.

19. The ranking featured above is based on pure halachic reasoning and also on broader halachic rationale of preserving Jewish Israeli "blue and white" agriculture and preferring it to purchasing imports or produce from non-Jews in Israel. However, many differ, preferring to import vegetables from abroad or purchase produce from non-Jews in Israel to *heter mechirah* or to vegetables that begin growing prior to the onset of *shemita*. Certain rabbis prefer *heter mechirah* to *otzar beit din*. There are other opinions as well.

20. This method has developed extensively in recent years, and a broader range of products can be stored for longer periods.

3. Vegetables that sprout before the *shemitah* year (on regular platforms and in hothouses; these vegetables have *kedushat shevi'it* and they are distributed by *otzar beit din*).
4. Vegetables grown in areas conquered by *olei Mitzrayim* and sold through *heter mechirah*.
5. Vegetables grown in areas sanctified by *olei Bavel* and sold through *heter mechirah*.
6. Vegetables imported from abroad.
7. *Yivul nochri*: produce grown by non-Jews in the Land of Israel.<sup>21</sup>

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21. Some are Israeli Arabs while others are residents of PA-controlled territories or in Gaza.

## Chapter 12

**Guidelines for grocers****A. Guidelines for grocers who are agents of *otzar bein din***

1. Grocers should sell only produce supervised by the local rabbinate or by one of the *shemita* committees approved by the Chief Rabbinate.
2. Grocers should be appointed agents of the rabbinical court so that they can sell produce on its behalf.
3. The payment for the produce is determined by the rabbinical court and grocers may not raise the price of their own volition. This payment is meant to cover the court's costs and to reimburse grocers for their work.<sup>1</sup> The produce itself is given to customers for free. Customers cover these costs when they pay for and receive the produce.
4. The produce may not be weighed. Rather, grocers should give a general estimate.<sup>2</sup>
5. It is permissible to receive payment in cash. *Kedushat shevi'it* is not transferred to this money.<sup>3</sup>

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1. The grocer's wages are considered *sechar batalah*—reimbursement for the time he could otherwise be working elsewhere. Rabbi Chaim of Berlin (Ashkenazic Chief Rabbi of Jerusalem, who instituted this practice during the *shemita* year of 1909), qtd. by *Mishnat Rabbi Akivah* §4; *Torat Hashemita* 14 §37.

It is possible to accept payment to reimburse harvest, transportation, and distribution expenses. On the question of whether it is possible to charge for other agricultural activities (spraying pesticides, irrigation, fertilization, guarding, etc.), see *Betzet Hashanah* p. 42, n. 8; *Shemita Kehilchatah* 3:16.

2. Since the prohibition against weighing exists even when the produce is distributed in a permissible fashion. See Chapter 9 §B.1. Some are lenient in this regard: *Az Nidberu* X §45; *Mishnat Yosef* I §23. See also *Shabbat Ha'aretz* 6:3 §2, nn. 10–11.
3. Since the payment is made against the expenses for cultivation and operations, not for the produce itself.

6. If a non-Jew enters the grocery store and wants to purchase produce with *kedushat shevi'it*, it is permissible to sell it to him.<sup>4</sup>
7. Fruits and vegetables that have a short shelf life (such as tomatoes and peaches) may be supplied to customers who are not careful about handling *kedushat shevi'it*, with no limit in quantity.<sup>5</sup> Products with a long shelf life (such as potatoes and wine) may be supplied only in small quantities—enough for a week for all the members of the household.<sup>6</sup>
8. Customers should be notified which produce has *kedushat shevi'it* by appropriate signs and markings. It is recommended to provide customers with basic guidelines for handling *kedushat shevi'it* produce.
9. It is permissible to transport this produce to any place in Israel, including Eilat and its environs.<sup>7</sup>

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4. Even though we do not give non-Jews produce with *kedushat shevi'it* (*Shabbat Ha'aretz* 5:13 §3), if a non-Jew comes on his own, there is no obligation to prevent him from taking such produce.
  5. *Tosefta* 6:11; *Mishneh Lamelech* 8:14; Rabbi Kook, *Shabbat Ha'aretz* 8:16 §2. According to *Torat Ha'aretz* (I 8:53), it is unequivocally prohibited to give such produce to those who will not be careful in observing *kedushat shevi'it*, based on the *Mishnah* (*Ma'aserot* 5:3) and *Tosefta* (4:3). Rabbi Eliahu rules accordingly.
  6. *Tosefta* 6:11: the practical application today of "food for three meals" is a week. Rabbi Kook rules accordingly, *Shabbat Ha'aretz* 8:16 §2. According to Rabbi Chaim Berlin (qtd. in *Sefer Hashemitah*, p. 41 n. 11), it is permissible to sell this type of produce without limiting the quantity.
  7. Chazon Ish 13:3 writes that the *Tana'im* disagree about whether it is permissible to transport *shemitah* produce from *olei Bavel* to *Suria* (roughly modern-day Syria), and the laws pertaining to *Suria* are more stringent than are those relating to *olei Mitzrayim*. Therefore, it seems that it is permissible to transport *shemitah* produce from *olei Bavel* to *olei Mitzrayim* territory. Others forbid this: *Melechet Shlomo* 6:5; *Torat Ha'aretz* 8 §61. See *Shabbat Ha'aretz* 5:13 §2. We permit transporting *shemitah* produce even to Eilat, even though some maintain that Eilat is outside of *olei Mitzrayim* territory. See Chapter 11 §B.4. On exporting produce with *kedushat shevi'it* abroad, see *Katif Shevi'it*, ch. 23. In principle, it is forbidden to export *shemitah* produce abroad; Rambam 5:13.

## B. Guidelines for grocers selling *heter mechirah* produce

1. It is forbidden to sell produce from farmers who do not observe *shemita* laws and did not sell their land to a non-Jew. Only produce with certified supervision, ensuring it was grown on land sold through *heter mechirah*, should be brought into the store.<sup>8</sup>
2. Grocers or store owners who wish to be stringent in the prohibition of transacting with *shemita* produce even after land is sold should sell an additional, non-*shemita* item along with the produce. They can then tell the customers that the payment is for this item.<sup>9</sup> In this case, it is possible to include

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For this reason, most farmers who export produce during the *shemita* year export *heter mechirah* and non-*kedushat shevi'it* produce. We are generally lenient with exporting *shemita* fruit (*otzar beit din* fruit) to Jews for *mitzva* purposes only. This includes *etrogim* exported for *Sukkot* as well as wine and grape juice for *kiddush*. Some maintain that it is permissible to export produce belonging to non-Jews, even if it grew on Jewishly-owned land during the *shemita* year.

8. Rambam 8:14. See Chapter 8 concerning *shamur* (produce guarded by owners and not rendered ownerless) and *ne'evad* (where forbidden agricultural activities were performed on the produce). The main problem with buying such produce is that one is thereby assisting those who transgress *shemita* prohibitions. Other issues include: the money spent on this produce becomes imbued with *kedushat shevi'it*; buying the produce constitutes forbidden transaction with *shemita* produce; vegetables (not fruit) are forbidden owing to the *sefichin* prohibition. See *Mishpat Kohen* §76, stating that one should not rely on the assumption that most land is sold, but should make inquiries if possible. *Yaskil Avdi* (VII, YD §36) rules accordingly. However, *Yalkut Yosef* (1:10) is lenient for guests invited to a religious family that also buys produce from stores that do not observe *shemita*. This is because most vegetables come from permissible sources; only a small minority of Jewish farmers do not sell their fields (thus their vegetables would be considered *sefichin* and prohibited to eat). There is even more room to be lenient when it comes to fruit, where *sefichin* is not an issue. See also *Shabbat Ha'aretz* 8:10 §§1–2.
9. Since there is no prohibition to trade when there is *havla'ah*. See Chapter 9 §A.5.

even a more expensive product under the price of an inexpensive one.<sup>10</sup>

3. Grocers who sell both *heter mechirah* and *otzar beit din* produce should clearly separate both types of produce and label them accordingly.

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10. While there is a dispute regarding the optimal method of performing *havla'ah*, in the present case it is possible to be lenient, since this is only a *hiddur*. See *Shabbat Ha'aretz* 8:11 §2, 6:1 §3.5.

## Chapter 13

# Guidelines for purchasing fruits and vegetables

### A. General guidelines

1. Purchase fruits and vegetables only from places supervised by the local rabbinate or by one of the *shemitah* committees approved by the Chief Rabbinate.
2. Optimally, purchase produce sold through *otzar beit din* so one can eat *kedushat shevi'it* produce and strengthen the farmers who make special efforts to properly observe the *shemitah* year.
3. Nevertheless, it is halachically permissible *lechatchilah* to purchase vegetables from any place with certification that the land on which the produce was grown was properly sold to a non-Jews through *heter mechirah*. One need not worry about the prohibition of trading with *kedushat shevi'it* produce.
4. When purchasing *otzar beit din* produce, the *kedushat shevi'it* is not transferred to the money since the payment is not for the price of the produce. For this reason, consumers can pay in cash.
5. Several friends can make a large order from *otzar beit din* and divide the produce among themselves. When dividing up the produce, it may be weighed.<sup>1</sup> The money paid to the friend who bought the produce from the store does not become *demei shevi'it*.<sup>2</sup>
6. If one person buys a large quantity of groceries from *otzar beit din* and wants to sell whatever he does not need to a friend, the sale is permitted.<sup>3</sup> However, the seller is not allowed in this

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1. *Az Nidberu* X §45. See *Shabbat Ha'aretz* 6:3 §2 and n. 11.

2. Since one of the friends acts as the agent for the others, and the payment is to pay a debt and not for the price of the groceries.

3. Rambam 6:2.

case to weigh the groceries<sup>4</sup> and *kedushat shevi'it* is imparted to the money.<sup>5</sup>

7. The prohibition against dealing in *kedushat shevi'it* produce does not apply when purchasing additional, non-*kedushat shevi'it* items (*havla'ah*).<sup>6</sup> For this reason, it is permissible to purchase a product in a regular fashion when some, but not all, ingredients have *kedushat shevi'it*.<sup>7</sup> Likewise, it is permissible to buy catered food that uses *kedushat shevi'it* produce.
8. It is forbidden to buy agricultural produce from farmers who transgress *shemitah* prohibitions. Before purchasing groceries, it is important to check that the farmer indeed sold his land to a non-Jew, or that he works and sells produce through other halachically permissible procedures.
9. Customers who want to be stringent, and handle produce as sacred even after the land was sold to a non-Jew, can nevertheless buy the produce in a regular manner.<sup>8</sup> It is not considered that the buyer is "placing a stumbling block before

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4. Ibid., 6:3.

5. Ibid., 6:8. See Chapter 9 §C.1.

6. See Chapter 9 §C.13.

7. Rabbi Frank, *Kerem Tziyon*, ch. 17, *Gaon Tzvi* §1; his rationale is that this is considered *havla'ah*. However, some maintain that it is not considered *havla'ah*. This is the opinion of Rabbi Avraham Menachem Steinberg (5607–5688, Brody, Ukraine), Beit Ridbaz, *Mishmeret Lehabayit* 23a. Rabbi Eliahu rules accordingly. See also *Shabbat Ha'aretz* 8:11 §2.2.

8. *Mabit* (I §21, s.v. *vegam*) permits Jews to buy from other Jews produce grown by non-Jews. This is although he maintains that such produce has *kedushat shevi'it*, so the money from the transaction would become sacred. The reason for this is that the Jewish seller follows the halachic opinion that such produce is indeed not sacred, so the money would not become sacred as a result of the transaction. This action is permitted and is not considered "placing a stumbling block before a blind man," since the seller bases his actions on solid halachic opinions. *Ketav Sofer* (§77) writes that a person who is stringent and avoids eating a certain food may nevertheless give it to someone else who is lenient about this particular *halachah*. Although the former holds that the food is prohibited, this does not constitute the prohibition of placing a stumbling block before a blind man.

a blind person" or giving *demei shevi'it* to those who will not handle the money properly due to ignorance.<sup>9</sup> This is because the vendors are following the majority halachic opinion that *heter mechirah* voids the produce of its sanctity.<sup>10</sup>

## **B. Guidelines for purchasing fruit**

1. Fruit from the sixth year (see Appendix A) can be purchased without limit.
2. Fruit that belongs to the *shemita* year (see Appendix A) should be purchased in places with certification stating that the fruit came from farmers who work in a halachically permissible fashion. One should check for this certification through the spring of the eighth year.

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9. See *Shabbat Ha'aretz* 8:11 §3 and n. 18. Rabbi Eliahu notes that some make payments in ways that ensure that the money does not become *demei shevi'it*. *Minchat Shlomo* §44 (and *Kerem Tziyon* 19:5) writes that the custom is to be lenient with regard to *shamur* and *ne'evad*. In his opinion, it is permissible to purchase fruits and vegetables that are not *sefichin*; this does not constitute "placing a stumbling block before a blind man" or giving *demei shevi'it* to an ignoramus, even if the produce is weighed and measured and transacted with. In *Iggerot Moshe, OC I* §186 on *shemita etrogim* from 5712 grown in groves sold to a non-Jew and exported to the United States, quotes a certain rabbi who maintains that it is prohibited to buy them, and one who does so is considered one who violates *Shabbat* in public. Rabbi Moshe Feinstein writes that the *etrog* should be purchased by means of *havla'ah* with the *lulav*. Since those who permit exporting *heter mechirah* rely on guidelines of halachic authorities, this does not constitute a violation of *shemita* laws and one may purchase such *etrogim*. See *Shabbat Ha'aretz* 8:14 §7; 6:1 §6, n. 55. It is also permissible to sell agricultural work tools to those who rely on *heter mechirah*. See *Shabbat Ha'aretz* 8:2 §9.1, 8:8 §6 and n. 29.

## Chapter 14

# ***Otzar Ha'aretz* – the optimal way to observe *shemitah***

### **A. Introduction**

This *shemitah* year, 5782 (2021–2022) as in previous *shemitah* years, Torah VeHa'aretz Institute runs a program called *Otzar Ha'aretz*. This is based on the laws governing *otzar beit din* (see Chapter 11 §B.1) in such a way that all of the intricate *halachot* relating to the manner of handling the produce, its sale, and consumption are observed in full under the supervision of the rabbinical court. *Otzar Ha'aretz* encourages Jewish, Torah-observant agriculture of all forms and believes that it is a tremendous privilege and *hiddur* to make the effort of eating the *kedushat shevi'it* fruit of the Land of Israel during the *shemitah* year.

### **B. Sources of *Otzar Ha'aretz* produce**

1. Vegetables stored/refrigerated that belong to the sixth year (*isum shishit*).
2. Vegetables and fruit that have *kedushat shevi'it* (*olei Bavel* and *olei Mitzrayim* territory).
3. Vegetables grown in hothouses on detached platforms.
4. Vegetables grown in the Aravah,<sup>1</sup> sold through *heter mechirah lechumrah* (the strict interpretation of *heter mechirah*, based on Rabbi Kook's ruling; see the map in Appendix G). In these areas, planting and sowing are performed by non-Jews, some in open fields and some in regular hothouses (not on detached platforms).

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1. According to some *posekim*, part of the Aravah is even outside of the *olei Mitzrayim* territory (yet part of the territory promised to *Avraham Avinu*, a.k.a. *gevulot hahavtachah*, which was never sanctified). For this reason, the laws governing this area are less strict than those in the Western Negev. See Chapter 11, n. 11.

5. Vegetables grown in the *olei Mitzrayim* territory (Western Negev), including *heter mechirah lechumrah* (according to Rabbi Kook's ruling; see the map in Appendix G). In these areas, planting and sowing are performed by non-Jews, some in open fields and some in regular hothouses (not on detached platforms).
6. Vegetables that are generally bought from non-Jews during non-*shemita* years, when all other options are unavailable.
7. Imports, when all other options are unavailable.

### **C. Produce with *kedushat shevi'it***

1. Vegetables planted during the sixth year and harvested during *shemita* (in open fields in *olei Bavel* territory).
2. Vegetables planted during the sixth year and harvested in hothouses in *olei Bavel* territory are handled as sacred *lechumrah*.<sup>2</sup>
3. Vegetables planted in the sixth year in the Western Negev and Southern Arava (*olei Mitzrayim*) in open fields or hothouses and harvested during *shemita*. This produce is handled as *kedushat shevi'it lechumrah*.<sup>3</sup>
4. Fruit that began to form during the *shemita* year (see Appendix A).
5. Other fruits and vegetables (from the sixth year, detached platforms, vegetables planted during the *shemita* year through *heter mechirah* in open fields or hothouses in *olei Mitzrayim* territory, fruit from *heter mechirah* orchards) that do not have *kedushat shevi'it*.<sup>4</sup>

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2. In regular hothouses, *kedushat shevi'it* applies due to doubt. However, crops grown in hothouses on detached platforms are not sacred. See Chapter 3 §B.

3. See Chapter 2 §A.3, that *kedushat shevi'it* applies to *olei Mitzrayim* territory owing to doubt. Although there are two doubts involved for hothouses in *olei Mitzrayim* areas, we nevertheless treat these crops as sacred owing to doubt.

4. *Otzar Ha'aretz* does not sell *heter mechirah* produce for vegetables grown in open areas or hothouses in *olei Bavel* areas during the *shemita* year. Fruit from *olei*

#### **D. Food supply chain: an overview**

1. Throughout all years, the food supply process includes the following components:
  - a. Farmer
  - b. Wholesaler
  - c. Retailer
  - d. Customer
2. During the *shemitah* year, too, this chain is necessary for supplying food to the entire population. However, the regular mode of transaction cannot continue as usual due to the sanctity of the produce. Thus, the parties involved need to follow the appropriate halachic guidelines, as detailed below.

#### **E. Farmers**

1. The rabbinical court attempts to appoint Torah observant farmers or farmers that might not be Torah observant in general, but are interested in observing *shemitah*.
2. Farmers sign a contract with the rabbinical court, stating that they are now the court's agents and commit to following the guidelines of the rabbinical court. This also includes non-*shemitah* issues, such as *Shabbat* observance, *kila'im*, *orlah*, *terumot* and *ma'aserot*.
3. Farmers declare their fields to be ownerless through a notice they send to the rabbinical court.
4. Farmers may perform all activities necessary to save plants or trees from dying (*ukmei ilana*), including acts necessary to

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*Bavel* territory is generally through *otzar beit din*, not *heter mechirah*. Will *Otzar Ha'arezt* sell *heter mechirah* fruit from *olei Mitzrayim*, the Western Negev, or the Aravah areas? Last *shemitah* year, 5775, this was not a question, since few places grew fruit in these areas (some citrus in Cholut Chalutzah, dates in the Aravah). Should this produce be relevant in *shemitah* of 5782, it will be a second option. For instance, we prefer bringing dates from the Jericho region, where there is *kedushat shevi'it*, rather than from the Aravah.

tend to the fruits or vegetables (*ukmei peira*), but not activities that increase plant growth (*avruei ilana*).

5. Before the crops leave the farm, farmers mark their merchandise and note its halachic status.
6. Farmers are paid according to an average of their expenses, as posted by the Ministry of Agriculture, plus a salary as agents of the rabbinical court, upon court directives. This amount is limited to the maximum rate posted by the Ministry of Agriculture and does not exceed it. The payment is made for actions that are performed from the moment of the signing of the contract with the rabbinical court.
7. Detailed instructions regarding permitted and forbidden procedures, as well as the contractual conditions between the farmer and rabbinical court, are provided directly to each farmer.

## **F. Wholesalers**

Wholesalers are agents of the rabbinical court. Their function is to receive the merchandise from farmers and distribute it to store owners. In addition, they receive the payment for the farmers' expenses from the court and transfer it to them. Wholesalers receive crops only from farmers who contracted with the rabbinical court. Furthermore, they distribute all of the produce to the *Otzar Ha'aretz* grocery stores, including produce without *kedushat shevi'it*.

## **G. Retailers**

Retailers are the rabbinical court's agents who distribute the merchandise. They sign a contract with the rabbinical court to this effect. The price given to retailers is generally fixed for two weeks at a time, according to the rabbinical court's guidelines.

## **H. Produce**

1. An effort is made so that produce with *kedushat shevi'it* need not be weighed out. Rather, it is sold in packages with a predetermined weight (each package is marked with a barcode).

2. The packages consist of bags with an estimated weight of 1 kg (up to 50 g more or less).
3. Individual fruits or vegetables whose weight exceeds 1 kg (watermelon, cantaloupe, etc.) and produce generally purchased in small quantities (kohlrabi, etc.) are marked with barcodes and sold in units, but according to weight.
4. Unsold *kedushat shevi'it* produce left over in the shops is set aside in a designated area in the store.
5. Regular produce (devoid of *kedushat shevi'it*) is sold as usual (weighed, payment for the produce, etc.).

### **I. Supervision**

1. A supervision system is set up in the areas where crops are grown. All merchandise leaving these areas must be marked with a kashrut certification.
2. Likewise, a supervision system is set up in the wholesale warehouses to check the marked merchandise received. It then prepares produce for each final destination, according to its needs.
3. A supervision system is set up in the grocery stores (1) to prevent wares from being mixed up, and (2) to ensure the application of the prices set by the rabbinical court.

### **J. Payment**

1. Payment is meant to cover the expenses of the rabbinical court and its agents (farmers, wholesalers, and retailers).
2. The rabbinical court has special expenses due to the *shemitah* year, including: actions performed twice (such as early pruning or pruning in the summer and winter), and expenses for supervision in the field, packaging, marking produce, and transportation to supervised warehouses.
3. Thus, the overall cost of growing and supplying *Otzar Ha'aretz* fruits and vegetables **is considerably higher** than that of non-*Otzar Ha'aretz* produce.

4. For this reason, the price of the produce sold at *Otzar Ha'aretz* groceries **is not considerably less expensive** than the regular price of non-*kedushat shevi'it* fruits and vegetables in the marketplace (although customers only reimburse the expenses of the rabbinical court and the rest of the food supply chain, and not the full price that includes profit for the farmer, wholesaler, and retailer). At times, the price will even be identical to regular produce. Note that often, owing to the multiple, precise guidelines given by the rabbinical court regarding the permissible care for trees and fruit, and to the fact that procedures for enhancing plant growth (*avruyei ilana*) are forbidden, the quality of the *kedushat shevi'it* fruits and vegetables may be somewhat inferior to regular produce.
5. Payment for produce with *kedushat shevi'it* is transferred to the rabbinical court, which uses it to pay the farmers, wholesalers, and retailers for their expenses.
6. Members of *Otzar Ha'aretz* receive membership smartcards, which they use to purchase groceries with *kedushat shevi'it*. Non-*kedushat shevi'it* produce is bought as usual.
7. Upon registration with *Otzar Ha'aretz*, members pay a fixed sum, which they estimate they will spend on groceries before the onset of *shemita* year. Besides granting *Otzar Ha'aretz* membership, this sum becomes the members' debit account for *kedushat shevi'it* produce (divided into equal parts for each month; cards can be charged with additional sums as well).
8. Since this money is paid in advance, it is used to support farmers growing produce on the public's behalf before the onset of the *shemita* year, granting them peace of mind and financial security. Furthermore, it gives the rabbinical court an idea of the number of expected buyers, helping it plan the desired quantity of produce to supply to the *Otzar Ha'aretz* grocery stores.

### **K. Flowers**

*Otzar Ha'aretz* also sells flowers in bouquets one day a week. It also sells flowers directly to halls throughout the week.

### **L. Public kitchens**

*Otzar Ha'aretz* sells produce to several catering companies and educational institutions.

### **M. Website**

*Otzar Ha'aretz* has a website that provides all of the important information for consumers including: location of stores, prices, halachic responsa, halachic guidelines for using the *kedushat shevi'it* produce, and public inquiries. Members can also charge their membership cards on the website.

### **N. Halachic advantages of *Otzar Ha'artez***

1. As mentioned above, the sales and distribution system for *kedushat shevi'it* produce is completely different from that for non-*shemitah* years. The payment to farmers is made to cover the expenses as posted by the Ministry of Agriculture, not according to market value.
2. Merchandise distributed to consumers is conspicuously marked to be handled as having *kedushat shevi'it* so that the produce's sanctity is emphasized.
3. All agricultural activities performed during the process of crop cultivation, distribution, and sales are approved by the rabbinical court.
4. The sale of all fruits and vegetables, even those without *kedushat shevi'it*, places a major emphasis on Jewish agriculture, with only minimal reliance on crops grown by non-Jews. In this way, those who consume *Otzar Ha'artez* produce strengthen Jewish agriculture in the Land of Israel and enjoy eating *kedushat shevi'it* produce grown by Jews: "and let your brother live alongside you" (*Vayikra* 25:36).

## Chapter 15

**Arba minim****A. Tending to the *arba minim***

1. One should try to perform all pruning activities necessary for the *arba minim* before *Rosh Hashanah* of the *shemita* year and after *Rosh Hashanah* of the eighth year.
2. *Etrogim*
  - a. The training system should be prepared during the sixth year.
  - b. It is permitted to prune thorns that harm the *etrogim*.<sup>1</sup>
  - c. It is permissible to prune leaves that might create spots (*bletlach*, caused by spots from leaves leaning on a growing *etrog*) that will make the *etrog* non-marketable.<sup>2</sup>
3. *Hadasim*  
*Hadasim* should not be burned or trimmed during the *shemita* year.<sup>3</sup> However, during the harvest performed for *Sukkot*, it is possible to trim *hadasim* as low as possible, even during the *shemita* year.<sup>4</sup>

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1. *Hilchot Shevi'it* (§1, *Kisse David* §32) expressly permits such *etrogim*. The reason for this *heter* is that for regular fruits, clipping thorns is considered *avruei peira*: if thorns puncture fruit, it merely prevents the fruit from being complete and beautiful. For *etrogim*, however, this act is considered *ukmei peira*, since thorn punctures can invalidate them. See also Rabbi Elyashiv, *Halichot Sadeh* 50, pp. 8–9, who deliberates with regard to *etrogim*. See also Rabbi Goren, *Me'orot*, Chief Rabbinate of Israel publication, 5740 1, p. 22 and *Shabbat Ha'aretz* 1:5 §16.
  2. This trimming is not performed to enhance plant growth but rather to prevent the fruit from being harmed.
  3. The purpose of pruning and burning is to increase plant growth and enhance the growth of the *hadasim*. This action is prohibited during *shemita*. See Chapter 1 §D and *Shabbat Ha'aretz* 1:20 §1.
  4. Since the purpose of harvesting the *hadasim* is for a *mitzvah*, it is permissible to cut the *hadas* at a lower point than it is usually harvested on non-*shemita* years.

4. *Aravot*

- a. *Aravot* should be clipped before *Sukkot* in a way that is not the best for the tree, such as unorganized trimming.
- b. *Aravot* should not be trimmed to enhance branch growth before *Rosh Hashanah* of the eighth year.

**B. *Kedushat shevi'it***

1. *Etrogim* harvested for *Sukkot* have *kedushat shevi'it*. This is true for *etrogim* harvested during the *shemita* year and the eighth year.<sup>5</sup>
2. It is permissible to use an *etrog* with *kedushat shevi'it* for the *arba minim* although it somewhat harms its peel.<sup>6</sup>

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After inquiries with several growers, it seems that harvesting in this fashion is sufficient to receive a reasonable yield following the *shemita* year.

5. Rambam 4:12; *Shabbat Ha'aretz* 4:12 §§5–8. *Etrogim* generally reach the stage of *chanatah* during the summer and are harvested a few months later, during *Tishrei* (which is a different halachic year), before *Sukkot*. For *etrogim* we are stringent, and follow the laws governing trees (*chanatah*, the beginning of the fruit's formation determines its *kedushat shevi'it* status, which continues into the eighth year) and also those governing vegetables (where *kedushat shevi'it* is determined at the time of harvest). That is, on *Sukkot* of the *shemita* year the *etrogim* would have *kedushat shevi'it* since they were harvested during *shemita*; during the eighth year, they would have *kedushat shevi'it* since they began to develop during the *shemita* year. However, if the *etrogim* were harvested at the end of the sixth year before *Rosh Hashanah*, they certainly would not have *kedushat shevi'it*. It is also possible that there are *etrog* orchards sold through *heter mechirah*, in which case the *etrogim* would not have *kedushat shevi'it*. The rationale behind considering *etrogim* as vegetables is that like vegetables, they require plentiful water and depend on rain or irrigation. Furthermore, they are vulnerable and require constant care until harvest.
6. *Sukkah* 39a explicitly permits using a *kedushat shevi'it etrog* for the *arba minim*. In contrast, in *Sukkah* 35b, the Sages prohibit using a pure *terumah etrog* for this purpose since this may either cause it to contract impurity or become ruined. Rashi explains that handling the *etrog* causes its outer peel to deteriorate and directly devalues (causes *hefsed*) the *terumah*. The *Acharonim* ask why, then, it is possible to use a *kedushat shevi'it etrog* for the *mitzvah* of the *arba minim* even though the peel is ruined in the process. The *Ridbaz* (*Beit Ridbaz* 5, end of §1) answers that normal use of an *etrog* for the *arba minim* causes a type of *hefsed*

3. *Lulavim* and *aravot* do not have *kedushat shevi'it*. Some maintain that *hadasim* do.<sup>7</sup>

### C. Buying and selling the *arba minim*

1. While fruit that is safeguarded or for which prohibited activities are performed (*shamur* and *ne'evad*, respectively, see Chapter 8) may be eaten, one should purchase the *arba minim* only from growers who raise them in a halachically permissible fashion, since:
  - a. It is permissible to purchase *etrogim* only from those who grow and sell them acting as rabbinical court agents or through *heter mechirah*.
  - b. One should avoid purchasing the *arba minim* from people who sell them in a prohibited manner.<sup>8</sup>

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that is permitted (but this is nevertheless prohibited for *terumah*, since there is an additional *mitzvah* of safeguarding the *terumah*, *shemirah*). However, it would be prohibited to aggressively rub *kedushat shevi'it etrogim*. The Aderet (*Beshemen Ra'anan* II, p. 212 §43) comments that the directive "for eating but not for destroying" permits a small loss if the alternative is a great loss. Indeed, if we do not permit a small loss in slightly ruining the peel, we will be left with the major loss of not being able to use an *etrog* during two consecutive years! He adds that the amount of peel destroyed is less than a *kezayit*, which is permitted for *kedushat shevi'it* produce (while for *terumah* and *ma'aser sheni*, even causing *hefsed* of less than a *kezayit* is prohibited). *Har Tzvi* (*Zera'im* 8:2 §54) notes that in this case, the *etrogim* were specifically planted to be used as one of the *arba minim* and not for eating, so the prohibition of "for eating but not for destroying" does not apply; see also *Kerem Tziyon* ch. 14, *Gidulei Tziyon* §1.

7. Since they maintain that *hadasim* are also grown for their pleasant aroma. See Chapter 5 §B nn. 12–13 and Chapter 23 §4.
8. It is forbidden to purchase an *etrog* from someone who transacts with them in a forbidden fashion, since it is forbidden to purchase any agricultural produce from someone suspected of engaging in forbidden transactions with *shemittah* produce. For more on this issue, see Chapter 9 §A.4.

2. Optimally, *etrogim* sold through the *otzar beit din* should be sold at a fixed price, regardless of whether they are of standard or *mehudar* quality.<sup>9</sup>

#### **D. Terumot and ma'aserot**

1. For *etrogim* that reach *chanatah* during the sixth year and are harvested during *shemita*, *terumot* and *ma'aserot* should be separated without a blessing (to account for the opinions that the *etrog's* status is determined only by *chanatah*).
2. In contrast, *etrogim* that reach *chanatah* during *shemita* and are harvested during *shemita* are exempt from *terumot* and *ma'aserot*.
3. For *etrogim* harvested during the eighth year, *terumot* and *ma'aserot* should be separated without a blessing (even though they have *kedushat shevi'it*; see above §B.1).<sup>10</sup> Nevertheless, one should still give *ma'aser rishon* to a *levi* so that there will be no question that the *etrogim* belong to the owner.<sup>11</sup>

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9. Rabbi Eliahu rules that it is possible to charge an extra fee for the *mehadrin etrogim*, as payment for sorting and checking all of the *etrogim*, since these expenses were incurred on account of these *etrogim*. This is the ruling of Rabbi Ariel, "*Hiddur mitzvah for etrogim*," *Emunat Itecha* 107 (5775), p. 68.
  10. An *etrog* harvested during the eighth year is subject to *terumot* and *ma'aserot* according to Rambam 4:12 (Me'iri, *Sukkah* 39b, s.v. *etrog*, on Rambam's opinion). For this reason, these should be separated without a blessing: *Betzet Hashanah* p. 57 §6. See also *Shabbat Ha'aretz* 4:12 §§5, 7.
  11. Rabbi Eliahu based on Tosafot, *Pesachim* 38a, s.v. *atiya*; *Sukkah* 35b, s.v. *atiya*. The obligation is to take an *etrog* "for yourselves"; if part of the *etrog* should have been given to a *levi*, the entire *etrog* does not belong to the *etrog* owner. The *chiddush* here is that even for *etrogim* harvested during the eighth year, it is important to make sure the *ma'aser rishon* is actually delivered to a *levi* (*netinah*), despite the doubt whether we are obligated to separate *terumot* and *ma'aserot*. Because of this doubt, one might think that there is no obligation of *netinah* due to the rule "*hamotzi mechaveiro alav hara'ayah*" (the *levi* must prove that there is an obligation to separate *terumot* and *ma'aserot* even in this case according to all halachic opinions, but he cannot do so, since there is a halachic dispute on the matter). That is, while in cases of *safek tevel* (halachic or factual doubt whether produce was tithed) there is no obligation to give the *ma'aser rishon*, since this is

## E. Exportation

1. It is permissible to export *etrogim* for the *mitzvah* of the *arba minim* after the time of *bi'ur*<sup>12</sup> or well before the time of *bi'ur*, when it is clear that the fruit will not last outside of Israel until the time of *bi'ur*. After *Sukkot*, it is recommended to eat the *etrogim* (e.g. as jam or another dish) before the time of *bi'ur*.<sup>13</sup>
2. *Lulavim*, *aravot*, and *hadasim* may be exported abroad as usual, as in non-*shemitah* years.

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a financial matter; see *Hilchot Ha'aretz, Terumot* and *Ma'aserot* 15:4 (soon to be published in English). For *etrogim* that might be *tevel*, however, there is nevertheless an obligation of *netinah*: the *etrog* must completely belong to the owner (*lachim*), and this is a matter of halachic prohibition.

With regard to giving *ma'aser ani* or *ma'aser sheni* for *etrogim* harvested from *Rosh Hashanah* to 15 *Shevat* of the eighth year, see Chazon Ish (9:14 §38a, s.v. *yoreh de'ah*), who maintains that one should separate *ma'aser sheni*. See also *Atah Or* §13, who maintains that *ma'aser ani* should also be separated due to doubt.

12. This time is when the fruit is no longer found on trees. For *etrogim*, *bi'ur* time is generally mid-April during the eighth year; this *shemitah* year, the *bi'ur* deadline is late *Nisan* 5783-2023 (see Appendix A).
13. For the various opinions on this question, see *Shabbat Ha'aretz* 5:13 §1.



## Part III

# Kitchen Management

Guidelines for public and private  
kitchen management when using  
produce with *kedushat shevi'it*.



## Chapter 16

### Processing food during the *shemita* year

#### A. Halachic principles

1. It is forbidden to change *shemita* produce from its original form.<sup>1</sup> What this means is that the form of this produce should not be unconventionally altered by processing; this is true for each type of produce individually. It is permissible to process food in any way that is considered conventional for most Israelis, at least once in a while,<sup>2</sup> and in ways that large sections of the population often process this food, even if a minority

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1. Rambam 5:3. See also *Mishpat Kohen* §85. This *halachah* is relevant to the laws of *shemita*, *terumah*, and *ma'aser sheni*: one may not change their original form. It is also relevant to the laws of *berachot*, since food that is significantly changed when processed loses its original blessing and only *shehakol*, a general blessing, is said.
  2. Radbaz (*Ma'aser Sheni* 3:11) and *Aruch Hashulchan* (§24:9) maintain that we follow what the conventional use is (*derech ha'olam*, the way of the world), even if this is not the primary use of the produce. For this reason, *Aruch Hashulchan* permits preparing beer and liquor from grains, and the Radbaz permits anointing with oil, even if the oil is primarily used for food consumption. This principle is also implied by the *Mishnah Berurah* §205:3 vis-à-vis blessings: the *Shulchan Aruch* states that if a vegetable tastes better cooked than raw, when cooked its blessing is *ha'adamah*, while in raw form it is *shehakol*. *Mishnah Berurah* adds that if the vegetable is also eaten by most people when raw, it would nevertheless be *ha'adamah*. This implies that if most people also use a given vegetable for its secondary purpose, it is still considered a standard use. On squeezing oranges for juice, Chazon Ish (§25:32, s.v. *veyeish*) is unsure whether one should follow the majority use of the produce (if the fruit is generally eaten and not squeezed, it is forbidden to juice it during *shemita*) or a significant minority use (*mi'ut matzuy*) of the practice. In the latter case, only fruits where at least a significant minority of their use is juicing may be squeezed/juiced during *shemita*. Otherwise, we would follow what most people would want; for instance, most people want to drink orange juice, so squeezing oranges would not be considered an unusual use. Thus, oranges are considered "earmarked for squeezing." Rabbi Kook (*Mishpat Kohen* §85) rules that the conventional use follows the majority use of any given type of produce. See also *Shabbat Ha'aretz* 5:3 §4.

group.<sup>3</sup> The standard convention needs to be reevaluated each *shemita* year. Assessments from previous *shemita* years are insufficient.

2. It is possible to be lenient when it comes to standard processing methods for foods only in specific sections of the general population, such as the ethnic dishes of a particular group.<sup>4</sup>
3. Methods for food processing considered conventional only among vegetarians and vegans, who employ these means for health reasons, do not fall under the umbrella of "conventional use of *shemita* produce."<sup>5</sup>
4. If it is apparent that if one does not process a certain type of produce unconventionally it will be thrown away (such as in a private garden declared ownerless where people do not come to harvest the fruit, or Grade B produce that is unmarketable), it may be processed in this manner to prevent it from going to

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3. According to *Chayei Adam* 1 §51, *Nishmat Adam* §1.

4. There are several Talmudic and halachic discussions that deal with the local conventions of a particular place and to what extent they influence the rest of the world. See *Shabbat* 144b; Rambam, *Kila'im* 5:18; Tosafot, *Shabbat* 92b, s.v. וְאֵתֵּלַל (ve'im timtzi lomar), *Magen Avraham* §320:1; Chazon Ish, *ibid.*, s.v. uvekol. See also *Chukkot Ha'aretz* 5:18 §§1–2.

5. See previous note. See *Mishpatei Eretz* 22:4 on Radbaz I §44: some people consume rose essence (rose petal extract) for health reasons, but this does not define the plant as a fruit tree but rather as a medicinal tree. This is implied by Remah, *OC* §320:1: even if certain fruits are generally squeezed for medicine and not drinking, use as a medicine is nevertheless not considered conventional use for *shemita* purposes. However, the above sources discuss healthy people who eat certain foods for health considerations, in which case this would not be considered the conventional use. However, if we are discussing a defined group of people who adopt certain eating habits to pursue a healthier diet, it might be possible to define them as an ethnic group. That is, if this group of people generally uses or processes a particular type of produce in a specific fashion, it would be considered a conventional use. This issue requires further investigation. In any case, even when eating or drinking a certain food for medical reasons, one should nevertheless say a blessing on it. See *Shulchan Aruch, OC* §204:8.

waste.<sup>6</sup> For produce sold through *Otzar Ha'aretz*, consult with a competent halachic authority.

## **B. Peeling**

1. It is permissible to peel fruits and vegetables such as cucumbers and carrots, even though their peels are edible.<sup>7</sup> It is also permissible to remove less desirable parts (such as outer leaves of cabbage).<sup>8</sup> One should, as far as possible, avoid peeling edible parts of fruits and vegetables,<sup>9</sup> even if the peels are discarded in a special bag or container.
2. Fruits and vegetables that are not usually peeled, such as tomatoes and apricots, may be peeled as long as part of the fruit is peeled with them and set aside in a designated place.<sup>10</sup>
3. It is permissible to peel fruit with scale insects or other pests stuck to the peel, to avoid eating insects. For the proper way to handle peels, see Chapter 18 §B.1.

## **C. Mashing, crushing, and grating**

1. Mashing and crushing *kedushat shevi'it* produce in a way that its original form is still discernible (such as mashed potatoes, bananas, or dates) is permitted even when the manner of

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6. This is the ruling of Rabbi Eliahu, since if it will spoil without this action, this is considered *darko*, the conventional manner. Rabbi Ariel rules accordingly, based on the rulings of Rabbi Avraham Steinberg and Rabbi Nachum Weidenfeld (*Beit Ridbaz, Mishmeret Lehabayit*, pp. 21–23). Rabbi Yisraeli rules that it is possible to be lenient only when performing this action indirectly (*grama*).

7. Chazon Ish §14:10, s.v. *nireh*; Rabbi Zilber, *Hilchot Shevi'it* §5, *Kisse David* §9; *Mishnat Binyamin* §42.

8. *Pe'at Hashulchan* §24:3 states that we are not obligated to eat the sections of vegetables that are generally cut off. This implies that it is permitted to cut off these parts. See also Rambam 5:3.

9. *Mishpat Kohen* §85; *Sefer Hashemitah* 7:3 §2, p. 31; *Kerem Tziyon* 14:2; *Mishnat Binyamin* §42 opines that one should not cut the peel with some of the flesh if this is only to finish peeling more quickly, or for any other reason.

10. *Peirot Shevi'it* 18:5, quoting Rabbi Elyashiv.

processing is unconventional.<sup>11</sup> The same holds for grating solid fruits and vegetables (such as carrots) with a grater.

2. Total crushing, when the form of the original produce is no longer discernable, (tomato sauce preparation) or grinding (flour from grains) is permitted, provided that this is the conventional way to process any given type of produce.<sup>12</sup>
3. Foods that are generally mashed, milled, or processed for babies may be prepared for them in these ways even if they are not generally prepared in these ways for adults.<sup>13</sup>

#### **D. Squeezing and juicing**

1. It is permissible to squeeze or juice fruits and vegetables when one of the ways that they are prepared is squeezing or juicing.
2. It is also permissible to squeeze or juice other fruits and vegetables if most people generally use their juice,<sup>14</sup> such as lemons,<sup>15</sup> oranges,<sup>16</sup> and grapefruit.<sup>17</sup> One may also be lenient with preparing apple juice, pomegranate juice, and the like. However, it is forbidden to prepare juice from fruits and vegetables not usually consumed as a drink.<sup>18</sup> The criterion is that a certain type of juice is sold in regular grocery stores; today there are more and more such juices. For this reason, it is permissible to prepare juice from the following: apples,

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11. Rambam, *Terumot* 11:2; *Pe'at Hashulchan* §24:4. See also *Mishpat Kohen*, *ibid.* and *Shabbat Ha'aretz* 5:3 §4, nn. 34–35.

12. Based on *Mishpat Kohen*, *ibid.*

13. *Mishpatei Eretz* 22:16 and n. 35, quoting Rabbi Elyashiv.

14. Rambam (*Ma'aser Sheni* 3:11) prohibits preparing juice from any produce other than grapes and olives. See *Katif Shevi'it* 62:20 n. 31.

15. Lemons are rarely eaten on their own; their general use is lemon juice. *Tosefta* (6:6) permits squeezing herbs, and lemons impart flavor like herbs. The following rule accordingly: Chazon Ish §25:32, s.v. *velimon*; *Kerem Tziyon* 13:8.

16. Chazon Ish §25:32, s.v. *omnam*; *Kerem Tziyon*, ch. 13, *Gidulei Tziyon* §2; Rabbi Auerbach: *Kerem Tziyon*, *ibid.* §1, *Minchat Shlomo* §46. See also *Mishpatei Eretz* 22:14.

17. Rabbi Eliahu forbids preparing apple juice from *kedushat shevi'it* apples.

18. *Kerem Tziyon* 13:8 on juicing carrots or tomatoes. This is Rabbi Eliahu's ruling.

carrots, tomatoes, cranberries, pears, passionfruit, grapefruit, tangerines, peaches, mango, strawberries, kiwi, mint (lemon-mint), pineapples, bananas, and cherries (and perhaps dates).

3. Today (as of 5781) there is an ever-growing practice of preparing smoothies and frozen yogurts (at home and industrially<sup>19</sup>) from a broad variety of fruits and vegetables that are generally not squeezed. These include: pears, dates, avocado, kale, beets, melon, cucumbers, celery, spinach, wheatgrass, and ginger, among many others. In light of this, people may blend fruits and vegetables to prepare shakes or frozen yogurt. However, other unconventional methods of crushing or otherwise processing such types of produce remain forbidden.
4. When squeezing, one should try to squeeze the entire fruit and avoid straining the edible pulp.<sup>20</sup> For this purpose, it is permissible to use home juicers with large holes.
5. It is forbidden to prepare alcoholic beverages by fermenting *kedushat shevi'it* fruit (except for wine from grapes and

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19. See smoothie menus of various smoothie and frozen yogurt companies, such as Rebar: <https://www.rebar.co.il/>; Tamara: <https://www.facebook.com/tamara.telaviv/>; and Shakeit (selling prepackaged frozen fruit and vegetable smoothie ingredients in supermarkets): <https://www.shakeit.co.il/>.

20. Chazon Ish §25:32; Rabbi Auerbach (*Kerem Tziyon* ch. 13, *Gidulei Tziyon* §1; *Minchat Shlomo* §46). See also *Mishpatei Eretz* 22:14.

raisins).<sup>21</sup> However, it is permissible to prepare liquor from citrus peels, myrtle berries and the like.<sup>22</sup>

### E. Cooking, frying, and baking

1. Fruits and vegetables that are generally only eaten cooked may not be eaten raw (such as: potatoes, sweet potatoes, eggplants, beets, pumpkin, peanuts, corn, and squash). Conversely, vegetables that are generally eaten raw (watermelon, cucumbers<sup>23</sup>) may not be cooked.<sup>24</sup>

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21. *Pe'at Hashulchan* (§24:4) rules that it is forbidden to prepare wine from apples or liquor from dates. See also *Shabbat Ha'aretz* 5:3 §4. However, if it is clear that a certain product is conventionally juiced in the drink industry, it seems that this would be permitted. On adding *kedushat shevi'it* cherries to wine to prepare cherry wine (vishniac), see *Hilchot Shevi'it* (§5, *Kisse David* §35), who writes that technically this is permissible, but stringent individuals should refrain from this. It seems that it is permitted to use *shemitah* wine to prepare cherry vishniac, since it enhances the taste of the wine. This is implied by *Mishpat Kohen* §85, who deals with the issue of *inomilin* (אינומילין), explained by various commentaries as a mixture of wine and honey, or wine, honey and pepper, or simply wine mixed with other ingredients).
  22. Citrus peels are generally meant for animal fodder; using them for human food enhances their status. This is why it is permissible to use the peels for this purpose, even though when the peels are soaked in alcohol they can no longer be used for anything. With regard to myrtle berries, they are not generally eaten and it seems that they, therefore, do not have *kedushat shevi'it* to begin with. Even if we say that they have *kedushat shevi'it* (see Bartenura on *Ma'aserot* 1:3, s.v. *vechol hashechorim*), this would only apply if the myrtles were planted or harvested for this purpose, when it would be permitted to use them in this way.
  23. It seems that pickling and cooking are two essentially different processes. While there are *halachot* that consider pickled foods cooked (*kavush kamevushal*), this has no bearing on *shemitah*-related laws. Therefore, while cucumbers are conventionally pickled, it is forbidden to cook them. This is the ruling of Rabbi Elyashiv, *Mishpatei Eretz* 22:3.
  24. Rambam 5:3. The rationale for this *mitzvah* is that preparing the fruit or vegetable in other than its standard form of consumption is considered deterioration - *hefsed* (and *shemitah* food may be eaten, but not destroyed: "ולא להפסד"). Some posit that there is a prohibition of changing the mode of regular consumption that is independent of the prohibition of *hefsed*; these *posekim* hold that there is a Scriptural decree to eat produce with *kedushat shevi'it* in

2. It is permissible to cook fruits and vegetables that most people eat both cooked and raw (such as apples, apricots, peppers, onions, cabbage, carrots, and tomatoes).
3. Fruits or vegetables generally eaten raw but also conventionally used as seasoning (such as tomatoes, pepper, almonds, and raisins) may be used for this purpose.<sup>25</sup>
4. After the cooking process is complete, these fruits and vegetables may not be discarded since they are edible and have *kedushat shevi'it* (scraps of these foods should be placed in the *shemita* bin; see Chapter 19). For this reason, it is also forbidden to squeeze them at this point (unless they are usually squeezed or juiced).<sup>26</sup>
5. It is permissible to add a slice of lemon to tea to enhance its flavor.<sup>27</sup> After drinking the tea, the lemon should not be discarded. If one is used to eating the lemon, it is best to either squeeze it or eat it.<sup>28</sup>
6. Herbs (such as tea leaves, mint, and tree woodworm) that grow in Israel may be used as a seasoning for a dish or to prepare tea. If the herb no longer imparts flavor after use, it may be discarded<sup>29</sup> or squeezed. However, if it can be reused (as is common practice with tea bags), it should not be discarded.
7. Frying, roasting, baking, toasting, and cooking are all considered the same form of food processing. Any food that is

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conventional manners only. See Rash 8:2, s.v. *yerushalmi*; see also *Shabbat Ha'aretz* 5:3, n. 2. About the conventional manner of food preparation only in a part of the general population, see above, §A.1-3.

25. *Mishpat Kohen* §85, based on *Pe'at Hashulchan* §24:15. See also *Shabbat Ha'aretz* 5:3 §5, nn. 42-43, 5:22, n. 3; *Mishpatei Eretz* 22:8.
26. *Kerem Tziyon* 13:5, 7; *Mishnat Yosef* I, p. 121.
27. *Hilchot Shevi'it* §5, *Kisse David* §34.
28. *Hilchot Shevi'it*, *ibid.*, notes that it is permitted to discard it, however it is best to be stringent and squeeze it thoroughly with a spoon before discarding it; in general, it is difficult to be lenient with lemons, since the taste of the lemon remains even after its use. See *ibid.*, §6, *Kisse David* §57.
29. *Rambam* 5:22. See *Shabbat Ha'aretz*, *ibid.*

generally prepared in one of these ways can be prepared in any of the other methods.<sup>30</sup>

8. Oil that has *kedushat shevi'it* may be used for frying.<sup>31</sup>
9. It is permissible to prepare jam from fruits that are conventionally used for this,<sup>32</sup> such as apricots and oranges.<sup>33</sup> It is also permissible to candy orange peels.<sup>34</sup>

## F. Additional food processing methods

1. It is permissible to pickle conventionally pickled vegetables (such as cucumbers).<sup>35</sup> It is also permissible to use natural vinegar with *kedushat shevi'it* since such use does not spoil it.<sup>36</sup>

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30. This is the ruling of Rabbi Eliahu; Rabbi Elyashiv is quoted as having the same ruling, *Mishpatei Eretz* 22:3. Rabbi Eliahu adds that it is forbidden to perform an unconventional action with the food that would cause other people to find it undesirable.
  31. *Mishpatei Eretz* 22:7 and n. 15, quoting Rabbi Elyashiv. Elsewhere (21:7 and n. 10) he is quoted that one should not oil a pan or tin with *kedushat shevi'it* oil to prevent foods from adhering to it, unless the oil is also meant to enhance the taste of the dish. Rabbi Eliahu is lenient in such cases.
  32. Chazon Ish (§25:32, s.v. *min*) permits preparing *pudilla*, which apparently is a type of jam. *Hilchot Shevi'it* (§5, *Kisse David* §18) adds that it is better to be stringent and require that the form of the original fruit be at least somewhat recognizable (just as we are stringent with blessings, where we say *ha'eitz* only with recognizable fragments of fruit in the mixture; *Shulchan Aruch, OC* §202:7, and *Mishnah Berurah*). This is the ruling of Rabbi Ariel.
  33. According to Rabbi Kook (*Mishpat Kohen* §§44–45; *Da'at Kohen* §240), it is forbidden to prepare jam from oranges since this is not widespread use of oranges; he only permits this for orange peels (these are often used commercially to prepare drinks, jams, and candy).
  34. *Mishpat Kohen*, *ibid.*; *Da'at Kohen*, *ibid.*
  35. *Sefer Hashemitah*, p. 29 §2; *Kerem Tziyon* 13:2. Chazon Ish (§14:12, s.v. *tanya*) adds that it is forbidden to pickle large quantities for long-term storage since it is considered commercial.
  36. This is the ruling of Rabbi Eliahu, who explains that Rambam (*Terumot* 11:4) forbids pickling onions in *terumah* vinegar only because the onion completely spoils the vinegar (see Radbaz, *ibid.*). However, when pickling vegetables in vinegar, the vinegar is not spoiled and can be reused, although this is not the usual practice. This is the ruling of Rabbi Yisraeli. See also *Hilchot Shevi'it* (§5, *Kisse*

2. It is permissible to freeze fruits, juices, and soups with *kedushat shevi'it* if this does not spoil them.<sup>37</sup>
3. It is permissible to dry fruits and vegetables that are usually dried<sup>38</sup> (tomatoes, grapes, figs, dates, plums, etc.).
4. It is permissible to can fruits and vegetables that are usually canned<sup>39</sup> (corn, apricots, etc.).

## G. Miscellaneous laws

1. If someone processes *kedushat shevi'it* produce in an unconventional manner (such as cooking, mashing, or squeezing), even when no one usually processes certain produce in that way, it is nevertheless permitted to eat the processed produce.<sup>40</sup>
2. It is permissible to mix foods with *kedushat shevi'it* with other, non-*kedushat shevi'it* foods, even if the *kedushat shevi'it*

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*David* §40), who permits pickling in vinegar since it is generally used for pickling and is not normally consumed on its own, as it was in *Chazal's* time.

37. This is the ruling of both Rabbi Yisraeli and Rabbi Eliahu. They reason that even if these products are not edible when frozen, freezing them is permitted since a reversible change is not considered spoiling the food. *Aruch Hashulchan* (24:8) states that it is forbidden to congeal drinks. Rabbi Elyashiv, however (qtd. in *Mishpatei Eretz* §22, n. 29) permits this, as coagulating increases a drink's importance.
38. *Tosefta* 6:29, 8:2, 4:16; see *Tosefta Kepeshutah* pp. 541, 571. This is permitted even when performed directly and not only indirectly via sunlight. See *Shabbat Ha'aretz* 5:3 §4 and n. 28.
39. Canning produce is considered pickling and is permitted for conventionally canned foods. If the canning process includes cooking, this is permitted for foods that are generally prepared in this manner. Rabbi Ariel adds that when there are leftovers of a particular fruit or vegetable and one is concerned that they will be discarded unless canned, it is permitted to can them even if it is not a food that is generally preserved in this way.
40. *Pe'at Hashulchan* §24:4. According to Rabbi Kook (*Mishpat Kohen* §85, s.v. *umah shekatuv*), it is possibly even a *mitzvah* to eat the food in this state, so that it will not spoil or be thrown away.

becomes nullified in this way.<sup>41</sup> However, this is forbidden if one's intention in doing so is to nullify the *kedushat shevi'it*.<sup>42</sup>

3. When preparing dishes from *kedushat shevi'it* produce, it is permitted to weigh and measure it in any manner, since this measurement is not performed for transaction.<sup>43</sup>

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41. Rabbi Frank, *Kerem Tziyon*, ch. 13, *Gaon Tzvi* §2; Rabbi Auerbach (*Kerem Tziyon*, *ibid.*, *Gidulei Tziyon* §1, *Minchat Shlomo* §46) writes that the prohibition of *hefsed* is not a result of the food's sanctity (as is the case with *terumah*), but rather of the produce being rendered ownerless. Therefore, people only have the privilege of taking this produce if they intend to eat it, not to waste it. At the same time, there is no biblical obligation to eat this produce in its sacred state. For this reason, it would be permitted to mix it with non-*kedushat shevi'it* food (thereby nullifying its sacred status, if it is a minor component of the mixture).

Some forbid this: Rabbi Yisraeli, and as implied by: *Pe'at Hashulchan* §27:45; *Ridbaz* §7:11, s.v. *vehineh*; and *Chazon Ish* §13:8. See also *Shabbat Ha'aretz* 5:3, nn. 17–18.

42. Since we may not nullify a *mitzvah lechatchilah* (*a priori*).

43. *Az Nidberu X* §45, who permits this at the end of his responsum. Weighing and measuring are forbidden only in the context of commerce. In contrast, weighing produce at home and other similar actions that are performed in non-commercial contexts are permitted. See *Shabbat Ha'aretz* 6:3 §2. On the prohibition of measuring, see Chapter 9 §B.

## Chapter 17

**Producing food at home****A. Wine**

1. Private individuals may harvest or buy an amount of grapes sufficient to prepare wine or grape juice for a year (approximately 70 bottles).
2. It is permissible to prepare wine employing all conventional methods (squeezing, cooking).<sup>1</sup>
3. The branches of the grapevine do not have *kedushat shevi'it*; however, if grapes are still attached to them they are sacred.
4. After the wine is filtered (solids are filtered from the liquid), it is permissible to prepare secondary wine, but it is not mandatory to do so.
5. The wine may be left to age as usual.
6. The solid residue has *kedushat shevi'it* since additional wine can be pressed from it. It should be handled accordingly.<sup>2</sup>
7. Wine may be pasteurized in a closed container.<sup>3</sup> However, wine should not be boiled merely to ensure that it will not be disqualified if touched by a non-Jew (*yayin mevushal*), since this adversely affects its taste.<sup>4</sup>
8. Wine should not be cooked, as this process reduces its quantity.<sup>5</sup> However, if cooking the wine enhances its quality,

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1. Rambam, *Terumot* 11:2.
  2. It is possible to leave grape residue uncovered all night. Afterwards, since they cannot be reused (along with other liquids left uncovered all night), they no longer have *kedushat shevi'it* and can be discarded. This follows Rash's opinion (8:2); note that many do not accept the leniency that keeping food uncovered at night voids its *kedushat shevi'it*. See *Shevet Halevi* 7:224.
  3. *Minchat Shlomo* §25, at the end; *Brit Olam* §5:47. Rabbi Eliahu rules that it is possible to pasteurize wine since this is the standard process of wine preparation today.
  4. *Mishpatei Eretz* 22:6. However, when done in ways that do not adversely affect the taste of the wine, it seems this should be permitted.
  5. Rambam, *ibid.*, 11:4; *Mishpat Kohen* §85, s.v. *upeirusho*. The phrase in the *Mishnah* is

one may be lenient.<sup>6</sup> It is permissible to use *kedushat shevi'it* wine to enhance the flavor of baked goods and drinks.<sup>7</sup>

## B. Oil

1. It is permissible to crush olives to produce oil.<sup>8</sup>
2. The olive waste does not have *kedushat shevi'it*.

## C. Home sprouting

1. It is permissible to sprout various plants indoors to eat them (such as sprouting lentils on a net), provided that the sprouting is performed in a bowl or other container without holes.<sup>9</sup> While sprouting, care should be taken to avoid mixing different types of sprouts or sprouting various types of plants in close proximity to avoid the prohibition of *kila'im*.
2. When sprouting for educational purposes (such as to show students how plants grow), it is permitted to do so indoors when the plants themselves are nested in containers without holes.

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*mipenei shemamito* (lit. "since this reduces it"). The *Yerushalmi* is uncertain whether this means that the action reduces the quantity of wine or the number of people that would want to drink it (since there are people who do not like cooked wine).

6. *Pe'at Hashulchan* §24:6 and n. 18; *Beit Ridbaz*, *ibid.*, §5:6, *Kerem Tziyon* 13:6; see also *Shabbat Ha'aretz* 5:3 nn. 46–48. They are lenient since there is no explicit *mitzvah* of eating *shemita* produce (as opposed to *terumah* and *ma'aser sheni*). For this reason, it would be permitted to reduce its quantity and thus also cook it. However, see *Hilchot Shevi'it* §5, *Kisse David* §§38–39.

From here, we can conclude that fruits and vegetables that are eaten both raw and boiled should not be cooked in a way that reduces their volume, as by steaming them without water, unless this substantially enhances them. This is implied by *Mishpat Kohen* §85.

7. *Mishpatei Eretz* 22:7.
8. Rambam, *ibid.* 11:2.
9. It is permitted because sprouting involves encouraging growth, and is not considered "wasting" the seeds or produce. While the act of sowing during *shemita* is generally forbidden, it is permissible when indoors and on detached platforms (a bowl is also considered a detached platform).

## Chapter 18

### Laws of *hefsed* – damaging *shemitah* produce

#### A. Halachic principles

1. The Torah states (*Vayikra* 25:6): "But you may eat whatever the land will produce during its Sabbath." *Chazal*<sup>1</sup> learn from here that *shemitah* produce may be eaten, and it is prohibited to spoil or otherwise ruin it. This prohibition is called *hefsed* (literally "loss").
2. The prohibition of *hefsed* includes:
  - a. Directly destroying the produce.
  - b. Using the produce for a more degraded purpose<sup>2</sup> than the usual, such as using human food for animal fodder<sup>3</sup> or preparing medication.<sup>4</sup>
  - c. Actions that make the produce disgusting to people (even if its form or appearance does not change).<sup>5</sup>
  - d. Eating in a gluttonous fashion.<sup>6</sup>
  - e. Some add: treating the produce contemptuously.<sup>7</sup>

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1. *Pesachim* 52b; Rambam 5:17; *Shabbat Ha'aretz* 5:3 §5. The prohibition against *hefsed* is also linked with the prohibition against altering food from its original form, as explained at length in Chapter 16.
  2. *Shenot Eliyahu* 8:2.
  3. See Chapter 19 §F.1.
  4. See Chapter 21 §C.
  5. *Mishpat Kohen* §85 based on Tosafot, *Ketubot* 30b, s.v. *lo*; *Torat Ha'aretz* 8:30 writes that as long as one does not completely spoil the food, the prohibition is only rabbinic; *Shabbat Ha'aretz* 5:3, n. 50. *Torat Ha'aretz* (8:46) writes that it is also prohibited to mix a bitter ingredient with *shemitah* produce that will render it inedible or edible only in extenuating circumstances.
  6. *Torat Ha'aretz*, *ibid.*
  7. This is Rabbi Eliahu's ruling. In his opinion, it is prohibited to handle *kedushat shevi'it* produce in a degrading manner even after it is no longer edible and no longer has *kedushat shevi'it*. At this point, though, it is permitted to spoil or destroy it.

3. Indirectly causing *hefsed* is permitted when the food would otherwise spoil on its own.<sup>8</sup>
4. There is no minimum quantity of *hefsed* for *kedushat shevi'it* produce; it is prohibited to destroy even the smallest amount.<sup>9</sup>

## B. Peels, shells, and pits

1. Peels that are fit for human consumption (such as apple, cucumber, and carrot peels) or animals (such as peanut shells) have *kedushat shevi'it*, even if one does not want to eat them and there is no animal around actually to eat the peels,<sup>10</sup> and it is forbidden to throw them in the garbage.<sup>11</sup> Rather, one should set them aside until they rot on their own. However, hard shells that are inedible even to animals (such as almond nutshells) may be discarded.<sup>12</sup>
2. Fruit seeds or pits that have residues of the fruit still attached (such as date, olive, peach, and plum pits) and seeds that can be eaten on their own (such as watermelon or pumpkin seeds) have *kedushat shevi'it*<sup>13</sup> and may not be discarded.

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8. Rabbi Frank, *Har Tzvi, Zera'im* II §54, quoting Ridbaz 5:1 (at the end). Chazon Ish (§14:10, s.v. *velamadnu*) writes that it is possible to be lenient only when this prevents spoiling, and instead dries the produce. See also *Shabbat Ha'aretz* 5:3 §6.
  9. Responsa of Rabbi Chaim HaKohen Rappaport, *YD* §59, qtd. in *Kerem Tziyon* ch. 14, n. 2; *Beit Ridbaz* §5:5 in his gloss on *Pe'at Hashulchan; Torat Ha'aretz* 8:36. Some disagree, arguing that this prohibition relates only to the quantity of a *kezayit* or more: Rabbi Frank, *Kerem Tziyon* 14, *Ga'on Tzvi* §1; *Minchat Chinuch* §329. See also *Shabbat Ha'aretz* 5:1, nn. 3–4.
  10. Rambam 5:21, 7:15 and *Terumot* 11:10. See *Shabbat Ha'aretz* 5:21 §§1–2.
  11. See *Shabbat Ha'aretz* 5:3 §5.
  12. Chazon Ish §13:11, based on Rambam, *ibid.* See Chapter 19 §D.1, n. 11, citing the Chazon Ish's stance of being lenient for such peels, even if they can be used as animal fodder—provided that most people do not use them for this purpose. Rabbi Eliahu rules that it is prohibited to throw away these peels in the garbage, since this is degrading to *shemitah* produce.
  13. Chazon Ish, *ibid.*, and *Sefer Hashemitah* p. 31, §1, based on Rambam, *Terumot* 11:11. See also *Kesef Mishneh* 7:15, who implies that even hard pits have *kedushat shevi'it*, since they are secondary (*tafel*) to the fruit, which has *kedushat shevi'it*.

3. Pits or seeds without any edible residue (such as apricot pits) and those that are bitter and not eaten on their own (such as citrus seeds, grape pips, etc.) do not have *kedushat shevi'it*.<sup>14</sup>
4. Orange peels have *kedushat shevi'it* since they are often used as animal fodder and for jam and candies,<sup>15</sup> so they should be treated accordingly. However, other types of citrus peels (such as tangerines), which are not normally used, do not have *kedushat shevi'it*.<sup>16</sup>
5. It is permissible to peel fruits and vegetables even though their peels are edible (for more on peeling, see Chapter 16 §B).

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(and would thus be sacred even after the fruit's consumption); see also *Sefer Hashemitah*, *ibid.*, n. 5 (who is lenient for olive pits); *Mishnat Yosef* I §38:4 provides practical guidelines for various types of produce.

*Shevet Halevi* VII §224 permits playing with apricot seeds (for the children's game *gogo'im* / *ajo'im*, the Israeli version of "pitch a penny"), even though the inner part of the seed is theoretically edible (because it is generally not eaten and is difficult to extract). He provides the same rationale for permitting olive pits mentioned in *Sefer Hashemitah*; *Shabbat Ha'aretz* 5:21 nn. 18–22, 7:15 §1.

For watermelon seeds, which are edible but eaten by only a minority of the population, further investigation is necessary to determine whether they have *kedushat shevi'it*. This may depend on the intentions of the one sowing the watermelons to begin with. Rabbi Eliahu rules that they have *kedushat shevi'it*, regardless of intent. Rabbi Elyashiv (*Mishpatei Eretz* 23, nn. 10–11) rules that if one removes from the seed all the parts of the fruit that one intends to eat from it, it is permissible to discard the rest.

14. Chazon Ish, *Ma'aserot* §1:31, s.v. *vegari'nin*; *Mishnat Yosef* I §38:4. See *ibid.*, for the discussion on *kedushat shevi'it* for pear and apple seeds that are often eaten together with the fruit.
15. There is extensive discussion among the *Acharonim* about whether orange peels have *kedushat shevi'it*: see Rabbi Kook, *Mishpat Kohen* §84, *Da'at Kohen* §240 who is stringent; Rabbi Auerbach, qtd. in *Mishnat Yosef* I §30, s.v. *ube'ikar shemitlabet bekach*; Chazon Ish §14:10, s.v. *ובמ"ב* (*ube-mishnah berurah*) and *ibid.*, *Ma'aserot* §1:30, who writes that today orange peels do not have *kedushat shevi'it*, since today most people do not feed them to animals after eating the fruit.  
In practice: since today orange peels are used on an industrial level, *lechatechilah*, they should be handled as having *kedushat shevi'it*.
16. This is Rabbi Eliahu's ruling to be lenient, but he adds that it is best to be stringent.

### C. Miscellaneous laws

1. It is permissible to feed a baby or a small child *kedushat shevi'it* food, although some of it becomes spoiled when they eat it.<sup>17</sup>
2. One should not overfill the *havdalah* goblet with *shemita* wine or use some of the wine to put out the *havdalah* candle, since this spoils the wine.<sup>18</sup>
3. It is permissible to use *shemita* wine for the four cups of wine on *Seder* night,<sup>19</sup> but drops of wine should not be spilled out when mentioning the plagues.<sup>20</sup>

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17. *Beit Ridbaz* §5:1 (at the end), who permits this because this causes *hefsed* indirectly; see also *Torat Hashemita* §13:62; *Kerem Tziyon* 14:1. Rabbi Eliahu is lenient in this regard, since this is the way that babies eat. Rav Zilber (*Hilchot Shevi'it* §5, *Kisse David* §8) also permits this for the same reason, but maintains that one should gather up the remains of the food. If the baby will spoil the majority of the food, however, it is possible that one should be stringent. Rabbi Chaim Shaul Greinman, in *Chiddushim Ubiurim* §7, maintains that one should be stringent since he holds that even indirectly causing *hefsed* is prohibited. See *Mishpatei Eretz*, ch. 21, n. 16.
  18. Rabbi Kook, *Shabbat Ha'aretz, Kuntres Acharon* §22. See also *Mishpatei Eretz* 21:5 and *Brit Olam* §5:3, who argue that there is no problem with the fact that women do not drink the *havdalah* wine (so fewer people drink the *havdalah* wine), since the one saying *havdalah* can always pour the leftover wine back into the bottle.
  19. *Yerushalmi, Shekalim* 3:2 on *shemita* wine used for the four cups, cited by Rabbi Kook, *ibid.*; he adds that there is no issue here of *אין עושין מצוות חבילות חבילות* (lit. "we should not bundle together *mitzvot*," meaning that we do not discharge with more than one *mitzvah* obligation in a single act). It follows that it is perfectly fine to use the *shemita* wine for other *mitzvah* purposes, including *kiddush* and *havdalah*. Chazon Ish §15:7 questions this, as the *bi'ur* time for wine is until *Pesach*. He resolves this difficulty by suggesting that this refers to the *Pesach* of the *shemita* year, not the eighth year. (Alternatively, it is also possible to render the wine ownerless at *bi'ur* time and take possession afterwards—M.B.); see also *Har Tzvi, Zera'im* II §53, who expounds on the matter.
  20. Rabbi Kook, *ibid.*, since afterwards one cannot drink this wine, which constitutes causing *hefsed*.

4. Fragrant branches and flowers may not be discarded as long as they retain their aroma.<sup>21</sup>

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21. On the *kedushat shevi'it* of fragrant flowers and branches, see Chapter 5 §D. Rabbi Eliahu rules that even after the flowers wilt, one should not throw them away since this is contemptuous of *shemitah* produce.

## Chapter 19

### Handling leftovers

#### A. Introduction

1. It is permissible to eat (and prepare food) from *kedushat shevi'it* produce in any conventional manner, even if by doing so some of the food might become spoiled.<sup>1</sup> For instance, it is permissible to eat half of an apple, even though the rest might later become spoiled. It is correct, however, to eat the entire fruit, thus diminishing *hefsed* as much as possible.<sup>2</sup>
2. It is permissible to place *shemitah* produce in a clean place, even though it will certainly spoil or rot there in the future, because no direct action is involved.<sup>3</sup>
3. The following leftovers **have** *kedushat shevi'it*:
  - a. Peels that are edible to humans (such as potato, cucumber, and carrot peels) or animals (peanut peels), even if no person or animal is available (or willing) to eat those peels.
  - b. Fruit pits with some fruit stuck to them (such as date, olive, peach, and plum pits) or seeds that are eaten on their own (such as watermelon seeds).
  - c. Citrus peels that are often used as animal fodder or in jams and candy.
4. The following leftovers **do not have** *kedushat shevi'it*:
  - a. Hard peels that are not used as animal fodder (such as almond or other nutshells).

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1. Rabbi Elyashiv and Rabbi Nissim Karelitz, *Mishpatei Eretz*, ch. 21, n. 15. They maintain that there is no prohibition in causing *hefsed* that results from eating *shemitah* produce.

2. This is Rabbi Eliahu's ruling.

3. *Mishpat Kohen* §85, end; Chazon Ish §14:10 s.v. *velamadnu*.

- b. Pits without any edible parts (such as apricot pits) and seeds that are bitter and not eaten on their own (such as citrus and grape seeds).<sup>4</sup>

## **B. Handling leftovers**

1. Leftovers without *kedushat shevi'it* may be thrown in the garbage.
2. Leftovers with *kedushat shevi'it* should be handled as follows:
  - a. Food with *kedushat shevi'it* should not be thrown in the garbage, since it becomes disgusting in this way.<sup>5</sup>
  - b. It is recommended to prepare a special container (*pach shemitah*, *pach shevi'it*, lit. a *shemitah* garbage bin) for *shemitah* leftovers. After they begin to rot, they may be disposed of in the garbage.
  - c. Solid food scraps should be placed in a bag and kept in the *shemitah* bin until they are no longer fit for human consumption. Afterwards the bag can be disposed of in the garbage.<sup>6</sup>

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4. The laws that govern which types of leftovers have or do not have *kedushat shevi'it* appear also in Chapter 18 §B.1–4. See there for the footnotes on these *halachot*.
  5. *Mishpat Kohen* §85. According to Rabbi Shaul Yisraeli, leftover scraps of food that people do not generally eat after they finish eating do not have *kedushat shevi'it* (such as food left on a plate).
  6. According to tests performed by Rabbi Dr. Yisrael Meir Levinger, placing food in a bag and closing it does not accelerate rotting. Furthermore, if the bag is tightly closed, it makes no difference that it is in a garbage bag. Practically, though, we need to distinguish between garbage cans that are emptied into garbage trucks equipped with compressors that tear the garbage bags, and garbage cans that are emptied into devices without compressors. Today, the vast majority of domestic waste is removed by trucks with compressors; if we throw the plastic bag with *shemitah* residues into the garbage bin, the garbage truck compressors will tear the bags and render these scraps disgusting—which is halachically problematic. For this reason, it is important to leave *shemitah* scraps in the *shemitah* bin until they begin to decompose, and only then to dispose of them in the regular garbage bin.

- d. It is forbidden to mix scraps from fresh produce with old scraps sitting in the *shemitah* bin, since (1) the fresh produce becomes disgusting in this fashion and (2) the old scraps accelerate the natural decomposition process of the new scraps. It is also forbidden to mix leftovers of various types of liquids or to mix leftovers of solids with liquid foods. In practice, it is permitted to put leftovers from different days in the same bin when each day's leftovers are stored in a closed plastic bag.
- e. If no substantial damage will be incurred to different types of scraps if mixed, it is possible to be lenient and place them together. However, if significant damage will occur to the different types of foods, such as if they are leftovers of cooked dishes, each type of leftover food should be placed in a separate bag and then subsequently placed in the *shemitah* bin.
- f. It is permissible to throw away the *shemitah* leftovers in the regular garbage bin after they rot and are no longer fit for human consumption. For fresh fruits and vegetables, one should wait about a week; for cooked food, about two days. Of course, if there are leftovers from various dates in the bin, one should wait the appropriate length of time from the last date of disposal in the bin before adding to the regular garbage.

### C. Additional cases

1. Fruits or vegetables that become disgusting to humans still retain *kedushat shevi'it* as long as they can be used as animal fodder. Nevertheless, it is permissible to throw them in the garbage, because this does not disqualify them from being used for animals.<sup>7</sup>

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7. *Yerushalmi, Ma'aser Sheni* 2:1 states that we are not obligated to eat the following, even if it has *ma'aser sheni* sanctity: bread that became moldy, vegetables peels and cores (*kenibat yarak*), or a cooked dish that spoiled ("whose form changed,"

2. Food left outside of the refrigerator for a long time—until its taste changes to the point that it would generally not be eaten—may be thrown away in the garbage.<sup>8</sup>
3. The prohibition of *hefseid* applies also to vegetable soup and to water used to cook *shemitah* vegetables until flavored by them, even if it does not contain any vegetable pieces (such as beet water, which is often used to make borscht). Such soup or liquid leftovers should either be placed in a bag, and then into the *shemitah* bin, or left uncovered all night.<sup>9</sup>

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as referred to by the *Mishnah*). Afterwards, it states that if *ma'aser sheni* oil spoils it loses its sacred status. However, with regard to *kedushat shevi'it* oil, the *Gemara* debates whether it nevertheless retains its sacred status. The *Penei Moshe* explains that the deliberation relates to oil that is spoiled for human use but is still fit for animal consumption—when it might still have *kedushat shevi'it*. However, once this oil is no longer fit for animal consumption either, its *kedushat shevi'it* status is certainly void. See also Rabbi Kook, *Shabbat Ha'aretz* 5:12 §1 and *Kuntres Acharon* §21; *Torat Ha'aretz* 8:26; Rabbi Auerbach, *Ma'adanei Eretz* §10:6, s.v. *umihu*; *Tzitz Eliezer* XI §68:4. All maintain that one should be stringent, taking into account the doubt raised by the *Yerushalmi*, that if this oil is still fit for animal consumption, it might still have *kedushat shevi'it*.

See also *Torat Hashemitah* §12:71. However, the Chazon Ish (§13:24) maintains that there is *kedushat shevi'it* in food once edible to humans and now fit only for animals; yet elsewhere (§14:10, s.v. *nireh, maskanah*) he writes that one should be stringent only if most people give animals such food.

8. See *Shabbat Ha'aretz* 5:3 §1 nn. 5–6, *Kerem Tziyon*, ch. 13, n. 6. *Az Nidberu* IV §56 concludes that cooked dishes that would not spoil if left out of the refrigerator all night, may not be discarded or spoiled when left unrefrigerated overnight.
9. *Kerem Tziyon* ch. 13, n. 16, based on Rambam 7:22 and *ibid.*, *Hilchot Ma'achalot Assurot* 15:8.

On bones cooked with *shemitah* vegetables, see *Shevet Halevi* (VII §180:2), who writes that since they are not generally used as food for humans or animals, they are devoid of *kedushat shevi'it*. Rabbi Eliahu writes that if the bones can be eaten by humans (by sucking the marrow, etc.), they do have *kedushat shevi'it*. If not, then they are completely devoid of *kedushat shevi'it*.

Water used to cook *shemitah* potatoes (or other vegetables) even if not usually used as soup, nevertheless has *kedushat shevi'it*, since it has absorbed the taste of the *shemitah* vegetables. However, *Mishpatei Eretz* (23:13 and n. 27) quotes Rabbi

4. It is permitted to wash off particles of food stuck to the sides of pots or other cooking utensils, cutting boards, graters, etc.<sup>10</sup>

#### D. Waste separation

1. There are homes where source separation is performed all year round; that is, in the home kitchen, waste is always separated into different containers: organic waste (vegetable and fruit peels, eggshells, meat, etc.) is disposed of separately from solid waste (plastic, glass, etc.). While it is possible to continue separating types of waste, the *shemita* bin guidelines should be followed. Instead of placing organic leftovers in a plastic bag, it is possible to store peels in a paper bag. For more on compost, see §F below.
2. It is permissible for garbage trucks to remove organic *shemita* waste and to transfer it into the apparatus that usually processes waste into compost in various ways, as during other years.<sup>11</sup>

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Elyashiv's ruling that *kedushat shevi'it* does not apply to items that humans do not generally eat, so that the "potato water" would not be sacred.

10. Rabbi Chaim Berlin, *Sefer Hashemita* p. 31, n. 5, since people generally do not use such small amounts. His ruling is based on Rambam, *Terumat* 11:14–15; there Rambam rules that if one pours out a jar with *terumah* oil, after the stream stops one should wait for the last three drops to leave the jar. We can then refill the jar with non-sacred oil and are not required to gather beyond this point the remaining traces of *terumah* oil. Similarly, if a granary is emptied of *terumah* wheat, one need not collect all the scattered *terumah* kernels before bringing in non-sacred wheat. It is sufficient to collect the *terumah* grain regularly. See also Mahari Kurkus, *ibid.*, who explains Rambam's statements differently, based on which we can conclude *shemita*-related matters. Indeed, *Mikdash David* (§38) writes (based on *Tosefta* 7:2, which states that food scraps are still considered food vis-à-vis *shemita*) that leftover food has *kedushat shevi'it*. *Mishpatei Eretz* 23:22 brings a proof from the *Kesef Mishneh* (*Hilchot Ma'aseh Hakorbanot* 10:10, who writes that bones from sacrifices are not sacred, since people do not save or use them, even if bits of meat are stuck to them), based on which one can be lenient about *kedushat shevi'it* scraps. See also *Shabbat Ha'aretz* 5:3 §2.
11. This is for two reasons: (1) This food is placed in the garbage bin only after the scraps have begun rotting, and often the scraps are not even suitable for animal

## E. Feeding animals

1. It is permissible to feed animals with peels and leftover fruits and vegetables with *kedushat shevi'it* when these are no longer fit for human consumption.<sup>12</sup>
2. *Kedushat shevi'it* food fit for human consumption may not be used to feed animals.<sup>13</sup>
3. Spoiled food that is no longer fit for human consumption may be fed to animals,<sup>14</sup> provided that it is impossible to restore its edibility for humans.<sup>15</sup>
4. Regarding fruits and vegetables that are only eaten peeled: since no person will eat the peels, it is permitted to feed these to animals immediately, without waiting for rot to set in.

## F. Compost

1. The problem with a composter is that peels and leftovers are added daily. This directly causes the new peels to rot and it is forbidden to directly spoil *shemita* produce.
2. It is permissible to place peels and leftovers in a paper bag or newspaper (and thus not directly cause rotting) in the compost bin/pile, but mix the contents of the composter only a week after the last fruit or vegetable peels/leftovers are added. At

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consumption. (2) Since most farmers sell their land through *heter mechirah*, their produce does not have *kedushat shevi'it*. Thus, most food scraps removed by the trucks do not have *kedushat shevi'it*, and we follow the halachic principle of *kol deparish merubah parish* (כל דפריש מרובא פריש); that is: if an individual item becomes separated from a mixed group of items, this individual item is assumed to belong to the major component of the mixture.

12. Since they are generally no longer designated for human consumption; *Pe'at Hashulchan* 24:17, n. 55.
13. Rambam 5:5; see also *Shabbat Ha'aretz* 5:5. See n. 9 above, on bones cooked together with *kedushat shevi'it* vegetables: these bones do not have *kedushat shevi'it* and therefore can be given to dogs.
14. *Pe'at Hashulchan*, *ibid.*
15. Rabbi Kook, *Shabbat Ha'aretz* 5:12 §1.

this point, it is permissible to add materials that accelerate the decomposition process (red worms, etc.).

3. One may place scraps and peels of non-*kedushat shevi'it* food together with *kedushat shevi'it* leftovers—provided that the former do not cause the *shemitah* produce to spoil.
4. When the compost is ready, it is permissible to remove it from the composter, bag and place it in storage in an organized fashion. However, one should not pile it up in the yard. It is permissible to use it as fertilizer, following the fertilization guidelines in Chapter 22 §I.
5. It is permissible to add dry twigs to the compost pile since their purpose is to prevent the compost from drying out.

## Chapter 20

# Handling *shemitah* food in the public kitchen

### A. Introduction

1. In public places and various institutions, the issue of leftover food having *kedushat shevi'it* is quite complex. However, one should nevertheless purchase *kedushat shevi'it* produce for the reason that doing so encourages and supports those farmers, who shoulder the major burden in the struggle for the *mitzvah* of *shemitah*.
2. Since public kitchens produce large quantities of processed foods, one should make advance preparations and designate large receptacles for *kedushat shevi'it* scraps. One should verify that these containers are also approved by the Ministry of Health Guidelines for leftover food.

### B. Processing fruits and vegetables in the kitchen

1. It is permissible to peel fruits and vegetables as usual. The peels that are useful for human consumption should be kept in the *shemitah* bin for several days.<sup>1</sup> Each day's scraps should be stored in a separate bin. They should not be mixed in with the scraps from previous days in order to prevent the acceleration of the rotting process. Subsequently, they can be thrown away in the regular garbage bin.
2. It is permissible to process all those fruits and vegetables that are generally processed.
3. We advise planning a menu that exploits all parts of the fruits and vegetables and minimizes waste.

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1. While in private kitchens we advise waiting a week, in public kitchens where this is not feasible, we are lenient and rule that only several days are necessary.

4. There is no problem with mixing *shemitah* and non-*shemitah* produce or cooked dishes, as long as the *shemitah* food is not negatively impacted by this.<sup>2</sup>

### **C. Washing dishes and utensils**

1. One may wash processing utensils, dishes, and cutlery as usual.
2. However, leftover *shemitah* food scraps—even when mixed with non-*kedushat shevi'it* scraps—should be placed in the designated *shemitah* bin.

### **D. Leftovers**

1. The best method, in terms of both halachic and educational considerations, is to notify diners about which fruits and vegetables have *kedushat shevi'it*. A container should be placed in the center of the table, where diners are requested to leave only leftovers of the *shemitah* fruits and vegetables.
2. If the diners are not careful and fail to leave their *shemitah* scraps in the designated container, these should, as far as possible, finally be placed in the designated *shemitah* bin. The rest of the waste should be thrown in the garbage.

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2. See *Shabbat Ha'aretz* 5:3 §7.

## Chapter 21

### Additional uses for *shemitah* produce

#### A. Introduction

1. *Shemitah* produce can be used for purposes other than consumption as food or drink, provided that they resemble them. Such uses include lighting candles and application on one's skin.<sup>1</sup>
2. Uses not similar to eating and drinking are prohibited.
3. The general criterion for permitted use of *shemitah* produce is "that its enjoyment and consumption are equal;"<sup>2</sup> that is, the enjoyment derived from the produce and its consumption (or destruction) are simultaneous.

#### B. Lighting candles

1. Olive and other plant oils that have *kedushat shevi'it* may be used as lamp oil.<sup>3</sup> For this reason, they may be used to light *Shabbat* candles, as this constitutes use for people's benefit.<sup>4</sup>
2. Thus, their use for candles that are not of benefit to people, such as for *Chanukah*, whose light is not to be enjoyed, is forbidden.<sup>5</sup> Similarly, a *yahrzeit* candle or the light at the *amud* in synagogues may not be lit with this oil.<sup>6</sup>

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1. Rambam 5:1.
  2. *Sukkah* 40a; *Bava Kama* 102a. See also *Shabbat Ha'aretz* 5:10 §1.
  3. Rambam 5:1, 8.
  4. *Kerem Tziyon* 13:15.
  5. *Beit Ridbaz* 5:9, gloss on *Pe'at Hashulchan*; *Betzet Hashanah*, p. 48 §8 and n. 11. Rabbi Eliahu rules accordingly, adding that one should be stringent not even to light the *shamash* from *kedushat shevi'it* oil, since some authorities prohibit using its light *lechatchilah*. Rabbi Auerbach (*Minchat Shlomo* §42) permits lighting *Chanukah* candles, maintaining that the Torah permits using oil for all forms of lamp oil, even if one does not derive physical pleasure from the oil. So as long as some sort of benefit is derived, the oil is not needlessly burned and it is permitted. See *Shabbat Ha'aretz* 5:8 §2, n. 13.
  6. *Sefer Hashemitah*, p. 32 §2; *Betzet Hashanah*, *ibid.*; *Yabiya Omer* (III *YD* §19)

3. It is forbidden to pour *kedushat shevi'it* oil directly into a fire.<sup>7</sup>

### C. Medical uses

1. The Torah states (*Vayikra* 25:6) "And [the produce of] the Sabbath of the land shall be yours to eat." From here, *Chazal* derive: "to eat, and not to medicate."<sup>8</sup>
2. This prohibition is twofold:
  - a. One may not prepare medicine or creams from *kedushat shevi'it* produce.<sup>9</sup>
  - b. One may not eat or drink *kedushat shevi'it* produce for clearly medical purposes. However, if the produce is used also by healthy individuals, it is permitted.<sup>10</sup>
3. It is permissible to treat one's mouth with *kedushat shevi'it* alcohol (such as cognac) to alleviate tooth pain, if it is then swallowed.<sup>11</sup> It is all the more so permitted to drink it as a hard drink (or when added to tea), even if the intention is thus to ease the pain.
4. It is forbidden to gargle *kedushat shevi'it* oil to alleviate a sore throat.<sup>12</sup> However, it is permitted to drink a liquid cooked with

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concludes that these candles may be lit at night. It seems that Rabbi Auerbach (ibid.) would be lenient in this case as well; see also *Kerem Tziyon* 13:15, *Gidulei Tziyon* §6; *Shabbat Ha'aretz*, ibid.

7. Rather, the oil should be placed in a lamp (and not a bonfire): Rambam 5:8. See also *Shabbat Ha'aretz* 5:8, n. 3. The rationale is that using oil for this purpose is unconventional, so it is considered wasting the oil. Alternatively, lighting bonfires is not a universal use of oil: important individuals do not use bonfire light, rather lamplight.
8. *Sukkah* 40b; Rambam 5:10.
9. Rambam ibid., 11. See also *Shabbat Ha'aretz* 5:11 §1.
10. *Tosefta* 6:2. See also *Shabbat Ha'aretz* 5:3 §3. The practical halachic guidelines that govern medication are similar to those for *Shabbat*. See *Shemirat Shabbat Kehilchatah* 34:4–5.
11. See previous note. Rabbi Eliahu rules accordingly, adding that it is permissible to add cognac to tea to drink it.
12. Rashi, *Berachot* 36a, s.v. *techilah*; Rambam, *Shabbat* 21:24. According to the *Tosafot* (*Berachot*, ibid., s.v. *lo*), drinking this for medical purposes is forbidden

such oil (such as chicken soup), or even the oil by itself—to alleviate the pain.

5. It is permissible to prepare medicine from animal fodder.<sup>13</sup>
6. Medicinal herbs not generally eaten by humans or animals, have no *kedushat shevi'it* and may be taken. All methods for preparation of medicine from such herbs are permitted.<sup>14</sup>
7. It is forbidden to prepare vitamins from *kedushat shevi'it* produce, although they are meant for healthy individuals as well.<sup>15</sup>
8. It is permissible to take medication that includes ingredients with *kedushat shevi'it*, even if prepared in a forbidden fashion.<sup>16</sup>

#### D. Ointments

1. It is permissible to use *kedushat shevi'it* produce to anoint one's skin when this is its conventional use (such as various oils). However, produce not generally used in this fashion (such as

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unless also healthy individuals drink it.

13. Rambam 5:11. Rabbi Kook (*Shabbat Ha'aretz* 5:11 §6 and n. 31) cites Gra's version of the *Yerushalmi* 7:1, that this *heter* is limited to situations where the form of the produce is not altered aside for its conventional use (such as squeezing or juicing). However, according to the printed versions of the *Yerushalmi*, it is not prohibited to squeeze animal fodder for human medication. This is the ruling of Rashes, *ibid.*, s.v. *melugma*. See *Shabbat Ha'aretz* 5:11 §6, n. 34.
14. Chazon Ish §14:5, s.v. *vanireh*; *Shabbat Ha'aretz* 5:11 §2.
15. *Kerem Tziyon* 13:17, since their medicinal benefit "is not the same for everyone;" that is, this is not the type of use that everyone makes of such products. Only certain parts of the general population, namely sick people and some healthy people, use them in this way—not all healthy individuals. See *Shabbat Ha'aretz* 5:11 §1.
16. *Aruch Hashulchan* 81:7, since if one prepares a drink (such as apple liquor) from *terumah* fruit, the drink would not be prohibited for *kohanim*—even though it is forbidden to do so to begin with (*lechatchilah*). Rabbi Kook (*Shabbat Ha'aretz* 5:3 n. 36) learns from the *Aruch Hashulchan* (*ibid.*) that this is also permissible with *kedushat shevi'it* produce. Furthermore, one may be lenient even if the medication includes ingredients with *sefichin* (such as corn starch). For further discussion, see: *Kerem Tziyon* ch. 13, *Gidulei Tziyon* §10; *Shabbat Ha'aretz* 4:2 §3.

wine) may not be used as an ointment.<sup>17</sup> Furthermore, produce such as avocado, which is spoiled by this use, may likewise not be used as ointments.<sup>18</sup>

2. Creams and cosmetics may not be prepared from oil or other *kedushat shevi'it* produce.<sup>19</sup>
3. One who regularly oils his body or hair may continue to do so with *kedushat shevi'it* oil, even for medical reasons.<sup>20</sup> However, one should not use cotton balls to apply the oil.<sup>21</sup>
4. *Shemitah* produce or oil may not be used to treat utensils, shoes,<sup>22</sup> or animals.<sup>23</sup>

## E. Paint

1. It is permissible to use *shemitah* produce meant for painting, but one should not paint animals with this paint.<sup>24</sup>

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17. *Yoma* 76b; Rambam 5:1, 6; *Shabbat Ha'aretz* 5:6 §1. In any case, it is prohibited to apply oil inside a bathhouse (also in a bath or shower, where people are unclothed), since this shows disrespect for the sacred oil; however, it is permitted to apply such oil outside of the bath and then enter; see Rambam, *ibid.*
  18. Rabbi Eliahu writes that we should be stringent with avocado since a large portion of the fruit is not absorbed in the skin. However, he writes that if the avocado would otherwise be thrown away unless used as a cream or ointment, it would be permissible to use it for this purpose (*Katif Shevi'it* 64:14).
  19. Rambam 5:6 "*velo yefatem et hashemen,*" that is, one should not add perfumes to *kedushat shevi'it* oil. See also *Shabbat Ha'aretz*, *ibid.* §2, citing the disagreement on the rationale for the prohibition because it renders the oil inedible or because its quantity declines. About buying cosmetics from an individual suspected of disregarding *shemitah* laws, see *Shabbat Ha'aretz* 5:6 §3.
  20. *Pe'at Hashulchan* 24:9 and *Beit Yisrael* §34; *Shabbat Ha'aretz* 5:6 §4 and n. 19.
  21. *Pe'at Hashulchan*, *ibid.*, and 24:10 §§33–34; *Shabbat Ha'aretz*, *ibid.* Rabbi Eliahu rules that it is forbidden to apply *kedushat shevi'it* oil to one's hair to remove lice and nits, since this is not done by healthy individuals. Those who are lenient on the matter rely on the fact that the oil is not absorbed by the hair; most of it runs off the comb when combing or when washing the hair after combing.
  22. Rambam 5:7, 6:10.
  23. Rabbi Kook, *Shabbat Ha'aretz* 5:1 §2 and n. 10.
  24. Rambam 5:1, 9. The *heter* for painting applies also to utensils meant to benefit people, meaning one can paint them: Meiri, *Bava Kama* 101a, who permits dyeing clothes. See also *Shabbat Ha'aretz* 5:1 §2.

2. Paint or ink meant for a *mitzvah*, such as gall for writing a Torah scroll or painting *tefillin* have *kedushat shevi'it*. It is permissible to use such paint and ink for writing and painting.<sup>25</sup>

## F. Cleaning agents

It is forbidden to use *kedushat shevi'it* lemons or vinegar to remove stains from clothing, to shine pots, and the like.<sup>26</sup>

## G. Miscellaneous uses

3. *Kedushat shevi'it* produce should not be hung as *sukkah* decorations if it can be spoiled by prolonged exposure to heat or cold for the eight-day duration of the holiday. Some permit this if it does not spoil under these conditions. However, others forbid this, since it is forbidden to benefit from *sukkah* decorations or to eat of them throughout the holiday (and we may not disqualify *kedushat shevi'it* produce as prohibited food). However, we may make the use of *sukkah* decorations conditional. Therefore, the optimal procedure for those interested in hanging *kedushat shevi'it* produce in their *sukkah* is to say the following:

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25. Rashas, 8:1 s.v. *umeshani*; see also Rabbi Auerbach (*Minchat Shlomo* §42, s.v. *vekeivan*, §51:13), who maintains that this is permitted, since benefit from a *mitzvah* is nevertheless considered a benefit, similar to his ruling on using *kedushat shevi'it* oil for *Chanukah* lights (see n. 6 above). See also *Shabbat Ha'aretz* 5:9 §3. Rabbi Eliahu notes that it is problematic to use paint or pigment for this purpose, since it carries the obligation of *bi'ur*.
  26. *Betzet Hashanah* (p. 58, §7), quoting Rashas (9:4). Rambam (5:10) writes that there is *kedushat shevi'it* in some sorts of detergents, including: *borit* and *ehel* (plants with natural alkalic properties). While he rules that it is permissible to use these plants as cleaning agents (as this is their primary use), he continues that other plants with *kedushat shevi'it* may not be used as a detergent. See *Shabbat Ha'aretz* 5:10 §2 for a discussion: according to *Kesef Mishneh* 5:10, all cleaning agents have *kedushat shevi'it*. Mahari Kurkus (ibid.), however, maintains that *kedushat shevi'it* exists only in plants whose benefit and consumption occur at the same time. Rabbi Eliahu holds that lemon rinds do not have *kedushat shevi'it* and can be used as cleaning agents. For detergent based on animal fodder, see *Shabbat Ha'aretz* 5:11 §6: some permit this while others forbid it.

”איני בודל מפירות אלו כל שמונת הימים של סוכות ושמיני עצרת.”

"I will not abstain from this produce all eight days of *Sukkot* and *Shemini Atzeret*." This statement makes it halachically possible to eat them at any time, and thus avoids the problem.<sup>27</sup>

4. It is forbidden to prepare vessels from *kedushat shevi'it* produce.<sup>28</sup> Likewise, one should not carve decorative shapes in *kedushat shevi'it* produce or form them into various shapes<sup>29</sup> if the remaining fruit or vegetable is not eaten afterwards. This is permissible, however, if these remainders are eaten.<sup>30</sup>

## H. Essential oils

1. For *kedushat shevi'it* herbs mainly used for their essential oil (to anoint the skin and/or for their fragrance),<sup>31</sup> it is permissible to produce essential oil. However, essential oils

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27. Rabbi Elyashiv maintains (*Mishpatei Eretz* 24:1 and n. 2) that hanging hearty *shemitah* produce is permissible, while Rabbi Eliahu is stringent, employing the rationale mentioned in the text above. However, he does permit this when stipulating that the fruit may be used throughout the holiday.

28. Rashes (2:7 p. 37, s.v. *alei*), who writes in his first explanation that any use of the food for a different purpose is considered a deviation from its standard use. The Chazon Ish (§13:8) explains that any use of *shemitah* produce other than for food is considered as used for transactions and is forbidden. See also *Shabbat Ha'aretz* 4:18 §8, 5:11 §6, n. 35. Rabbi Eliahu maintains that one may use fruit peels for this purpose.

29. Even though one is not causing *hefsed* whatsoever, since the parts can be cooked and eaten, it seems that it is forbidden since in the end, all of the food goes to waste.

30. *Yerushalmi* 2:7 and *Bi'ur Hagra*, *ibid.*, explains that the reason it is forbidden to use *shemitah* produce as vessels is that this ruins the fruit (*hefsed*). Thus, if forming a vessel from the fruit does not cause any *hefsed*, this seems to be permissible. According to the rationale of the Chazon Ish, this is so since in any case the watermelon or grapefruit will still be eaten. This can also be inferred from the Rashes, *ibid.*, in his second commentary. However, according to his first commentary, one would be prohibited to form a vessel even if this does not cause *hefsed* to the fruit. This is the opinion of *Emunat Yosef* (Rabbi Dinklis, commentary on Rashes), *ibid.*, s.v. *hori*, 7:1, s.v. א"ל אתון.

31. Plants grown for cosmetic use have *kedushat shevi'it*; see Chapter 4 §B.

should not be produced from herbs that are generally used as foods (or spices) as well as for their essential oils.

2. Essential oils should not be prepared for ointments or medical use from edible fruits or vegetables.
3. Some plants are mainly used for consumption, including herbs,<sup>32</sup> while being used also to produce oil for medicinal purposes. All of these plants have *kedushat shevi'it* and oil may not be prepared from them. For this reason, oil should not be extracted from the following plants: rosemary, melissa (lemon balm), spearmint, mint, lemon verbena, hyssop, sage, oregano, basil, wormwood, parsley, stevia, white leaved savory, sweet marjoram and the like.
4. Plants that do not produce fruit but have leaves containing essential oils usable for smearing (such as: geranium, eucalyptus, lavender, aloe vera, false yellowhead, African rue, nettle, and the like) have *kedushat shevi'it*, and oil may be extracted from them for this purpose during the *shemitah* year.
5. Plants whose main purpose is to prepare oil for use as an ointment (for humans) have *kedushat shevi'it*. This use is permitted, but it is forbidden to prepare from them for perfume or incense.
6. If such plants (listed in §§3–4) were grown in a hothouse, they do not have *kedushat shevi'it*.

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32. Herbs have *kedushat shevi'it*; see Chapter 4 §§B, D.



## Part IV

# The Home Garden

Preparing home gardens for the *shemita* year and tending to gardens during *shemita*.



## Chapter 22

### Caring for home gardens during *shemita*

#### A. General principles

1. This section is intended for private individuals and gardeners. For farmers, even though the principles are the same, the practical application of some of these guidelines differs.
2. One should not sell the land of a house garden to a non-Jew through *heter mechirah*. In special cases, one can contact the Chief Rabbinate *Shemita* Committee.
3. In buildings or houses with joint yards one should try to convince the neighbors that it is possible to care for the garden during the *shemita* year without transgressing *shemita* prohibitions.<sup>1</sup>
4. It is permissible to rent or sell a house or apartment with a garden to a non-*shemita* observer. It is recommended to mention when the rental or sales contract is drawn up that it is a *shemita* year and they should avoid performing forbidden gardening procedures.<sup>2</sup>

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1. If the neighbors are not willing to observe *shemita* laws and insist that forbidden actions be performed during *shemita*, *shemita* observers should declare their portion of the garden ownerless before three people. This is the ruling of Rabbi Ariel, *Be'ohalah Shel Torah* III §9. Rabbi Auerbach rules that it is permissible to pay the HOA (Homeowners' Association) fee, even though it includes gardening expenses (also for such activities prohibited during *shemita*). The reason for this is that paying this fee is a legal obligation, and is thus not an essential part of a forbidden activity. Rabbi Eliahu rules that one should make sure that the HOA gardening fees be included in payments for other HOA expenses, as is the usual case (similar to a salary paid for services given on *Shabbat* that includes work done during the week, which is permitted; both instances are considered *havla'ah*).
  2. In principle, one should not rent out a field to someone who is most probably not going to observe *shemita* laws, see *Shabbat Ha'aretz* 8:6. However, since it is not completely certain that the lessee or buyer will transgress the *shemita* laws, it is permissible to rent or sell to such individuals.

5. For houses that are under construction, with landscaping and garden development as part of the building agreement, it is recommended to include in the contract that landscaping will be performed either before or after the *shemita* year.
6. If construction is completed during the *shemita* year and construction waste litters the site, out of concern for the safety of all users, it is permissible to level the ground and spread a thin layer of gravel. Following the *shemita* year, one can then develop the garden.
7. Contractors who will only receive their full payment once they complete landscaping, as stipulated in the building contract, should contact the *Shemita* Committee for appropriate solutions.
8. It is permissible to perform landscaping work for construction but not to plant or sow plants and trees.<sup>3</sup>
9. Transplanting trees: if construction is planned in an area that entails uprooting trees, it is permissible to do so, to place them in bags and replant them after the *shemita* year. The trees may be watered as usual throughout *shemita*.
10. It is permissible for a landscaper to plan gardens during the *shemita* year, even though they might be implemented, which means that forbidden acts could be performed during *shemita*.<sup>4</sup>

## **B. Parameters of planters**

1. The vast majority of planters sold today are considered perforated planters vis-à-vis *shemita* laws. Planters with holes of maximally 0.33 cm in diameter, where the total area of all holes does not exceed 2 cm<sup>2</sup>, are considered unperforated planters.
2. If the walls of the planter can be penetrated by roots, it is considered perforated.

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3. Just like other acts that are performed for non-agricultural reasons during *shemita*; see Chapter 1 §F.

4. Since it is not certain that forbidden acts will be performed.

3. Planters that are indoors should not be taken outside or to an open-roofed porch.
4. Planters that are fixed to the ground or wall are considered connected to them. Such planters are considered planted in the ground.

### **C. Guidelines to prepare for the *shemita* year**

1. To avoid any unnecessary problems with garden maintenance during the *shemita* year, proper advance preparation is necessary.
2. Prune all trees as much as possible; treat weeds by uprooting and spraying them to prevent sprouting, thus avoiding these actions during the *shemita* year.
3. In most cases, regular and appropriate fertilization before the *shemita* is sufficient, and obviates the need for further fertilization during *shemita* itself. This is especially true for slow-release fertilizers (SRF), controlled-release fertilizers (CRF), and other organic fertilizers that decompose slowly and provide plants with all of their nourishment needs for the entire year.<sup>5</sup>
4. The prohibition of *tosefet shevi'it*, where some of the actions are forbidden before the onset of the *shemita* year, applies only when the *Beit Hamikdash* is standing. For this reason, today all *melachot* (excepting planting and sowing—see below) may be

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5. Note that most fertilizers on the market release nutrients over six months, but there are some that release over twelve months. While most deciduous trees are fertilized again in spring, if no additional fertilizer is applied in most areas in Israel, it will not damage the trees. Trees (especially deciduous) growing in light and sandy soils, and young trees in general, can be damaged considerably if they do not receive additional fertilizer. For such cases, we recommend consulting one of our agronomists prior to the *shemita* year for guidelines on optimal fertilization methods, available on our website: <https://en.toraland.org.il/beit-midrash/qa/ask-the-rabbi/>; or call our hotline: 08-684-7325.

performed until *Rosh Hashanah*, including plowing, fertilizing, weeding, etc.<sup>6</sup>

5. **Planting trees and plants:**

- a. Planting is recommended for garden plants during the spring of the sixth year, so that they will take root properly. This ensures that there will be no need to take care of them during *shemita*. If they fail, there will be sufficient time to replace them before *shemita*.
- b. Grass: turf should be laid several weeks before the onset of *shemita* so that the grass will take root properly and can be mowed at least once before the onset of *shemita*. Grass seeds should be sown in the spring and kept well watered, thus allowing mowing of the lawn well before *shemita*.
- c. Fruit trees held in a clod of soil (as bought in nurseries) should be planted by 29 Av. However, planting them by 15 Av is recommended in case the clod of soil should crumble. Non-fruit trees in a clod of soil may be planted up to 29 Elul before the *shemita* year, but for the same reason, it is recommended to plant them by 15 Elul.<sup>7</sup>

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6. *Mishnah* 1:1; *Mo'ed Katan* 3b; Rambam 3:1, 9.

7. The *Mishnah* (2:6) states that it is forbidden to plant 30 days before *Rosh Hashanah* according to the *tanah kama* (first opinion), while Rabbi Shimon holds that this prohibition is for two weeks (14 days) preceding *Rosh Hashanah*. According to the Rash (2:6), this prohibition is due to *tosefet shevi'it*; since this issue does not apply today (Rambam 3:9), this would not be prohibited. However, according to Rabbeinu Tam (*Tosafot, Rosh Hashanah* 10b s.v. *sheloshim*), it would be prohibited even today to plant right up to *Rosh Hashanah*, since the tree would take root during the *shemita* year. This transgresses the injunction of *veshavta ha'arets* ("and the land shall rest"): it is forbidden that plants take root during *shemita*. The *halachah* follows Rabbi Shimon: that it takes 14 days for trees to take root (below we will see that for vegetables this period is three days). For this reason, it is permitted to plant trees only until 15 Elul. Rambam (3:11) writes that it is permissible to plant fruit trees only until 15 Av, owing to *mar'it ayin* (for appearance's sake): for planting after 15 Av, the *orlah* count would begin only during the *shemita* year, making it appear as if the tree

- d. If one purchases a fruit tree from a nursery supervised for *orlah* that vigilantly follows guidelines for transferring the sapling—without its clod of earth crumbling—the tree can be planted until 29 *Elul*.<sup>8</sup>
- e. Sowing vegetables (annuals that are **sown** and eaten): one should be sure to sow them until 15 *Elul*, so that they will sprout before *shemita*.  
Bare-rooted transplants and seedlings should be **planted** by 26 *Elul* (since it takes three days for such vegetables to take root, and we need to ensure that they take root before *shemita*).
- f. Annuals planted with their clod of soil can be planted until 29 *Elul*.<sup>9</sup>

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was planted during the *shemita* year. **In conclusion:** we follow the opinions of Rambam and Rabbeinu Tam.

Therefore: the time it takes for trees to take root is 14 days, and we must ensure that this occurs before *shemita*. Non-fruit trees should be planted by 15 *Elul* for the same reason. However, when the tree arrives with its clod of earth it is considered to have taken root already, so we need not wait 14 days. Thus, non-fruit trees may be transplanted with their clod of earth until 29 *Elul*.

**For fruit trees:** as stated above, we need to add a month for the *orlah* year. Fruit trees transplanted with their clod of earth may be planted until 29 *Av*, while bare-rooted trees must be planted until 15 *Av*. Note that this year (5761), 15 *Av* falls on *Shabbat* (July 23–24, 2021), so the trees should be planted by 14 *Av*. Likewise, 29 *Av* (August 6–7, 2021) falls on *Shabbat*, so trees with their clod of earth (etc.) should be planted by 28 *Av*. **As for non-fruit trees:** this year the 15 *Elul* is August 23, 2021, while 29 *Elul* is September 6, 2021.

8. This is the ruling in *Mishpatei Eretz* I 6:8. For detailed guidelines on transplanting trees vis-à-vis the *orlah* count, see *The Laws of Orlah for the Backyard*, ch. 6 (Torah VeHa'aretz Institute), available also on our *website*. As of 5781, only Marmelstein Nursery in Ganei Tal and BaPeregola Nursery in Kochav HaShachar, which cater to the private sector, are supervised by Torah VeHa'aretz Institute. Further details can be found on our *website* (Hebrew).
9. If they sprouted after *Rosh Hashanah*, they are prohibited as *sefichin* and are forbidden to eat; see Chapter 7. **For planting vegetables:** optimally, one should plant them 14 days before *shemita*, since they need to sprout before *Rosh Hashanah*: *lechatchilah*, this includes sprouting above the ground before

- g. One may plant bulbs by 29 *Elul* to sprout during *shemitah*, after the rain.
- h. **Non-fragrant ornamental flowers** are not subject to the *sefichin* prohibition, only to the prohibition of taking root during *shemitah*. For this reason, it is best to sow or plant them by 26 *Elul*; and at the latest by the 29th. If they come as seedlings or starters in a clod of soil, they can be planted by 29 *Elul*.
- i. **Fragrant ornamental annuals** have the status of vegetables.<sup>10</sup> The sowing/planting deadline for such flowers are as follows:<sup>11</sup>
  - Sown as seeds – *lechatchilah* by 15 *Elul*, to ensure that they take root before *shemitah*.
  - Planted as bare-rooted seedlings or starters – by 26 *Elul*.
  - Planted as seedlings or starters with their clod of earth – by 29 *Elul*.
- j. Perennial plants have the halachic status of non-fruit trees.

#### D. During *shemitah*

Private individuals may not sow plants or turn over soil to aerate it, and the like, even on the upper floors of a building.

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*shemitah*, which takes 3–12 days. The Chazon Ish is known to be lenient with underground sprouting in extenuating circumstances (that is, they started sprouting roots). This process takes only three days (most often from 1–3 days; this is the scientific data provided by the Yehuda Heller, a Torah VeHa'aretz Institute agronomist). For bare-rooted vegetables: plant up to three days before *Rosh Hashanah*, so they will take root before the onset of the *shemitah* year. Taking root is a process similar to underground sprouting (roots sprout); for sowing, though, the root emerges from the seed, while when planting, the root emerges from the vegetables and takes root in the ground. This year, 15 *Elul* is August 23, 2021, while 29 *Elul* is September 6, 2021.

- 10. See Chapter 4 §D.1: since there is a doubt fragrant flowers have *kedushat shevi'it*, we are stringent *lechatchilah*.
- 11. If they sprouted after *Rosh Hashanah*, they are prohibited as *sefichin* and are forbidden to eat; see Chapter 7.

## E. Actions to protect trees and fruit

1. In private gardens, it is forbidden to perform actions that are meant to sprout new fruit on the tree (such as irrigation and fertilization during blossom). However, after the fruit begins to develop, it is permissible to perform such actions to preserve the existing fruit.<sup>12</sup> These actions include: spraying against pests that harm fruit, spraying to prevent fruit from falling, clipping thorns that harm fruit (such as *etrogim*), tying and training branches, and bending branches prior to harvest to make fruit harvesting easier.<sup>13</sup>
2. One may spread nets on trees to protect them from various pests.
3. Any action meant to protect the tree (from ants, etc.) is permissible.

## F. Irrigation

1. It is permitted to irrigate to keep plants alive. One should avoid irrigation meant to promote growth.
2. One should reduce the amount of irrigation in comparison to regular years and slightly increase the intervals between irrigations.
3. One should irrigate immediately when bushes and trees show signs of initial dehydration; there is no need to wait for signs of actual shriveling (when real damage occurs to the plants).
4. Signs of initial dehydration include leaves curling in the later afternoon. Wilting only during hot hours of the day, however,

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12. There are three halachic opinions on the issue of tending to fruit. The dispute hinges on the definition of *ukmei ilana*: if the actions permitted are those performed only to benefit the tree (and the fruit of the sixth year, this is the opinion of Rabbi Kook) or if it includes fruit as well. For further discussions of these opinions, see Chapter 1 §A.4, 6; *Katif Shevi'it* 2:3 and 11:1. We follow Rabbi Yisraeli's opinion that *ukmei ilana* also includes fruit—but only fruit that is already on the tree.

13. See *Katif Shevi'it*, ch. 12.

is not necessarily a sign of true dehydration and is temporary. In such cases, there is no need to irrigate.<sup>14</sup>

### G. Weeds

1. Annual weeds: if they do not dominate the garden but are merely an eyesore, it is best not to uproot them.
2. For weeds that considerably spoil the garden's appearance, genuinely compete with its plants, or provide cover for various pests (e.g. snakes, scorpions), proceed in the following order of preference:
  - a. Spray with various growth-preventative chemicals (available at gardening stores and with gardeners). It is recommended to concentrate on areas where weeds generally sprout and also spray in early winter.
  - b. Cover the area with a black sheet (that blocks light).
  - c. Spray existing weeds.
  - d. Mow down weeds above soil (with a lawnmower or scythe mower, etc.).
3. Weeds should not be uprooted.

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14. Irrigation during *shemita* is a rabbinic prohibition, but is permitted for *ukmei ilana*, sustaining trees. For more sources on irrigation, see *Shabbat Ha'aretz* 1:8. For practical guidelines on when and how much it is permitted to water plants, the definitions provided by the *posekim* are somewhat unclear. In *Katif Shevi'it*, ch. 49, n. 1, three practical opinions are cited: (1) It is permitted to water plants with the minimum necessary amount to prevent discernible damage to the quality and quantity of the produce (*Shenat Hasheva* 8:3; *Shemita Kehilchatah* 1:8; see also *Kerem Tziyon* 9). (2) One should prolong intervals between watering, so that plants are watered only when it is vital for their immediate survival. The significance of this is approach is that one can use an unlimited amount of water when watering (*Hilchot Shevi'it* 1:72). (3) There is no limit in the amount of water used for watering a home garden, since it is considered a *beit shelachin*, irrigation farming (see Rambam 1:8; *Betzet Hashanah* p. 46; Rabbi Karelitz, *Chut Shani* 1:10, p. 101). We are stringent and follow the first and second opinions. However, many are lenient and allow watering garden plants with the same amount of water as usual during non-*shemita* years.

## H. Pruning trees and bushes

1. Pruning is permitted when intended only to preserve the existing shape of the tree or bush, provided that the plant is mature and the pruning does not initiate new growth. For this reason, one may prune a full living hedge or gate. It is forbidden to prune a young hedge, however, since pruning initiates growth of new branches that fill in the gaps.
2. Pruning is permissible in the following cases: for branches protruding next to (or above) sidewalks, disturbing pedestrians, or growing near electric wires, etc.; dead or sick branches; clipping off the *arba minim* (*hadasim*,<sup>15</sup> *aravot*, and *lulavim*) and *sechach* for *Sukkot*. All the above are permissible, provided that the apparent purpose is not to facilitate the tree's growth. One should take care that this pruning does not harm the trees in any way.<sup>16</sup>
3. Pruning branches and providing mechanical supports is permissible for trees and branches, to ensure that the trees do not collapse due to excess weight.

## I. Fertilization

1. It is sufficient to fertilize home gardens with appropriate fertilizer before shemitah (SRF, CRF, compost, etc.) to provide the garden with all its nourishment needs.
2. In special cases, when additional fertilizer is needed, one may fertilize only when the garden's appearance would otherwise be significantly compromised.

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15. It is forbidden to prune or burn *hadasim* to encouraging the growth of triple-headed *hadasim*.

16. Avoiding harming trees is unrelated to *shemitah* laws, and related rather to the prohibition of unnecessarily destroying a tree.

## **J. Lawn care**

1. One may water the lawn. It is best to somewhat reduce the amount of water used and to slightly increase the intervals between watering times.<sup>17</sup>
2. In cases when the lawn's desired aesthetic appearance is significantly spoiled owing to a lack of fertilizer, one should consult a gardener also versed in the laws of *shemita*. It is also possible to send a query to an agronomist at Torah VeHa'aretz Institute (an option available on our website) or contact our hotline. (Before it is possible to decide what the best halachic option is, it is first important to ascertain that the state of the lawn is due to a lack of fertilization and not to lack of irrigation, maladies, or pests.)
3. Mowing the lawn:
  - a. Full lawns without bald spots may be mowed as usual. One should not delay mowing, as otherwise this causes lawn yellowing ("sunburn"), which initiates new growth.
  - b. It is forbidden to mow young grass, as this causes it to spread. If failure to mow the grass would cause significant damage, it is possible to be lenient.
  - c. One may trim the edges of the lawn (areas where the lawn mower does not reach) since the purpose is to maintain the lawn's existing appearance, not to initiate new growth. A halachically preferable option is to spray herbicide along the lawn periphery.

## **K. Rose care**

1. It is permissible to water roses to keep them alive, but not to encourage new growth. It is important to water roses sufficiently to avoid dehydration since roses are sensitive to a lack of water.
2. Pruning should not be performed during the *shemita* year.

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17. See §F above and n. 14.

3. It is forbidden to remove dry flowers since this promotes fresh growth, unless this is not the intended purpose.
4. Fragrant roses should be declared ownerless and handled as having *kedushat shevi'it*.
5. Flowers may be picked from the garden for putting in a vase in the house, but in a different manner than usual (e.g. not cut to the usual length).<sup>18</sup>

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18. For roses, often the place for pruning a branch with a flower is chosen in an ideal place where a new branch will grow in the best area possible. In this case, it is considered forbidden pruning since it is to encourage growth. This is why we noted above that pruning should be performed in a different location than usual. In this way, it will be discernable that the purpose is only to enjoy the branch and the flower, and not to encourage growth.

## Chapter 23

### Buying flowers and planters

1. The main concern for customers when buying flowers and ornamental plants during the *shemitah* year is whether prohibited actions were performed with the plants, such as planting or sowing them in a forbidden fashion.
2. One should not buy flowers from farmers or nurseries that cultivate them in a forbidden fashion.<sup>1</sup> Flowers should be bought only from growers with certificates attesting that the flowers were grown in a permitted fashion and under halachic supervision or *heter mechirah* was properly employed. Optimally, one should also be careful about buying flowers from middlemen—such as flower shops—so as not to assist sinners.<sup>2</sup>
3. Most flowers on the market today (5781), do not have *kedushat shevi'it* and are not considered *sefichin* since they are ornamental and not grown for their fragrance. For this reason, it is perfectly permissible to use them and the prohibition of transaction<sup>3</sup> does not apply to them. However, the prohibition

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1. Rambam 8:14, that it is prohibited to purchase various *shemitah*-related items from someone who is suspected of prohibited business dealings with *shemitah* produce. Rambam includes even flax, which is not produced to be eaten. It seems that flowers would also be included in the "*shemitah*-related" category. See *Katif Shevi'it* ch. 68, n. 10. On the prohibition of transaction, see Chapter 9 §A.4: it is forbidden to buy from such people since this encourages the salesmen to engage in the prohibition of trading in *shemitah* produce, and it supports sinners.
  2. Flowers are considered *shemitah*-related items. For this reason, it is forbidden to purchase them from people who are suspected of not observing *shemitah*. See *Shabbat Ha'aretz* 8:14 §1.
  3. The transaction prohibition applies to produce with *kedushat shevi'it* only: Rambam 6:1. Note that according to research by agronomist Yechiel Shteinmitz, the vast majority of flowers today (5781) are primarily meant for their decorative

of *melachah* still applies (against sowing/planting, commercial harvesting, and other activities meant to facilitate crop growth; see Chapter 1).

4. Flowers grown for their fragrance: some maintain that they have *kedushat shevi'it*,<sup>4</sup> which means that the prohibition of transaction would apply to them. However, it is possible to be lenient with the *sefichin* prohibition with such flowers (that is, to enjoy them even though they grew during *shemita*—provided that they are obtained in a permitted fashion).<sup>5</sup>
5. House plants growing in planters usually do not have *kedushat shevi'it* nor are they considered *sefichin*.<sup>6</sup>
6. When buying planters and plants for the home, and when buying plants for the garden in the year following *shemita*, one should check that they were planted in a permitted fashion. For this reason, it is best to verify that the nurseries raise the plants in hothouses and on detached platforms, or that the land was sold to a non-Jew through *heter mechirah*.<sup>7</sup>

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value, and not for fragrance at all. This means that these flowers do not have *kedushat shevi'it*.

4. See Chapter 4 §D.1. For the stage of growth that determines the *kedushat shevi'it* of these flowers, see Chapter 5 §D: for annual flowers, the determining stage is harvest; for perennial flowers, it is the appearance of the flower bud.
5. The *sefichin* prohibition does not apply to plants devoid of *kedushat shevi'it*. One may be lenient since the *sefichin* prohibition only applies to edible food: for example, a plant grown for animal fodder has *kedushat shevi'it*, but is not subject to the *sefichin* prohibition. See Chapter 7 §B.4.
6. The *sefichin* prohibition does not apply to them as perennials. Neither do they have *kedushat shevi'it* since they are not meant to be eaten and are not grown for their fragrance.

Rambam (1:12) writes that one who planted a tree during *shemita*, whether intentionally or unintentionally, is fined by uprooting the tree. The *Acharonim* disagree whether the produce is permitted to be eaten (following *orlah* years). If one planted vegetables, the *Acharonim* disagree whether they should be uprooted (see Rambam 4:15). According to some opinions, non-fruit trees planted during *shemita* should be uprooted. What follows is that it is improper to purchase saplings planted during *shemita* in a forbidden fashion. See *Shabbat Ha'aretz*

7. Planters with fragrant plants grown for their fragrance, which were not grown on detached platforms or growing on land that was not sold to a non-Jew, are considered having *kedushat shevi'it*. Therefore, it is forbidden to perform a transaction with them. However, they may be purchased together with a non-*kedushat shevi'it* item<sup>8</sup> (provided that these plants were not sown during the *shemita* year in a prohibited fashion; in that case, they should not be purchased at all).
8. One may transfer planters from place to place, even if they are perforated and even when placed on the ground.<sup>9</sup> Some are stringent and move them only when set on a surface that detaches them from the ground or when they are wrapped in nylon and the like.<sup>10</sup>

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1:12, n. 5. See Rabbi Ehud Ahituv, "*Buying flowers and saplings and trees during the eighth year*," *Torah VeHa'aretz* VIII (5768).

8. This is called *havla'ah*, see Chapter 9 §A.5. Optimally, one should purchase another plant, devoid of *kedushat shevi'it* and pay for both of them together. If necessary, one can be lenient and tell the store owner that the payment is for the planter and the growing medium and not for the plant.
9. This is the ruling of Rabbi Auerbach, *Minchat Shlomo* §41:3; *Mipri Ha'aretz* I, p. 9, since it is obvious that there is no intention to work the ground; this ground is not designated for work, and is considered just like any non-agricultural act that is permitted, see Chapter 1 §F.1.
10. *Betzet Hashanah* p. 48 §§2, 7 and nn. 19–21. This is the ruling of Rabbi Eliahu.

## **Part V**

# **The Laws of *Bi'ur***

An overview and practical guidelines on  
the laws of *bi'ur* for produce with  
*kedushat shevi'it*.



## Chapter 24

# Halachic principles of *bi'ur* for *shemita* produce

### A. What is *bi'ur*?

1. The Torah states (*Vayikra* 25:7): "And your cattle and beasts in your land may eat all its yield." *Chazal* learn from here: "As long as animals eat this type of produce in the field, you can eat it at home. Once it is finished for animals in the field, you must get rid of (*leva'er*) the type of produce from the home."<sup>1</sup>
2. Once the time arrives for the *mitzvah* of *bi'ur*, one must remove that particular type of *shemita* produce stored at home and declare it ownerless. It is meant for the poor and anyone else, as explained below.<sup>2</sup>

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1. Rambam 7:1 based on *Torat Kohanim, Behar* 1:8; Rashi (*Yoma* 83a, s.v. *tevel*) maintains that *bi'ur* during *shemita* is a biblical injunction. Ramban (*Vayikra* 25:7), however, holds that *bi'ur* is rabbinic and part of the *mitzvah* of *hefker*. See *Shabbat Ha'aretz* 7:3 §2 and n. 19.
  2. One rationale for the *mitzvah* of *bi'ur* is to highlight our lack of ownership of the land. I can eat the produce in my home only as long as everyone else can—that is, when it is still available in the field and accessible to all. The moment it is no longer in the field, and the public cannot partake of the produce, neither can I (the owner of the produce). Possibly, the purpose of the *bi'ur* obligation is to encourage sharing the produce in our ownership since *bi'ur* applies only to large quantities (more than three meals; see below). In this way, before the *bi'ur* deadline, people give out their extra produce to neighbors and friends. This is similar to the laws governing *ma'aser sheni*, where the produce owner should invite many guests to his table. The same idea applies to the *mitzvah* to eat the 40 loaves of bread at the *korban todah* meal in Jerusalem in one day, which induces the one bringing the sacrifice to invite many people to the festive meal to help finish the food (so it will not acquire the status of *notar*, leftovers; see *Ha'amek Davar, Vayikra* 7:13).

## B. To what does the obligation of *bi'ur* apply?

1. Seeds and peels that are designated for human or animal consumption have *kedushat shevi'it* and are subject to *bi'ur*.<sup>3</sup>
2. *Bi'ur* does not apply to produce without *kedushat shevi'it*, such as that growing on land belonging to a non-Jew<sup>4</sup> and produce grown on land sold through *heter mechirah*.
3. Even those stringent about treating produce as sacred when grown on land belonging to non-Jews<sup>5</sup> need not perform *bi'ur* with such produce.<sup>6</sup>
4. *Bi'ur* does not apply to ownerless produce or to produce under the auspices of *otzar beit din*.<sup>7</sup> However, *bi'ur* does apply to

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3. See *Mishnah* 7:3 that peels have sanctity. Rambam (7:15) writes that peels and seeds are not subject to *bi'ur*. *Pe'at Hashulchan* 27:36 explains that since they are edible only in extenuating circumstances, *bi'ur* does not apply. However, for seeds and peels that are meant for human and animal consumption, even Rambam would agree that the *bi'ur* obligation applies. See also *Shabbat Ha'aretz* 7:15, n. 3.

4. See *Shabbat Ha'aretz* 4:29 §2.2.

5. *Ibid.*, §2.1.

6. *Mabit* (I §21, s.v. *katav*, §336, s.v. *ve'im*; III §45) cites Rabeinu Shimshon Hazaken, that even if there is *kedushat shevi'it* in produce grown by non-Jews, it is nevertheless not subject to *bi'ur*. Since the produce was grown by a non-Jew, who is not obligated to perform *bi'ur*, anyone buying this produce would not be obligated by it either. See also *Shabbat Ha'aretz* 7:1 §6; 4:29 nn. 9–10.

Rashas (6:1, 9:8, s.v. *ule'inyan bi'uran*) is stringent, maintaining that *bi'ur* applies also to the produce of non-Jews. With regard to this opinion, Ridbaz writes (qtd. in *Sefer Hashemitah* p. 46, n. 6) that if one purchased produce from a non-Jew after the *bi'ur* time, one should preferably declare the produce ownerless at the time of purchase. *Bedi'avad*, if one failed to do so, the produce is permitted. While some are stringent (*Shelah*), holding that there is no way to rectify a non-Jew's produce after the *bi'ur* deadline, this approach is not accepted by mainstream *posekim*. See *Shabbat Ha'aretz* 7:1 §6 and n. 24.

7. Chazon Ish §11:7. See also *Shabbat Ha'aretz* 7:6 §2 about *otzar beit din*. The rationale for this is that *bi'ur* involves rendering one's produce ownerless; *otzar beit din* produce, however, belongs to the public, so it is not subject to the *bi'ur* obligation. See *Shabbat Ha'aretz* 7:3 §2.4 on *hefker*. According to Rashas (9:3, s.v. *ve'ani omer*), it is imperative to perform *bi'ur* on produce owned by the *otzar beit*

produce taken from *hefker* or *otzar beit din* before *bi'ur* time. That is, if one bought a bottle of *otzar beit din* grape juice before the *bi'ur* deadline, *bi'ur* would apply to the grape juice at its *bi'ur* time.

5. *Bi'ur* does not apply to fruit still hanging on trees.<sup>8</sup>
6. *Bi'ur* applies only to plants whose fruits are not left growing from year to year. Plants that does not disappear from the field (such as perennial bulbs) are not subject to *bi'ur*.<sup>9</sup>
7. *Shemita* produce that is no longer available in the field only after the appearance of eighth-year produce (such as pecans and mint) are exempt from *bi'ur*.<sup>10</sup> Similarly, where fruits or

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*din*. Rabbi Eliahu rules accordingly. He adds that since Rambam does not mention *otzar beit din*, one should be stringent and perform *bi'ur* on this produce as well.

8. Chazon Ish §11:7 s.v. *im*.
9. The definition given by the *Mishnah* (7:1) is *eino mitkayem ba'aretz*, "cannot be left growing in the soil." Rambam (7:13) lists plants used for dyes, which can be left growing in the soil (*pu'ah* and *richfah*; madder, which produces a red dye, and dyer's rocket, respectively), thus *bi'ur* does not apply to them. The vast majority of fruits (including citrus, which often hangs on trees for months at a time), vegetables, and bushes are not included in the definition of "left growing in the soil," so *bi'ur* would apply to them. The *posekim* are divided on the definition of the term *kalah lechayah min hasadeh*, "finished for the wild animal from the field." See *Shabbat Ha'aretz* 7:1 §1.
10. *Shabbat Ha'aretz* 7:1 §5. Since produce is still available in the field (*bi'ur* does not apply when there are new fruits on the tree). See *Beit Ridbaz* (§8:13; gloss on *Mishmeret Lehabayit*, p. 22a §30) who argues that the *bi'ur* obligation does not apply to *etrogim*, since there are always fruits hanging on *etrog* trees all year long (noting that individual *etrogim* can continue growing on trees for up to three years). He instructs posting guards to ensure that non-Jews do not pick all *etrogim* from the trees, so there will always be fruit hanging on them. *Beit Ridbaz* believes that in *Chazal's* time, all *etrogim* were harvested when ripe, so they would not be available to animals in the field. In practice, this approach is not accepted for *etrogim* or other citrus trees, which are subject to *bi'ur*. Rabbi Auerbach (*Kerem Tziyon* ch. 17, *Gidulei Tziyon* §1 and *Minchat Shlomo* §51:15) rules accordingly. Rabbi Yisraeli maintains that even if fruit is still hanging on *orlah* trees, all the other trees are still exempt from *bi'ur*. Some are stringent, however: Chazon Ish (§15:3, s.v. *vanireh*, וּבְמִשְׁכֵּי) states that only produce with *kedushat shevi'it* still

vegetables of the same type are growing in places without *kedushat shevi'it* (such as fields of non-Jews) or in *olei Mitzrayim* territory—*bi'ur* is not required.<sup>11</sup>

8. Just as there is an obligation of *bi'ur* for *shemitah* produce, there is an obligation to perform *bi'ur* on *demei shevi'it*, coins used to purchase *kedushat shevi'it* produce.<sup>12</sup>
9. When *shemitah* produce is cooked or pickled with non-*shemitah* foods and the *shemitah* produce flavored the latter, the non-*shemitah* foods become subject to *bi'ur* at the *bi'ur* time for their *kedushat shevi'it* counterparts.<sup>13</sup>
10. For *shemitah* produce mixed with non-sacred produce of the same type (such as that which grew in land sold through *heter mechirah*), the entire mixture is subject to *bi'ur*, even if the admixed amount of *shemitah* produce is minuscule.<sup>14</sup>

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hanging on trees or in fields can exempt similar produce from *bi'ur*. This is implied by Rashes 7:2, s.v. *vekotzeh*. See *Shabbat Ha'aretz* 7:1 §5, n. 16.

11. See *Shabbat Ha'aretz* 7:1 §5, nn. 18–19.
12. *Mishnah* 7:1; Rambam 7:7.
13. *Mikdash David* 59:2, s.v. *amrinan hakovesh*; the discussion on whether pickling imparts flavor like cooking (*kavush kemevushal*) vis-à-vis *shemitah* laws begins in *Mishnah* 9:5, about the *bi'ur* time for a barrel in which three types of vegetables are pickled together. There is also a discussion in *Mishnah* 7:7 on pickling rose petals in oil. According to Rivmatz 7:7, it is possible to be lenient if the *shevi'it* produce is removed from the food before its *bi'ur* time and only its flavor remains. See *Shabbat Ha'aretz* 7:6 §3; 7:21.
14. Rambam (7:22) maintains that with regard to *shemitah* laws, mixtures of the same type of produce (*min be-mino*) assume *kedushat shevi'it* through the smallest amount of a sacred component, which is not nullified even in a ratio of 1:1,000. That is, every mixture of similar types of produce will assume *kedushat shevi'it* in its entirety (e.g. jam composed of mostly imported apples, and a sliver of a *kedushat shevi'it* apple). In contrast, in cases of mixtures of *min be-sheino mino* (dissimilar types), the minority *kedushat shevi'it* ingredient is nullified when not imparting flavor, i.e. when in a ratio of 1:60. Ran (*Nedarim* 58a, s.v. *aval*) states that only if the foods were mixed prior to the time of *bi'ur* does the entire mixture become subject to *bi'ur*, even if a minuscule amount of *shemitah* food is in the mixture (*asur bekolshehu*). This is because it is a mixture that can be become

### C. Determining the *bi'ur* time

1. The obligation of *bi'ur* varies for each type of produce according to its season of growth and when it is finally consumed by wild animals.<sup>15</sup> The entire State of Israel is considered one region vis-à-vis *bi'ur* times.<sup>16</sup>
2. *Chazal* determined *bi'ur* times for several crops. These times are assigned when it is unknown when they disappear from the field.<sup>17</sup> For these times this *shemitah* year, see Appendices A–D.
3. For fruits with two fruiting seasons per year (e.g. lemons), the time for *bi'ur* is when the fruit is no longer available on the tree

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permissible (*davar sheyeish lo metirim*), governed by the rule that it is not nullified even in a 1:1,000 ratio. In this case, any Jew can eat of the mixture even if it has *kedushat shevi'it* status. However, if the *shemitah* produce is mixed in after the *bi'ur* time, it can be nullified in a ratio of 1:60 if it does not impart flavor (*batel benoten ta'am*); now the mixture includes food that cannot become permissible (the *bi'ur* time has passed and the food is now forbidden). See *Shabbat Ha'aretz* 7:22 §2.3.

15. Rambam 7:1–2.
16. During the period of *Chazal*, some opinions divided the Land of Israel into three distinct *bi'ur* regions while others into nine: *Mishnah* 9:2–3; Rambam 7:9–12. However, *Shenat Hasheva* (19:13) notes that today the entire State of Israel has that one time for *bi'ur*, since we do not know with certainty what the various boundary regions are. Furthermore, produce is very commonly transported from place to place in large quantities. The *halachah* is that if produce is transported from a place where it is no longer available to a place where it is available or vice-versa, *bi'ur* applies to the crop in both places for that particular crop, according to the earliest *bi'ur* time; see Rambam 7:12 and *Chochmat Adam, Sha'arei Tzedek* 19:9. Rabbi Eliahu adds that today the nature of plant growth is also similar in all regions. See also *Shabbat Ha'aretz* 7:10 §3.
17. Rambam 7:11. *Mishnat Yosef* (III §36, end) and Rabbi Neria Guttel (*Barkai V*, pp. 103–128) write that today grapes are no longer found in the vineyards by *Tu B'shevat*, so we should perform *bi'ur* at this time due to doubt. Rabbi Yisraeli (editor's note, *Barkai V*, pp. 119–112) disagrees, arguing that *bi'ur* should be performed for grapes only by *Pesach* of the eighth year (as stated by Rambam 7:11). The index for *bi'ur*, in his opinion, is the crop's ability to remain in the field, had it not been harvested by people or eaten by animals (§8, *ibid.*); alternatively, grapes can be stored until *Pesach* (§13, *ibid.*). See *Shabbat Ha'aretz* 7:11 §§1–2; *Hama'ayan* 21:4 *Tamuz* 5741, pp. 1–3.

after the second fruiting season.<sup>18</sup> For different fruit varieties, the *bi'ur* time is determined by the last variety to ripen (thus, for oranges, *bi'ur* time is determined by Valencia oranges, which cease to be available only during spring of the eighth year).

4. The *bi'ur* time for *etrogim* is the eighth year, when the *etrogim* that grew during the *shemitah* year are no longer on the tree.<sup>19</sup>
5. If a specific type of produce is no longer available to wild animals in the field but is still growing in a private, fenced yard,<sup>20</sup> *bi'ur* nevertheless applies. The same is true if a specific type of produce is no longer available in the field of a landowner, but exists in irrigated fields.<sup>21</sup>
6. If a specific type of produce grows exclusively by artificial means (and none by natural means), the *bi'ur* time is when there is no more of that artificially grown produce.<sup>22</sup>

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18. *Mishnah*, *Shevi'it* 9:4; Rambam 7:5. See also Rabbi Auerbach: *Kerem Tziyon*, ch. 17, *Gidulei Tziyon* §1; *Minchat Shlomo* 51:15. *Chiddushim Ubiurim* (II 6:4, s.v. *shevi'it*), is stringent and writes that if the second yield did not ripen when the fruits of the first yield are finished, *bi'ur* should be performed on the first yield when their time has come. See also *Shabbat Ha'aretz* 7:5 §1.
  19. Rabbi Kook (*Shabbat Ha'aretz*, *Kuntres Acharon* §24; *Sefer Hashemitah*, p. 45 §9 and n. 4) maintains that *etrogim* are like trees that yield twice a year. *Kerem Tziyon*, 17:14, writes that *etrogim* are exempt from *bi'ur* since they can remain on trees for two to three years until they are harvested prior to *Sukkot*. See also *Shabbat Ha'aretz* 4:12 §§6–8 on *kedushat shevi'it* for *etrogim*. Rabbi Eliahu adds that *bi'ur* does not apply to the Yemenite *etrog*, since these *etrogim* are on the tree all year round. However, *bi'ur* does apply to other *etrog* varieties, as these trees are generally bare at a certain point. In practice, most *etrog* growers remove during winter the *etrogim* remaining on the tree.
  20. *Mishnah* 9:4 states: "One may eat by virtue of similar produce regarded as ownerless [still found in the field], but not when it was stored." See *Shabbat Ha'aretz* 7:4 §2.
  21. *Tosefta* 7:12 based on the Gra's gloss §20: "One **may not** eat by virtue of vegetables growing in irrigated land (*beit shelachin*), since the produce is never finished due to [ongoing] irrigation." See *Shabbat Ha'aretz* 7:11 §5.
  22. *Shabbat Ha'aretz*, *ibid.*

7. For this reason, the *bi'ur* time for vegetables growing in hothouses or nethouses<sup>23</sup> is based on the following criteria:
  - a. If most vegetables of that kind grow in open fields, the *bi'ur* time is that for the fields.
  - b. If vegetables are grown mostly in unlocked hothouses (entry is possible at any time), *bi'ur* time is when no more vegetables of that type remain in them.
  - c. For vegetables that are mostly grown in locked hothouses, the *bi'ur* time is when no more vegetables of that type remain in the fields.
  - d. If all cultivation takes place in hothouses, the *bi'ur* time is when no vegetables remain in the hothouse.<sup>24</sup>
8. For peels and seeds that are generally used as animal fodder (or other uses relevant to *kedushat shevi'it*): if they are stored separately from fruit (e.g. orange peels meant for cow sheds), *bi'ur* time is when the peels and seeds would rot in the field. If these peels and seeds are meant for human consumption (such as candied orange peels) or are preserved together with their fruit, the *bi'ur* time is that of the fruit itself.<sup>25</sup>

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23. In hothouses, it is possible to extend the crop growing seasons, and therefore to extend the time the vegetables are still available. For this reason, *bi'ur* time would also be delayed.

24. *Mishnat Yosef* III §35. See *Shabbat Ha'aretz*, *ibid*.

25. Rambam 7:15; *Sefer Hashemitah*, p. 44 §5.

## Chapter 25

### Practical laws of *bi'ur*

#### A. *Bi'ur* time

Produce with *kedushat shevi'it* (as well as *demei shevi'it*, see below §C.8) are subject to *bi'ur* according to the *bi'ur* schedules. See Appendices A–D.

#### B. Who is required to perform *bi'ur*?

1. The obligation to perform *bi'ur* applies only to those who own a quantity of produce that exceeds the amount needed for one week for every member of the household<sup>1</sup> ("food for three meals"<sup>2</sup>).
2. When the *bi'ur* time arrives, one may retain at home food of that type that will suffice for all the family for a week, or the produce may be given to a Jew who does not have food for a week from of specific type of produce.<sup>3</sup>
3. The owner of the produce is not required to eat all of the produce in his next three meals, but whenever he wants.<sup>4</sup>
4. The *mitzvah* of *bi'ur* should be performed if one owns more food than the "three meal" amount cannot find a recipient for it.<sup>5</sup>

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1. *Mishnah* 9:8; *Tosefta* 8:4; Rambam 7:3; *Shabbat Ha'aretz* 7:3 §1.

2. Chazon Ish §11:6, s.v. *ube'inyan*; the definition of "a week" is the average amount of groceries that a person buys for his household each time he makes a purchase. The definition of "little by little" (in terms of the quantity private individuals may store) is the amount of produce needed for several days. Chazon Ish, *ibid.*, defines "three meals" as a person's basic needs.

3. *Mishnah*, *ibid.*; *Tosefta* *ibid.*; Rambam, *ibid.*; *Shabbat Ha'aretz*, *ibid.*

4. Chazon Ish, *ibid.* *Shabbat Ha'aretz* 7:3, n. 6.

5. Rambam, *ibid.*; *bi'ur* for *shemitah* produce is similar to *bedikat* and *bi'ur chametz*. In principle, no *chametz* should be left in our possession, so we give it away to others. Only if a lot remains, are we to perform *bi'ur chametz*—but it is not necessary actually to perform *bi'ur chametz*. For *bedikat chametz* the *mitzvah* is not to find and get rid of the *chametz*; it is merely to ensure that there is no

### C. *Bi'ur* through *hefker*

1. The prevalent custom in Israel today is that the *mitzvah* of *bi'ur* entails declaring the produce ownerless to anyone who wants to take it.<sup>6</sup>
2. Preferably, one should remove the produce from one's home and declare it ownerless before three people. While these three people shall not be members of one's immediate family, they can be related to one another. If this is not feasible, one should invite three people to his home and declare the produce ownerless in their presence.<sup>7</sup>
3. One may declare the produce ownerless before three friends, although one knows that they will not take it. After performing the *mitzvah* of *bi'ur*, it is permissible to take the produce back.<sup>8</sup>
4. In extenuating circumstances, when there is no possibility of declaring the produce ownerless before three people, one sets the produce out in the public domain or an unlocked yard, and declares it ownerless when no one else is present. It is then permissible to take the produce back home.<sup>9</sup>

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*chametz* left in our possession. The same is true for *bi'ur* of *kedushat shevi'it* produce.

6. Ramban, *Vayikra* 25:7, based on *Tosefta*, *ibid.* This is the opinion of most *Rishonim*; see *Pe'at Hashulchan* 27:3. See also *Shabbat Ha'aretz* 7:3 §2. However, Rambam (7:3) maintains that *bi'ur* is performed only by burning (although his opinion was not accepted by mainstream *posekim*). See *Mishpat Kohan* §83, who writes that it is not preferable to burn the produce, since doing so transgresses the prohibition of *hefsed* for *shemitah* produce and *bal tashchit* (wanton destruction), similar to redeeming *ma'aser sheni* on a *perutah* rather than to its true value, so as not to cause financial loss); *Sefer Hashemitah* p. 45, n. 3.
7. *Bi'ur Hagra* on *Yerushalmi* 9:4. See also *Shabbat Ha'aretz* 7:3, n. 14.
8. Chazon Ish §26, *Seder Hashevi'it* §1 s.v. *peri*. See also *Shabbat Ha'aretz* 7:3 §2.3–4.
9. *Yerushalmi* 9:4. Rabbi Kook (*Shabbat Ha'aretz* 7:3 §2.4, n. 21) maintains that this is true for those who hold that *bi'ur* is *miderabanan*; however, for those who hold that it is *de'oraita*, the produce should be declared ownerless before three people. Rabbi Yisraeli is lenient in this regard, even when there are no extenuating circumstances involved.

5. The produce is rendered ownerless by declaring that anyone may take it. The text for the *hefker* declaration cited by *Chazal* is as follows:

"אחינו בית ישראל: כל מי שצריך ליטול יבוא ויטול"

"Our brothers of the House of Israel: whoever needs to take should come and take."<sup>10</sup>

6. Preferably, the act of declaring produce ownerless should be performed directly by the owner. If necessary, it may be done through an agent; however, it is best to do so in person.<sup>11</sup>
7. When the *bi'ur* time is in doubt, one should render the produce ownerless when the doubtful time begins; after this, follow the directives below, according to the halachic order of preference:
  - a. Leave the produce outside the home until the *bi'ur* time is definitely over. After this, it is possible to take the produce back home.<sup>12</sup>
  - b. Take the produce back every day and declare it ownerless the next day, until the *bi'ur* time is definitely over.<sup>13</sup>
  - c. Render the produce ownerless and bring it back home without the intention of resuming ownership. To this end, invite three people and notify them that the produce was returned home only for safekeeping, and with no intention of acquiring ownership of the produce by virtue of it being in his domain. At this point, one may eat the produce, it being ownerless.<sup>14</sup>
8. The obligation of *bi'ur* applies also to money that assumed *kedushat shevi'it*. Its *bi'ur* time is the same as for the original

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10. Tosefta, *ibid.*; Rambam, *Nedarim* 2:14; *Shulchan Aruch*, *CM* §273:3–4.

11. This is the ruling of Rabbi Eliahu. See *Mishnah Berurah* §434:15, that in principle it is possible to appoint an agent to nullify one's *chametz* (some are stringent in this regard; *Mishpatei Eretz* 31:5).

12. *Sefer Hashemitah*, p. 46 §12; Rabbi Auerbach, *Minchat Shlomo* §51:18.

13. Chazon Ish §26, *Seder Hashevi'it* §5, s.v. *kanah*.

14. This is the ruling of Rabbi Eliahu. See also *Mishnat Yosef* III §36.

produce purchased with the money. The owner of such money needs to buy produce with it and render this produce ownerless, just like the original produce itself.<sup>15</sup>

9. If one pickles several types of *shevi'it* fruits or vegetables together<sup>16</sup> and the *bi'ur* time arrives for one of them, one should proceed as follows: take out the fruit or vegetable whose *bi'ur* time has arrived and perform the *mitzvah* of *bi'ur* with it. The rest of the mixture is not subject to *bi'ur*, even though the taste of the fruit/vegetable absorbed in it is still present after the *bi'ur* time has come.<sup>17</sup> However, if one pickles the mixture after the onset of *bi'ur* time for one of the ingredients, the entire mixture is forbidden (unless the ingredient requiring *bi'ur* is nullified in a 1:60 ratio).<sup>18</sup>

#### **D. If one fails to perform *bi'ur***

1. If one fails to render the produce ownerless at the appropriate *bi'ur* time, consumption of the produce is forbidden.<sup>19</sup> However, if one receives *shemita* produce from a friend after the designated *bi'ur* time and is unsure whether it was

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15. Rambam 7:7. Rashes (9:5) maintains that *bi'ur* deadline for money is on *Rosh Hashanah* of the eighth year, see *Shabbat Ha'aretz* 7:7 §3. Rabbi Eliahu maintains that if the money was used to buy several types of fruits and vegetables together, one should act following §C.9.

16. See above, Chapter 24 §B.10 on mixtures of *kedushat shevi'it* and regular produce.

17. *Mishnah* 9:5; *Shabbat Ha'aretz* 7:6 §3. Rash (9:5) states that this *halachah* applies only to vegetables. However, if fruit is in question, one should perform *bi'ur* on the flavor absorbed by the other types of food in the mixture.

18. *Lechem Mishneh*, *Ma'achalot Assurot* 15:6. See also *Shabbat Ha'aretz* 7:6, n. 13.

19. Rashi, *Yoma* 83a, s.v. *tevel*; *Shabbat Ha'aretz* 7:3 §3. According to the *Pe'at Hashulchan* (*Taklin Chadatin Shekalim* 3:2), it is forbidden even to derive benefit from the produce. Some maintain that only the owner is denied benefit from the produce, but all others are allowed to benefit.

Rabbi Eliahu rules that if one unintentionally transgresses *bi'ur*, the produce is indeed forbidden to the transgressor but permitted to others. See also *Shabbat Ha'aretz*, *ibid.*, n. 23.

rendered ownerless, one can immediately perform the *mitzvah* of *bi'ur* and then eat the produce.<sup>20</sup>

2. If one failed to perform *bi'ur* due to circumstances beyond one's control, the produce is not forbidden. One should render it ownerless as soon as possible.<sup>21</sup>

### E. Miscellaneous laws

1. Even after *bi'ur*, the produce continues to retain its sacred status and should be handled accordingly.<sup>22</sup>
2. For Israeli produce exported abroad whose *bi'ur* time arrives in Israel, one should perform the *mitzvah* of *bi'ur* on the produce. It is forbidden to transport this produce from place to place.<sup>23</sup>
3. Cooking utensils used to cook or otherwise prepare *shemitah* produce do not need to be "*kashered*" at the time of *bi'ur*.<sup>24</sup>

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20. See Rashes 9:9; Chazon Ish §11:6; *Shabbat Ha'aretz*, *ibid.*, nn. 25, 29.

21. *Sefer Charedim, Mitzvot Hateluyot Ba'aretz*, introduction. According to *Gedulat Mordechai* §9, even if one could not perform *bi'ur* due to circumstances beyond one's control, the produce is nonetheless forbidden. See *Torat Hashemitah* 15, n. 45; *Shabbat Ha'aretz*, *ibid.*, nn. 26, 28.

22. Rivmatz 9:2. Rabbi Yisraeli rules accordingly. See also *Shabbat Ha'aretz*, *ibid.*, n. 11. Rash (9:7) maintains that after the *bi'ur* time, the produce loses its *kedushat shevi'it* status. See also *Shabbat Ha'aretz*, *ibid.*, n. 18.

23. However, it is permissible to transfer it back to Israel to perform the *mitzvah* of *bi'ur* there, but this is not obligatory. Rashi, *Pesachim* 52b, s.v. *bechol makom*; *Yerushalmi* 6:4. See also *Shabbat Ha'aretz* 7:12.

24. *Torat Hashemitah* 15:45; Rabbi Auerbach: *Ma'adanei Eretz, Kovetz He'arot* 8:19 and *Minchat Shlomo* 51:19; See *Shabbat Ha'aretz* 7:6 §6.

## Chapter 26

***Bi'ur and viduy ma'aserot*****A. Halachic principles of *bi'ur* and *viduy***

1. The *mitzvah* of *bi'ur*<sup>1</sup> *ma'aserot* applies during the *shemita* year on the last day of *chol hamo'ed Pesach* (eve of the seventh day of *Pesach*).<sup>2</sup>
2. The *mitzvah* of *viduy*<sup>3</sup> *ma'aserot* applies on the seventh day of *Pesach* at *minchah* time; see §§D and E.
3. These *mitzvot* include agricultural produce subject to *terumot* and *ma'aserot*, which grew during the fourth year of the *shemita* cycle and later. They apply also to the designation of *challah*<sup>4</sup> and redemption of *neta revay*.

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1. *Bi'ur* for *shemita* produce, where every type of produce has a different *bi'ur* time (as discussed in previous chapters), is different from *bi'ur ma'aserot*. The latter form of *bi'ur* occurs on *Pesach* of the fourth and seventh years of the *shemita* cycle (twice in seven years), when we are commanded to complete our obligation to separate *terumot* and *ma'aserot*. We are not required to get rid of the produce itself, or declare it ownerless.
  2. *Semag*, positive *mitzvah* 138; Rambam, *Ma'aser Sheni* 11:7; *Shulchan Aruch*, YD §331:144; *Shenot Elyahu*, *Ma'aser Sheni* 5:6; *Acharit Hashanim* 4:7 §§1–5, 5:31. Some customarily perform the *bi'ur ma'aserot* before the *seder* night, as stated in the *Mishnah* (*Ma'aser Sheni* 5:6) that *bi'ur* takes place "on the eve of the first festival day of *Pesach*," while *viduy* only on the last day of *Pesach* (*ibid.*, 5:10). See also Rashi, *Devarim* 26:12; *Yere'im* §179 [264]; *Ha'aruch*, entry *bi'ur*; Rabbi Eliahu rules accordingly in: "Laws of *bi'ur ma'aserot*," *Torah VeHa'aretz* V. See also *Hama'aser Vehaterumah*, ch. 1, *Tziyunim* §145. Some hold that optimally, *bi'ur* should be performed twice: on *erev Pesach* and also on the last day of *chol hamo'ed* (Rabbi Elyakim Slanger, *Beit Midrash for Halacha in Agricultural Settlements – Emunat Ish*).
  3. For a detailed discussion on the topic of *bi'ur ma'aserot*, see *Hoda'at Ha'aretz*, *Torah VeHa'aretz* Institute, 5765.
  4. That is, if one has dough that still requires separation of *challah*, this act should be undertaken now. So too, if one separated *challah* but this has not yet been disposed of or burned, this should be completed.

4. These *mitzvot* apply specifically to the following crops: produce in refrigeration, citrus fruit, seeds, lentils (that grew in Israel), peanuts, and industrial goods. These *mitzvot* do not apply to fresh vegetables that grew during the *shemitah* year.

## **B. *Bi'ur ma'aserot* in practice**

1. *Bi'ur ma'aserot* includes the following:
  - a. Most importantly: destruction of the *ma'aser sheni* coin (after *Pesach* a new coin is needed).
  - b. *Terumot* and *ma'aserot* should be taken from produce subject to this, when these have not yet been separated.
  - c. The gifts should be given to their intended recipients, i.e., *kohen, levi*, and poor people, if this has not yet been fulfilled.
2. These *halachot* are relevant today especially to those who grow fruits, vegetables, and herbs in their garden or indoors. They are also pertinent to those who buy their produce in stores without *kashrut* certification, since it might still be untithed. However, since *shemitah* produce is exempt from *bi'ur ma'aserot* (even when obligated, out of doubt, for *terumot* and *ma'aserot*, such as *heter mechirah* produce), *bi'ur ma'aserot* is only an issue for certain types of produce bought in the market, such as that halachically belonging to the sixth year, but still available in the market or at home by *Pesach* of the *shemitah* year. For examples of such produce, see §A.4.
3. One should separate *terumot* and *ma'aserot*, redeem *neta revay*, and separate *challah* from everything in one's ownership. This includes definite obligations (*tevel*) and obligations due to doubt (*safek tevel*) before their *bi'ur* time. This applies even if one intends on partaking of the produce or baked goods only after *Pesach*.<sup>5</sup>

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5. *Mishnah, Ma'aser Sheni* 5:6.

4. The obligation of separating *terumot* and *ma'aserot* by the *bi'ur* time applies to crops that grew during the last four years (4–7 of the *shemita* cycle), as follows:<sup>6</sup>
  - a. Vegetables harvested between *Rosh Hashanah* of the fourth year of the *shemita* cycle and *Rosh Hashanah* of the *shemita* year.
  - b. Fruit whose *chanatah* occurred between 15 *Shevat* of the fourth year and *Rosh Hashanah* of the *shemita* year.<sup>7</sup>
  - c. Lentils that reached one-third of their growth between 15 *Shevat* of the fourth year and *Rosh Hashanah* of the *shemita* year.<sup>8</sup>
5. When separating *terumot* and *ma'aserot* from *tevel vaday* (crops definitely obligated), say the blessing on the *hafrashah* (separation) and the blessing on *pidyon ma'aser sheni* (redemption), if the produce so requires. At the *bi'ur ma'aserot* time, proceed as follows:
  - a. *Terumot* (*terumah gedolah* and *terumat ma'aser*) should be given, or their ownership transferred, to a *kohen* (this is generally performed on the industrial level). Individuals separating *terumot* and *ma'aserot* at home should remove the *terumot* from their homes (by double wrapping it in a closed plastic bag, and disposing of it in a garbage bin outside).<sup>9</sup>

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6. See *Hama'aser Vehaterumah*, ch. 1, *Beit Ha'otzar* §100. Take care not to separate *terumot* and *ma'aserot* from one year's produce to exempt another year's.
7. During the *shemita* year, *Rosh Hashanah* is the date that defines the *ma'aser* year, fruit trees included. In contrast, for the next *bi'ur ma'aserot* year—the fourth year of the *shemita* cycle—the determining date for the *ma'aser* year for fruit is 15 *Shevat* of year one.
8. For the definition of "one-third," see Chapter 5 §C.2.
9. Assuming that this is a public garbage bin (i.e. not privately owned). Even if the garbage bin is physically situated outside one's home, it is still considered to be within one's domain if it is private property. This *halachah* is similar to *bi'ur*

- b. Give *ma'aser rishon* or transfer its ownership, to a *levi*.<sup>10</sup> The *levi* may store the produce, and is not required to eat it before *Pesach*.
  - c. Redeem *ma'aser sheni* on a minted coin worth at least a *perutah*-and-a-quarter. The value of a *perutah* is that of  $\frac{1}{40}$  g of silver. This can be checked on the *website* of Torah VeHa'aretz Institute. *Ma'aser sheni* can also be redeemed on a food item<sup>11</sup> such as sugar, worth at least one *perutah*-and-a-quarter.
6. *Ma'aser ani* should be given, or its ownership transferred, to the poor. So too, someone who owns *ma'aser ani* money should give it directly to the poor.<sup>12</sup> Recipients of *ma'aser ani* may keep this produce and need not eat it before *Pesach*.

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*chametz*; after the *bi'ur* deadline, one should ensure that the remaining unburned *chametz* is disposed of in a public garbage bin.

10. According to most opinions, it is obligatory even today to give *ma'aser rishon* to a *levi*. All *Beit Ha'otzar* members of Torah VeHa'aretz Institute perform the *mitzvah* of *netinah*, giving the gifts to their appropriate recipients, including to a *levi*. According to Chazon Ish (*Shevi'it* §5:12), *ma'aser rishon* should not be given to *levi'im* today. Those who follow this opinion are not obligated even at the time of *bi'ur ma'aserot* to give *ma'aser rishon* to a *levi*.
11. *Sefer Eretz Yisrael*, pp. 119–120, §§1–3 and n. 2, based on Rambam, *Ma'aser Sheni* 4:2–3; *Shulchan Aruch*, *YD* §331:137. Rabbi Eliahu rules accordingly. Rabbi Yisraeli rules that one can perform *chillul* for *ma'aser sheni* money on a fruit or vegetable free of *kedushat shevi'it*.
12. Some generally put money in their *tzedakah* box at home against the *ma'aser ani* that they would otherwise set aside: each time they separate *terumot* and *ma'aserot* from home-grown produce, they estimate the value of each fruit or vegetable, and put 9% of this sum in their *tzedakah* box. Such people should empty their *tzedakah* boxes prior to *bi'ur* time and give the money **directly to bona fide poor people** (similar to money for *matanot la'evyonim*, where the money or equivalent goods should go directly to the poor on *Purim*). It is insufficient to put this money into a synagogue *tzedakah* box or to a charitable institution for it merely to be there. Rather, it is important to verify that the money reaches poor people prior to *seder* night and furthermore that these people are halachically defined as poor.

7. With *safek tevel* (produce subject to *terumot* and *ma'aserot* out of doubt), *terumot* and *ma'aserot* are separated without a blessing before the time of *bi'ur ma'aserot*. However, there is no obligation to give the gifts to a *kohen*, *levi*, or the poor. It is possible to wrap the *terumah* in a closed plastic bag, and dispose of it in a garbage bin at home. When there is a doubt to which year the produce belongs, separate both *ma'aserot* i.e. *ma'aser sheni* and *ma'aser ani*.
8. If one has a coin used to redeem *ma'aser sheni* or *neta revay*, one may redeem these coins against another coin. For instance, one can redeem a 10 *shekel* coin against one of half-a-*shekel* coin or 10 *agorot*. This voids the sanctity of these coins.
9. The formula for this transfer of sanctity (*chillul*, lit. desacralization) is as follows:
 

"כל מטבעות מעשר שני והרבעי שברשתי בתוספת חומש – מחוללים על מטבע זה."  
 "All the *ma'aser sheni* and [*neta*] *revay* coins in my ownership, plus an additional fifth, are all desacralized onto this coin."
10. The new coin, now imbued with the *ma'aser sheni* and/or *neta revay* sanctity, should then be destroyed by throwing it into the sea, burning, or defacing it.<sup>13</sup>
11. It is also possible to perform *chillul ma'aser sheni* and/or *neta revay* onto sugar exceeding the value of a *perutah*-and-a-quarter. The procedure for transferring this sanctity to sugar is as follows:
12. Recite the following formula:

"מטבע זה של מעשר שני והרבעי בתוספת חומש מחולל על סוכר זה."

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13. Rambam, *Ma'aser Sheni* 11:8; *Shulchan Aruch*, YD §331:133, §294:6; *Imrei Yosher* §38, n. 19. *Acharit Hashanim* ch. 4, p. 30, writes that it is forbidden to bury the produce when performing *bi'ur ma'aserot*. However, *Aser Te'aser* (*halachah* 294), and *Mishpat Kohen* (55:2 §1) are lenient and permit this. See *Hama'aser Vehaterumah* ch. 1, *Tziyunim* §169.

"This coin of *ma'aser sheni* and *revay*, plus an additional fifth, is desacralized onto this sugar."

13. Dissolve the sugar in water and pour the water down the drain.<sup>14</sup>
14. If one has coins with varying degrees of obligation, they should be transferred to a coin worth several *perutot*. When performing the *chillul*, add:

"כל דרגת חיוב תהיה מחוללת על פרוטה נפרדת."

"Each level of obligation will be desacralized against a separate *perutah's* worth."<sup>15</sup>
15. After *Pesach*, one should prepare new coins for *chillul ma'aser sheni* and *neta revay*, and consult with an authorized halachic authority when doing so.
16. If one has canned goods with *kashrut* certification but is concerned that *terumot* and *ma'aserot* were not taken properly, it is unnecessary to perform the *mitzvah* of *bi'ur ma'aserot* (even for those who are stringent and separate *terumot* and *ma'aserot* from such produce).<sup>16</sup>
17. *Bi'ur ma'aserot* should not be performed on *Shabbat* or *Yom Tov*.<sup>17</sup>

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14. *Sefer Eretz Yisrael*, p. 121, n. 1 (also on opinions forbidding performing *chillul* on sugar).

15. *Minchat Shlomo* §63, s.v. *vehineh davar*; §67:15, §71:16.

16. See *Mishnah, Demai 1:2*, that *bi'ur* does not apply to *demai* (that is, where *terumot* were definitely separated but there is a doubt regarding the separation of *ma'aserot*); today those who separate *terumot* also separate *ma'aserot*, and those who do not separate *ma'aserot* do not separate *terumot* either. *Demai* produce is not a present-day phenomenon as it was in Mishnaic and Talmudic times). *Minchat Shlomo* (§62:3) writes that these cases are at worst considered like *demai*, and one need not be stringent with them as with *safek tevel*.

17. *Tosafot Yom Tov, Ma'aser Sheni 5:6; Acharit Hashanim*, ch. 4, p. 28. See also *Mishpat Kohen 55:2 §1*, who deems it rabbinically forbidden to perform *bi'ur* on *Shabbat* or *Yom Tov*, since one might then burn the produce.

18. If one forgot to separate *terumot* and *ma'aserot* or to give the appropriate recipients their gifts by the *bi'ur* deadline, the produce is not forbidden;<sup>18</sup> one should perform the *mitzvah* of *bi'ur* immediately (i.e. separate the *terumot* and *ma'aserot* and give them to their intended recipients). However, if one failed to separate to perform *bi'ur* on *ma'aser sheni* and *neta revay* fruits and their *bi'ur* time passed, they cannot be redeemed and it is forbidden to derive benefit from them.<sup>19</sup> The same is true one fails to perform *chillul* on *ma'aser sheni* coins: they may not be benefited from and should be destroyed.
19. Women are obligated for the *mitzvah* of *bi'ur ma'aserot* but not *viduy*; however, according to various opinions, they may read the *viduy* if they so desire.<sup>20</sup>

### C. *Beit Ha'otzar*

1. Members of *Beit Ha'otzar* of Torah VeHa'aretz Institute give the appropriate *ma'aserot* to a *levi* and a poor person through *Beit Ha'otzar* each time they separate *terumot* and *ma'aserot*. For this reason, they do not need to give money to a *levi* or poor person.

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18. *Minchat Chinuch* §607; *Acharit Hashanim, Devar Eliyahu*, p. 62; *Minchat Shlomo* §62:3; *Imrei Yosher* §38, n. 19.

19. *Rambam, Ma'aser Sheni* 11:8; *She'ar Hamelech, Ma'achalot Assurot* 10:16; *Rashas and Gra, Ma'aser Sheni* 5:6; *Torat Ha'aretz* 3:53–54. *Chazon Ish (Demai* §2:7, s.v. *vanireh*) is lenient in this regard, writing that such produce should be redeemed (and that every day's delay in redeeming is considered as nullifying the *mitzvah* of *bi'ur*). See also *Minchat Chinuch*, *ibid.*, who is uncertain about this issue; *Hama'aser Vehaterumah* ch. 1, *Beit Ha'otzar* §97.

20. Since *viduy ma'aser* is conditional on receiving a portion in the Land of Israel, and in principle, women do not receive a portion; or because it is a time-dependent *mitzvah*. According to many opinions, however, women may recite the *viduy*, because (1) they too are obligated to separate *terumot* and *ma'aserot* and (2) women are, in a general sense, included in receiving the land.

*Mishpat Kohen* 65:4 §2; *Acharit Hashanim* IV pp. 23, 49, 63; *Chazon Ish, Demai* §2:7. See also *Minchat Chinuch*, *ibid.*, who deliberates whether women are obligated for *bi'ur*. See also Rabbi Ehud Ahituv, "Viduy *ma'aser* and inheritors of the land," *Hoda'at Ha'aretz*, pp. 316, 335.

2. *Beit Ha'otzar* representatives perform *chillul* on the coins of all members at the time of *bi'ur ma'aserot*; members need not do so.
3. *Beit Ha'otzar* representatives prepare new coins after *Pesach* for *chillul ma'aser sheni* and *neta revay*.

#### **D. Viduy ma'aserot**

1. The *mitzvah* of *viduy ma'aserot* does not apply today.<sup>21</sup>
2. Nevertheless, it is best even today, to read the Torah portion about the *viduy ma'aserot*, in remembrance of the *Beit Hamikdash*. The custom is to read this text in the synagogue and with a large assembly on the seventh day of *Pesach* before *minchah*.<sup>22</sup>
3. The accepted practice is to read the verses from a *chumash*.<sup>23</sup> Some read the text from a Torah scroll, without the blessings.<sup>24</sup> Preferably each person recites the verses on their own.<sup>25</sup>

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21. Rabbi Kook (*Mishpat Kohan* 56:1) and Chazon Ish (*Demai* §2:6) write that today we are not obligated to say the *viduy*, since we do not perform the *mitzvot* of separating *terumot* and *ma'aserot* and giving them in their entirety (as stated in the *viduy ma'aserot*). Ra'avad (*Ma'aser Sheni* 11:4) maintains that the *viduy* applies only when the *Beit Hamikdash* is standing. See *Hama'aser Vehaterumah* 1:72, *Tziyunum* §§162–163.
  22. The Aderet, Rabbi Eliyahu David Rabinowitz Te'omim, went to great lengths to renew the recitation of *viduy ma'aserot*. As part of this effort, he published his work *Acharit Hashanim* in Warsaw, 5653 (1893), the fourth year of the *shemitah cycle* and thus a *bi'ur ma'aserot* year. He continued promoting this renewal of this *mitzvah* following his *aliyah* in 5661 (1901). For more on this topic, see *Hoda'at Ha'aretz*, p. 228. See also *Acharit Hashanim* IV, pp. 26, 52; *Betzet Hashanah*, p. 52 §7. It is best to say *viduy ma'aserot* at the *kotel*: *Acharit Hashanim* IV, p. 26.
  23. According to Rambam, *Mishnah Ma'aser Sheni* 5:13; *Kaftor Vaferach*, ch. 42. Rabbi Eliahu rules accordingly. See also *Aser Te'aser*, *halachah* 302.
  24. See Rabbi Yehuda Zoldan, "Reciting *viduy ma'aser* from a Torah scroll," *Hoda'at Ha'aretz*, pp. 368–388.
  25. Rambam, *Ma'aser Sheni* 11:5; *Shulchan Aruch*, *OC* 331:143 and *Shach* 331:161; *Aser Te'aser*, *halachah* 291.

### E. Order of *viduy ma'aserot*

1. We read the verses from *parashat Ki Tavo* (*Devarim* 26:12–15) and *Mishnah, Ma'aser Sheni* 5:13.
2. Following the reading, some add the following prayer:

יהי רצון מלפניך ד' א-להינו וא-לוהי אבותינו, בשם שזכינו לקיים מצוות ביעור מעשרות ווידוי מעשרות, כן יזכנו הקב"ה לקיים מצוות הפרשת תרומות ומעשרות מהתורה, וכן מצוות ביעור מעשרות מן התורה, בביאת גואל צדק ובבניין בית המקדש במהרה בימינו. אמן, כן יהי רצון.

May it be Your will, G-d, our L-rd and the L-rd of our forefathers, that just as we have merited to perform the commandment of *bi'ur ma'aserot* (removing tithes from our possession and delivering them to their proper destinations) and *viduy ma'aserot* (reciting the tithing confession), so too may G-d grant us the merit to perform the commandment of separating *terumot* and *ma'aserot* as a Torah obligation, and to perform the commandment of *bi'ur ma'aserot* as a Torah obligation, with the coming of the righteous Redeemer and the rebuilding of the Holy Temple, speedily and in our day, *amen*. So may it be Your will.

## Chapter 27

### Laws of *shemita* during the eighth year

#### A. Fruit during the eighth year

1. Fruits whose *chanatah* (see above, Chapter 5 §B) occurred during the seventh (*shemita*) year have *kedushat shevi'it* even during the year following it, also known as the eighth year. This is especially common for citrus, which are generally harvested during the winter.
2. Private gardens and orchards should be open for the public during *shemita* and the eighth year until the average season of the second rainfall (*reviyah sheniyah*), between 23 *Cheshvan* and *Rosh Chodesh Kislev*.
3. From *Rosh Chodesh Kislev*, one may lock orchards and gardens and perform the *mitzvah* of *hefker* by bringing the fruit out of them.<sup>1</sup>
4. For most fruits, the *bi'ur* time takes place during the eighth year. These times appear in the *bi'ur* schedule, see Appendix A.
5. See Appendix A for when fruit no longer has *kedushat shevi'it*.

#### B. Vegetables during the eighth year

1. Vegetables harvested during the *shemita* year have *kedushat shevi'it mide'oraita*, even if eaten during the eighth year.<sup>2</sup> Vegetables harvested during the eighth year that grew mostly during the *shemita* year have *kedushat shevi'it miderabanan*.<sup>3</sup>

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1. Rambam 7:18 and *Shabbat Ha'aretz* 7:18. The owner has to take the fruit out because they still have *kedushat shevi'it* and are halachically considered *hefker*.

2. See Chapters 3 §B.1d and 5 §C.1, 6.

3. *Mide'oraita*, harvest time for vegetables determines their *kedushat shevi'it* status (so they would not have *kedushat shevi'it* if harvested in the eighth year). *Chazal*, however, instituted that vegetables have *kedushat shevi'it* if the majority of their growth occurred during the *shemita* year: Rash (6:4); *Tosafot Anshei Shem* 6:4,

2. When certain vegetables were certainly harvested during the *shemita* year in places where the *sefichin* prohibition applies, eating them is forbidden at any time.<sup>4</sup>
3. The *sefichin* prohibition applies also to the beginning of the eighth year. In some cases, it is forbidden to eat vegetables harvested then.<sup>5</sup>
4. Vegetables (here: *peiros adamah*, and excluding leafy vegetables) known to have been harvested during the eighth year, or when the date of their harvest is unknown, are forbidden to be eaten until the first of the following dates:<sup>6</sup>

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s.v. *misheya'aseh* on *Pe'at Hashulchan* §22:6; Chazon Ish §9:13. This is also implied by Rabbi Kook, *Shabbat Ha'aretz* 4:6 §1 n. 7; 13 §§2-3; 7 §§1, 3; 8 §7.

4. Chazon Ish §9:13, s.v. *veha*; *Shabbat Ha'aretz* 4:6 §2, n. 13. After *Chanukah* of the eighth year. Vegetables harvested during *shemita* are permitted by some; see *Shabbat Ha'aretz*, *ibid.*, n. 11 and 4:7, n. 20.
5. Rambam 4:5. *Pe'at Hashulchan* §22:9 argues that the *sefichin* prohibition applying to crops harvested in the eighth year is a special stringency of *Chazal*, since in principle, the status of vegetables should follow harvest time. It is in dispute whether *sefichin* apply: only to vegetables that finished growing during *shemita*; to vegetables for which most of their growth occurred during *shemita*; or even to those that grew only somewhat during *shemita*; see *Shabbat Ha'aretz* 4:6 §1.1, 12 §3, 13 §3. See also Rabbi Azriel Ariel, *Emunat Itecha* 1, 5755.
6. The distinction between *yerakot*, generally rendered as vegetables (but here meaning leafy vegetables), and *peiros adamah*, lit. "produce of the ground," comes from Rambam 4:7, who distinguishes between "*she'ar peiros*" (other produce) and "*yerakot*" (lit. "greens"). This distinction, made by Rambam, is discussed by the following: *Tzitz Eliezer* XII §61:2; *Kerem Tziyon* 11:9. See also *Shabbat Ha'aretz*, *ibid.*, 4:7 n. 25. The linguistic source of this distinction is the *Mishnah*, *Berachot* 6:1 (there a distinction is drawn between "*peiros ha'aretz*" "produce from the ground," and "*yerakot*," "greens").

- a. When new vegetables of the same type grow first in the place with earliest harvest time.<sup>7</sup> For vegetables that grow quickly and have a short shelf life, this time is three days.<sup>8</sup>
  - b. When the major of growth of the same type of vegetable occurs during the eighth year. This major growth must be that of the vegetable itself; it is not necessary that most of the parent plant reaches the majority of its growth.<sup>9</sup>
  - c. *Chanukah* of the eighth year.<sup>10</sup>
5. For vegetables with a long shelf life (such as carrots, onions, and potatoes), one should be stringent and discover whether vegetables appearing on the market are those that have grown most in, and been harvested during, the eighth year. In practice,

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7. That is, the day the first vegetables that were sown after *Rosh Hashanah* (in Israel) grow. Based on *Mishnah* 6:4. When it is unclear if the vegetables were harvested in the seventh or eighth year, the rationale for the *heter* is as follows: at this stage permitted vegetables are available in the market, so we assume that all vegetables are permitted. For vegetables known to have been harvested during the eighth year, we say that the "forbidden" part of the vegetable (that grew during *shemitah*) is nullified within the majority of the vegetable that grew during the eighth year; see Rash (6:4, s.v. *mishe-ya'aseh*) and *Shabbat Ha'aretz* 4:7 §2.
  8. The source of the *heter* for the vegetables is an opinion that allows harvesting of vegetables immediately after the *shemitah* year: *Mishnah* 6:4; Rambam 4:7. Some maintain that this *heter* was given because of vegetables that grow quickly in the Land of Israel; others suppose that it reflects the possibility of importing vegetables from abroad; see *Shabbat Ha'aretz* 4:7 n. 4 and §5.
  9. The support for this *heter* is that the prohibition can be nullified by the majority, not because most of its growth occurred during the eighth year. See *Shabbat Ha'aretz* 4:7 §2.2, 21 §2. For most vegetables, there is no need for proof that a specific vegetable achieved most of its growth during the eighth year. It is sufficient that vegetables of the same species grow during the eighth year more than they grew during the *shemitah* year. If this is the case, we can assume that this is true everywhere for this species—even in other regions.
  10. Rambam 4:6. According to Ra'avad (gloss, *ibid.*), *sefichin* are not permitted from *Chanukah* on, but only when most of the growth occurs during the eighth year, as noted in §4.b above. See *Shabbat Ha'aretz*, 4:6 §2; Chazon Ish §4:4 s.v. *vele'inyan*. *Pe'at Hashulchan* (§22:9) maintains that *Chanukah* only permits in doubtful cases of vegetables.

one should consult a halachic authority to ascertain when such vegetables are available in the marketplace.<sup>11</sup>

6. The determining stage of growth for grains and lentils, relevant to both the *sefichin* prohibition and *kedushat shevi'it*, is one-third of their growth (*onat hama'aserot*).<sup>12</sup> In situations of doubt, their status follows that of vegetables (see §4 above).<sup>13</sup>
7. Vegetables that were sown during the *shemita* year in a forbidden fashion and harvested during the eighth year may be eaten according to the time when *sefichin* are permitted.<sup>14</sup>
8. The schedule for when various types of *sefichin* are permitted can be found in Appendix C.
9. If vegetables were grown on land sold to a non-Jew through *heter mechirah*, the opinions that permit all these vegetables immediately can be relied on—even by those who do not rely on *heter mechirah* during the *shemita* year.<sup>15</sup> This is true for all types of vegetables, except onions and garlic.<sup>16</sup>

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11. Rashas (9:1, s.v. *od ra'iti*) writes that vegetables that grow slowly and have a long shelf life, such as garlic, are not permitted immediately only after most of the vegetable was grown on the eighth year. Rabbi Kook (*Shabbat Ha'aretz* 4:7 §5) implies that the other commentaries disagree with this opinion, and even these vegetables are permitted immediately. See *Mishnah* 5:5 about *luf* (*luf* is identified by most scholars as *Colocasia esculenta*, a root vegetable, while by Rambam, in later writings, as a type of onion: Zohar Amar (2015), *Flora and Fauna in Maimonides' Teachings* [Heb.], Kfar Darom.) On the halachic distinction between *luf* and other vegetables, see *Shabbat Ha'aretz* 4:7 §5.3, 8 §§1,3.
  12. Rambam 4:13; Rash 9:1, s.v. *kol hasefichin*; *Shabbat Ha'aretz* 4:9 §2.
  13. *Yeshu'at Moshe*, §12:5; *Shabbat Ha'aretz* 4:7, n. 36.
  14. Rambam 4:15. According to Ra'avad (gloss, *ibid.*), these vegetables will never be permitted. See *Shabbat Ha'aretz* 4:15 §2. On the prohibition of *ne'evad*, see Chapter 8.
  15. *Heter mechirah* is similar to the *heter* of importing vegetables from outside of Israel. See Rabbi Kook (*Shabbat Ha'aretz* 4:13 §3 and n. 11).
  16. *Shabbat Ha'aretz* 4:7 §5.2.

### C. *Terumot* and *ma'aserot* during the eighth year

1. Fruits that grew on land not sold to a non-Jew through *heter mechirah* and reached their *onat ma'aserot* (lit. "ma'aser season") after commencement of the eighth year but before 15 *Shevat*, are subject to *terumot* and *ma'aserot*. These should be separated without a blessing.<sup>17</sup> This time is identical to that when the fruit assumes *kedushat shevi'it* during the *shemita* year.<sup>18</sup> *Ma'aser sheni* should be tithed from this fruit.<sup>19</sup>
2. Vegetables that grew on land not sold to a non-Jew, even if they have *kedushat shevi'it*, subject to *terumot* and *ma'aserot*, in the following situation: when the *sefichin* prohibition does not apply to them (e.g. vegetables planted in a clod of soil, or in hothouses, or by a non-Jew, or in the *olei Mitzrayim* territory) and they are harvested in the eighth year, but before it is clear

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17. See *Shabbat Ha'aretz* 4:13 §1 and n. 3. There is a dispute whether this produce has the same status as *shemita* produce (with *kedushat shevi'it* and exempt from *terumot* and *ma'aserot*), or eighth-year produce (no sanctity and subject to *terumot* and *ma'aserot*). In practice, out of doubt, we separate *terumot* and *ma'aserot* without a blessing.

Rash (*Torat Kohanim, Behar* 1:4) maintains that fruits for which *chanatah* occurs between *Rosh Hashanah* and 15 *Shevat* during the eighth year have *kedushat shevi'it* (and are exempt from the *terumot* and *ma'aserot* obligations). Rabbi Chaim Berliner (qtd. in *Sefer Hashemita*, p. 10, n. 3) maintains that we should be stringent due to doubt. See also Rabbi Kook (*Mishpat Kohan* §66, s.v. *et*), who rules that land should be sold to a non-Jew for the entire duration of the *shemita* year through 15 *Shevat* of the eighth year. Rabbi Auerbach (*Ma'adanei Eretz* §1:11, s.v. *ulam, gam*) and Rabbi Yisraeli (*Chavot Binyamin* I §9:7), however, hold that it is sufficient to sell the land back to its Jewish owners by *Rosh Hashanah* of the eighth year. In light of the latter opinions, one should separate *terumot* and *ma'aserot* from such produce without a blessing.

18. The determining stage of growth vis-à-vis *terumot* and *ma'aserot* is identical to the stage of growth that determines the presence of *kedushat shevi'it*.

19. The first year of the *shemita* cycle is a *ma'aser sheni* year. Chazon Ish (§9:18, s.v. *ת"י*) rules that *ma'aser sheni* should be separated. Others maintain that one should separate both *ma'aser sheni* and *ma'aser ani* out of doubt; see Chapter 15, n. 11.

whether the majority of their growth took place during the eighth year.<sup>20</sup>

3. Land is sold through *heter mechirah* for two years. The Chief Rabbinate buys back all of the plots of land from the non-Jew during *Tishrei* following the *shemitah* year. That is, there are several days during the eighth year when land is still owned by non-Jews. For this reason, agricultural produce that reaches its *onat ma'aserot* before this time<sup>21</sup> should have *terumot* and *ma'aserot* separated without a blessing.<sup>22</sup> *Ma'aser rishon* should be given to a *levi* according to the relative amount of the produce that grew when in Jewish ownership.<sup>23</sup> In areas where *terumot* and *ma'aserot* are separated throughout the non-*shemitah* years with a blessing (most of Israel), one should ascertain the exact date when the land was sold back, to know from what date the blessing on the separation of *terumot* and *ma'aserot* should be said.<sup>24</sup>

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20. Rabbi Kook, *Shabbat Ha'aretz* 4:8 §7, based on *Tosefta* 4:8. Rabbi Eliahu holds that one should not say a blessing on this separation. Regarding *kedushat shevi'it* with these crops, see Chapter 4.

21. The determining stage of growth that obligates crops in *terumot* and *ma'aserot* is called *onat hama'aserot*, *ma'aser* season. Vegetables – harvest; fruit – *chanatah*; legumes and grain – a third of their growth; see Chapter 5.

22. For the status of produce that reaches *onat hama'aserot* while belonging to a non-Jew, see Rambam, *Terumot* 1:12–13; *Minchat Shlomo* §51:21; see Chapter 10 §C.2b.

23. Rambam, *Terumot* 1:12; *Shulchan Aruch*, *YD* §331:5.

24. A *yisrael* who buys land from a non-Jew with produce that has not yet reached *onat hama'aserot*, should separate *terumot* and *ma'aserot* from the produce. In this case, he is obligated to give a *levi* all of the *ma'aser rishon*: Rambam, *ibid.*, *Shulchan Aruch*, *ibid.* Rambam (*Terumot* 1:14) and *Shulchan Aruch* (*ibid.*, §331:7) add that if the *gemar melachah* is performed by a non-Jewish worker, the produce is completely exempt from *terumot* and *ma'aserot*.



## Part VI

# Loan Remission

On the obligation of *shemitat kesafim* (loan remission), the ins and outs of the *prozbul*, the *Nedivei Eretz* Fund, and a brief overview on the *mitzvah* of *hakhel*.



## Chapter 28

**Debt cancellation and *prozbul*****A. Halachic principles**

1. *Shemitat kesafim*, the cancellation of debt, today applies *miderabanan*.<sup>1</sup>
2. *Shemitat kesafim* applies both in Israel and abroad.<sup>2</sup>
3. No blessing is said on debt cancellation.<sup>3</sup>
4. *Shemitat kesafim* applies at the end of the *shemita* year.<sup>4</sup>
5. It is forbidden to avoid lending money for fear of the loan being canceled at the end of the *shemita* year.<sup>5</sup>
6. If one owes money to people who did not sign a *prozbul* and are likely anyway to demand the return of their money, one should endeavor to repay the loan before *Rosh Hashanah* of the eighth

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1. *Gittin* 36–37; Rambam 9:2–3; *Shulchan Aruch*, *CM* §67:1. See also Rema, *ibid.* According to Rambam, Tosafot, and *Shulchan Aruch*, the *mitzvah* of *shemitat kesafim* depends on *yovel*, the Jubilee year. Since today we do not observe the *yovel* year, *shemitat kesafim* today applies *miderabanan* and not *mide'oraita*. Rashi maintains that *shemitat kesafim* depends on *shemitat karka'ot*, land remission—and both are *derabanan* today. Rema cites authorities who are lenient and hold that *shemitat kesafim* does not apply today even *miderabanan*. In contrast, *Itur* (s.v. *prozbul*) maintains that *shemitat kesafim* is *mide'oraita* even today.
  2. *Shemitat kesafim* applies also outside the Land of Israel since the debt is personal and not land-dependent: Rambam 9:2–3; *Shulchan Aruch*, *CM* §67:1. Some argue, however, that today the *mitzvah* applies only in the Land of Israel: see *Ben Ish Chai*, Year I, *Ki Tavo* §26; *Shabbat Ha'aretz* 9:3, nn. 4–6.
  3. Because this constitutes a lack of action. See Responsa Rashba I §18; *Shabbat Ha'aretz* 9:2.
  4. As the Torah states: "At the end of every seven years, you shall practice remission of debts" (*Devarim* 15:1). *Chazal* learn from here that *shemita* abrogates loans only at its end: *Arachin* 28b; Rambam 9:4; *Shulchan Aruch*, *CM* §67:30.
  5. Rambam 9:30.

year.<sup>6</sup> *Chazal* view favorably those who repay their debts when canceled during the *shemita* year.<sup>7</sup>

7. When it comes to *shemita kesafim*, there is no difference between private individuals or public institutions, such as a municipality or a corporation.<sup>8</sup>

## B. Types of debt

*Halachah* relates to several types of debts owed to others:

1. Debts due before the end of the *shemita* year.
2. Debts due after the *shemita* year.
3. Loans without a set date of repayment.
4. Monetary obligation, such as payment for food or of a salary.

## C. Debts canceled

1. The halachic principle is that *shemita* cancels all loans that can be collected during the *shemita* year. For this reason, the following types of loans are canceled:
  - a. Debts due before the end of the *shemita* year (29 *Elul* 5782).<sup>9</sup>
  - b. Debts without a definite repayment date.<sup>10</sup>
2. Today, the following types of debts are canceled:
  - a. Monetary loans due before the end of the *shemita* year.<sup>11</sup>

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6. To avoid transgressing the prohibition of *lo yigos* ("every creditor shall remit the due that he claims from his fellow; he shall not exact it from his fellow or kinsman," *Devarim* 15:2), there is a possibility of writing a *prozbul* on behalf of another person. Contact a local rabbi to arrange for this *prozbul*.

7. *Mishnah* 10:9; Rambam 9:28; Rambam, Gloss on the *Mishnah* 10:9; Rashas 10:9.

8. *Nitei Gavriel* 12:8.

9. According to most *Rishonim*, the *shemita* year automatically cancels debts, even if the lender does not explicitly state "*meshamet ani*." See *Shabbat Ha'aretz* 9:28 §1.

10. Since there is no defined date for remission, the loan can be repaid at any given time. Therefore, the time of repayment is considered to be during the *shemita* year.

11. *Mishnah* 10:1; *Shulchan Aruch, CM* §67:2.

- b. Loans in kind (such as food products or items loaned from one neighbor to another).<sup>12</sup>
- c. Checking accounts at banks (whether a positive or negative balance, such as overdraft).<sup>13</sup>
- d. Checks dated to before *Rosh Hashanah* of the eighth year.<sup>14</sup>
- e. Wages paid at the end of the workday, such as pay for skilled craftsmen at the end of their work.<sup>15</sup>
- f. Buying on credit when the cost of purchase is recorded (such as at a local grocery store).<sup>16</sup>

#### D. Debts not canceled

1. There are several types of debts that are not canceled:
  - a. Debts that cannot be collected before the end of the *shemita* year, such as those due after *shemita*.<sup>17</sup>

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12. The rationale is that the borrowed object itself is not returned, but rather another object in its stead. For this reason, it is considered *milveh lehotza'ah nitnah* (a loan given to be spent). See *Yalkut Yosef* 24:12. See also *Ben Ish Chai*, Year I, *Ki Tavo* §26.
  13. Rabbi Eliahu notes that this *halachah* also applies to savings at banks that can be withdrawn at any time, without exit dates—even if the bank has *heter iskah*.
  14. See *Yam Shel Shlomo*, *Gittin* 4:45; *Yalkut Yosef* 24:6; *Nitei Gavriel* 12:8–9.
  15. Rambam (9:11) states: "An account at a store is not canceled. If it is established as a debt, it is canceled. The wages of a worker are not canceled. If it is considered a debt, it is canceled." See also *Shulchan Aruch*, *CM* §67:15. The *Kesef Mishneh* (9:11) explains that the laws governing such wages are similar to buying on credit at a store: they can be paid at any time, even after a year or more, and there is no defined date of payment. For this reason, they can be defined as a loan due following the *shemita* year, which is not canceled. We can learn from here that conversely, wages of a skilled craftsman due at the end of his work during the *shemita* year are considered a loan (or debt, *milveh*). Thus, it would be canceled.
  16. *Mishnah* 10:1, the first opinion. Rabbi Eliahu rules accordingly. Buying with a credit card is different; see below, §D.2g.
  17. *Makkot* 3; Rambam 9:9: An example of this is a ten-year loan.

- b. Debts created as a result of a rabbinical court ruling, or a debt submitted to a rabbinical court.<sup>18</sup> So too, debts owed to orphans who are minors.
  - c. Debts with collateral against them, held by the creditor.<sup>19</sup>
  - d. A debt owed by a Jew to a non-Jew, even if the non-Jew converted before the end of the *shemita* year.
  - e. Loans given to *levi'im* and poor people at *Beit Ha'otzar*.
2. Today, in practice, the following loans are not canceled:
- a. Salaries of employees paid on a set date each month.<sup>20</sup>
  - b. Rent for homes, cars, utensils; tuition fees.
  - c. If someone spent money on a friend's behalf, and is supposed to be reimbursed by the friend for the expense.<sup>21</sup>
  - d. If an item is broken, the object is supposed to be replaced or the owner reimbursed. This constitutes a debt that is not subject to debt remission).<sup>22</sup>
  - e. If someone committed to donate money for *tzedakah*.<sup>23</sup>
  - f. Purchases made in several payments.<sup>24</sup>

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18. *Mishnah* 10:2; *Makkot* 3b; *Gittin* 37a; Rambam 9:15; *Shulchan Aruch*, CM §67:11. This is the basis of the *prozbul* enactment; see below.

19. Rambam 9:14; *Sefer Hashemita*, p. 57 §2. For such debts the injunction of *lo yigos* does not apply, since the lender has already taken measures to ensure the repayment of the debt by taking collateral.

20. For salary paid each month, the obligation to pay occurs only at the date agreed upon between the employer and employee. As long as this date has not yet arrived, the employee cannot collect his salary and the employer has no obligation to pay him. Instead, they have an agreement that the employee will work and will be paid afterwards. For this reason, this arrangement is similar to the laws of *sachar sachir* (salaried employees), which *shemita* does not cancel: Rambam 9:11; *Shulchan Aruch*, CM §67:15; *Sefer Hashemita*, p. 57 §3.

21. *Nitei Gavriel* 7:4.

22. *Ibid.*, 7:5.

23. *Ibid.*, 11:1, 5.

24. *Shulchan Aruch*, CM §67:14; *Sefer Me'irat Einayim* (a.k.a. *Sema*), *ibid.*, §26: credit at stores paid later on is not canceled.

- g. Payments by credit card.<sup>25</sup>
  - h. Payment policies for a current date plus a specified number of additional days, whereby the date of payment falls after *Rosh Hashanah* of the eighth year.<sup>26</sup>
  - i. Savings at a bank with exit dates following the *shemita* year.
  - j. Debts to municipalities, government ministries, etc.<sup>27</sup>
3. Some maintain that debt from a loan given during *Elul* of the *shemita* year is not canceled.<sup>28</sup>

### **E. Prozbul: *shemita* loan amnesty**

1. A *prozbul* is essentially a notification by the lender that he has transferred the debts to the rabbinical court,<sup>29</sup> and that the

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25. Credit given by credit card is essentially a loan that the credit card company gives each month to cardholders. The payment of the loan takes place at the billing due date that each credit holder arranges with the company. Because the due date for payment is defined for this type of loan as a set date each month, this is considered a loan with a fixed date and is non-cancellable; *Nitei Gavriel* 12:13.
  26. This form of payment involves credit that the service provider gives the recipient. The agreement between the two parties is that the payment will be made a specific number of days after the service is given. It seems that this form of payment is equivalent to a loan that is due after the *shemita* year, which is not canceled.
  27. *Nitei Gavriel* 12:6, since if the debt were to be canceled, it will be recharged after the *shemita* year.
  28. Since a loan given without a stipulated due date (*stam halva'ah*) is considered a 30-day loan. It follows that when giving a loan during the month of *Elul*, its due date will fall only after *Rosh Hashanah* of the eighth year.
  29. *Mishnah* 10:3–4, and as stated above in §D.1b. See also *Shabbat Ha'aretz* 9:15–18. Hillel *Hazaken* (*nasi* of the *Sanhedrin* from 30 BCE–8 CE) saw that the wealthy avoided giving loans to the poor, fearing that the loans would be remitted. In this way, they transgressed the Torah prohibition of refusing loans because of *shemita* (*Devarim* 15:9–11), and the poor, who were denied loans, suffered. In light of the situation, Hillel instituted the *prozbul*, thus circumventing the cancellation of debts in a halachically-permissible manner. In this way, the wealthy would be willing to lend money while the poor would still receive loans. Rashi explains (*Gittin*, *ibid.*) that the word *prozbul* is an acronym of *proz* (enactment), *bol* (wealthy) and *butei* (poor); an enactment on behalf of both rich

debt will be collected after the beginning of the eighth year by the power of the court.<sup>30</sup>

2. *Prozbul* forms are available at the locale rabbinate and on the Torah VeHa'aretz website.
3. The *prozbul* can be prepared by the end of the *shemita* year. It is best to sign it during the last month, *Elul*.<sup>31</sup>
4. If one prepares a *prozbul* at the end of the sixth year,<sup>32</sup> he should prepare an additional *prozbul* at the end of the *shemita* year.<sup>33</sup>

#### **F. Who needs to sign a *prozbul*?**

1. Everyone needs to arrange a *prozbul*: men and women (if they have separate bank accounts), *yeshiva* students, etc.<sup>34</sup>
2. Anyone with a bank account.
3. Anyone who lent money to someone else.
4. Managers of companies and banks (even if they are considered corporations) need to arrange a *prozbul*.<sup>35</sup>

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and poor. According to most opinions, the *prozbul* is only valid today when *shemita kesafim* is *rabbinic*; when it becomes a biblical obligation, a *prozbul* will not be effective. See *Shabbat Ha'aretz* 9:16.

30. *Gittin* 36a; Rambam 9:15, 18; *Shulchan Aruch*, CM §67:19.
31. Some maintain that the *prozbul* should be written up before the *shemita* year: *Tosefta* 8:10; Ibn Ezra, *Devarim* 15:1; Rosh, *Gittin* 4:18; *Tur*, CM §67:32; *Shulchan Aruch Harav*, CM §36; *Urim Vetumim* on *Shulchan Aruch*, CM §67:30; see *Shabbat Ha'aretz* 9:1, n. 3. However, the plain meaning of the verse "מקץ שבע שנים תעשה שמיטה" (*Devarim* 15:1), is: "At the **end** of every seven years, you shall practice the remission of debt." This clearly indicates that *shemita kesafim* occurs at the end of the *shemita* year. This is also clearly stated by *Sifri* (*Devarim*, *Re'eh* §111) and *Arachin* 28b. Most *posekim* rule accordingly, including: Rambam 9:4; Ramban, *Devarim* 15:1; *Beit Yosef*, CM §67, s.v. *ve'ein*; *Shulchan Aruch*, CM §67:30; see also *Shabbat Ha'aretz* 9:1, nn. 2, 5. About writing the *prozbul* at the end of the year, see below n. 39.
32. Those who take into account the opinion given in the previous footnote, viz. that *shemita* cancels loans at the beginning of the year.
33. *Sefer Hashemita*, p. 57 §5.
34. Rabbi Eliahu; however, women may appoint their husbands as agents to prepare a *prozbul* on their behalf.
35. *Yechaveh Da'at* IV §64. Rabbi Eliahu rules accordingly. On the status of a

5. Managers of *gemachim* (free-loan societies) should include the debts to the *gemach* in their personal *prozbul* forms.<sup>36</sup>

## G. Additional laws

1. If a creditor did not arrange a *prozbul* and a borrower comes to repay his debt after the *shemita*, the creditor should say: *meshamet ani*, "I remit (cancel) it." If the borrower states that the money is a gift, the lender may receive it. If the borrower does not take the initiative to offer to repay the debt, the lender may convince him to give the money as a gift.<sup>37</sup>
2. *Chazal* view favorably those who repay their debts, even if the lender failed to write a *prozbul* and the debt was canceled halachically.<sup>38</sup>
3. If the lender is concerned at the time of giving the loan that he will forget to draft a *prozbul* so the loan will be canceled, he can stipulate with the borrower at the time of the loan that the latter will pay the debt regardless of the *shemita* year.<sup>39</sup>
4. The *prozbul* should be signed in the last month of the *shemita* year: *Elul*. If loans due before *Rosh Hashanah* are given after the

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corporation and its obligation in *mitzvot*; *Minchat Yitzchak* III §1; *Hakibbutz Bahalachah*, pp. 142–3.

36. *Yechaveh Da'at* IV §64, s.v. *bemasechet gittin*. Rabbi Eliahu maintains that it is unnecessary to arrange a *prozbul* for debts to a *gemach*.
37. *Mishnah* 10:8; *Gittin* 37b; Rambam 9:28–29; *Shulchan Aruch*, CM §67:36; *Shabbat Ha'aretz* 9:29, n. 1; Rashi (*Gittin* 37b, s.v. *vetali*) writes that if a borrower approaches the lender to repay the debt who then says "*meshamet ani*," the lender may nevertheless force the borrower to give him the money as a gift. See also Bach, CM §67, end; Shach, *ibid.*, §67:11; *Shabbat Ha'aretz* 9:29, n. 4.
38. *Mishnah* 10:9; Rambam 9:28.
39. *Makkot* 3b; Rambam 9:10; *Shulchan Aruch*, CM §67:9. See also *Sema* §18. This is because for any financial matter, conditions made between two parties are valid even if they negate *halachah*. In this case, though, the borrower is not denying that *shemita* nullifies the debt; he is saying that although factually the debt is nullified, he is liable for repaying it. One is permitted to assume a financial responsibility that the Torah does not obligate.

signature on a *prozbul*, they are canceled. If the loan is due after *Rosh Hashanah*, the debt is not canceled.<sup>40</sup>

5. Those who follow the Remah can appoint any rabbinical court for deposit of their *prozbul*.<sup>41</sup>
6. Those who follow the *Beit Yosef* should submit their *prozbul* to an important rabbinical court. Preferably, the *prozbul* should be arranged before this rabbinical court and signed by it.<sup>42</sup> However, since not everyone has access to such courts, a *prozbul* form exists that the creditor signs in the presence of two witnesses. These sign that they are the agents through whom the debts owed to the lender will be submitted to an

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40. While the *prozbul* does not cancel debts created after it is written, in practice, such loans are not canceled. The reason for this is that since each loan given after writing the *prozbul* is made at the end of *Elul*, its due date is at the end of *Tishrei*—according to the principle that loans of an unspecified duration are valid for 30 days (*Makkot*, *ibid.*). Loans due after *shemita* are not canceled (as noted above, §D.1a). The following authors rule thus: *Or Zaru'a* IV, *Piskei avoda zara* §123; *Devar Avraham* I §32:4. However, the Bach (*CM* §67:13) disagrees, maintaining that such loans are canceled. See *Minchat Chinuch* (*mitzvah* 477, s.v. *vehineh yesh*), who refutes the Bach's arguments. See also *Chatam Sofer* (*CM* §123), who writes that today all loans are considered as given conditionally: "so that they will not be canceled by *shemita*" (*Makkot* 3b), and the borrower never believed that the debt would be canceled. Nevertheless, he maintains that it is proper to write a *prozbul* even today.
  41. The *Gemara* (*Gittin* 36a) states that *prozbul* can be written only in a *beit din* of Sura or Naharde'a (the two major Jewish communities in *Bavel* at that time). Rabbeinu Tam (*Rosh*, *Gittin* 4:13) states that only an "important rabbinical court of the generation" may write up a *prozbul*. Similarly, Rambam (9:17) maintains that only a rabbinical court with experts who have the authority to expropriate money may write a *prozbul*. *Rosh* (*ibid.*) and Remah (*CM* §67:18), though, are lenient and argue that any rabbinical court is valid for this purpose. See *Shabbat Ha'aretz* 9:17. Rabbi Eliahu notes that even according to Remah, it is necessary to arrange the *prozbul* before a rabbinical court; it is not sufficient to do so before any three people.
  42. *Shulchan Aruch*, *CM* §67:18, 21. See also *Sema* §40.

important rabbinical court.<sup>43</sup> This can be done only if there is actually a supreme rabbinical court that deals with *prozbul* matters.

7. Anyone can sign a *prozbul*, regardless of whether or not they own land.<sup>44</sup>
8. It is not necessary to actually submit the form to the rabbinical court or even to send them a copy of the form. The form should be set aside. If the debtor is unwilling to repay the loan, the form can be shown to him.

## H. *Nedivei Eretz Fund*

1. Some go the extra step to lend money after writing a *prozbul* and set the time of repayment before 29 *Elul* of the *shemitah* year so it will be canceled. By doing so, they can observe the

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43. The formula instituted by Responsa *Chikrei Lev* based on *Shulchan Aruch, CM* §67:21, and as explained by Mordechai, *Gittin* 4:380 and *Mabit* II §81: the *prozbul* need not be signed in the presence of a rabbinical court to effectively transfer one's debt. It is sufficient to sign the form in the presence of two witnesses (who will submit them to the court), even if the court is in another country (such as Rome, as stated by *Yerushalmi* 10:2). Rabbi Eliahu rules accordingly for those who follow the opinion of the *Shulchan Aruch*.
  44. *Shulchan Aruch, CM* §67:22. The writing of a *prozbul* is contingent on the debtor possessing property (from which the debt can be collected from, so that halachically, the debt is considered already collected by the court), even if it constitutes a small portion of land: *Gittin* 37a; Rambam 9:19; *Shulchan Aruch, CM* §67:22. For this reason (in the case that the lender alone—and not the borrower—owns land), the *prozbul* includes the following statement of the witnesses: "We have effectively transferred ownership of land to every debtor (who does not own even rented land) in an effective manner." However, if both lender and borrower do not own land, this addition will not be effective. The property does not have to be sold to the borrower; it is sufficient to rent or lend it; see *Shulchan Aruch, CM* §63:23. However, if this statement is not included, this does not disqualify the *prozbul*. See *Chochmat Adam, Sha'arei Tzedek* 21:8: in general, borrowers (and practically everyone) have at least four *amot* of land that either belong to him, are rented, or at least lent to him; this is the ruling of *Yalkut Yosef* §24:48.

*mitzvah of shemitat kesafim*. Another way to do this is by explicitly noting one loan that the *prozbul* will not apply to.<sup>45</sup>

2. In the 5782 *shemita* year, as in the 5775 and 5768 *shemita* years in the past, Torah VeHa'aretz Institute runs a program called *Nedivei Eretz*, lit. "the generous of the Land." In this initiative, people lend money to a fund and the debt is canceled at the end of the *shemita* year. Several foundations match the sum individuals cancel, and in this way help families who are drowning in heavy debts exit the circle of debt.
3. To participate, note the following:
  - a. Verify that a loan that will be canceled is noted explicitly on the *prozbul* form, stating the sum of the loan and the identity of the borrower (here the borrower is *Nedivei Eretz*, and a desired sum).
  - b. Those who want to account for the opinion that *shemita* cancels loans at the onset of the year, and sign a *prozbul* during the sixth year, can nevertheless join the *Nedivei Eretz* fund during the *shemita* year. This loan will be canceled since a *prozbul* should be signed at the end of the *shemita* year to cancel the debt remission.
  - c. It is possible to use *ma'aser kesafim* (monetary tithes) for this purpose.
  - d. The money may be transferred in payments and by credit card even after the *shemita* year.
  - e. *Prozbul* forms for *Nedivei Eretz* Fund are available on the Torah VeHa'aretz website.

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45. *Ben Ish Chai* (Year I, *Ki Tavo* §26) enacted this in Bagdad; see also Rabbi Batzri, *Dinei Mamonot* I, p. 254. Rabbi Eliahu rules accordingly.

## Chapter 29

**Hakhel**

1. The *mitzvah* of *hakhel* does not apply today, as the *Beit Hamikdash* has not yet been rebuilt so that we cannot hold the ceremony in the courtyard (*azarah*) of the *Beit Hamikdash*.<sup>1</sup>
2. The accepted practice is to perform a ceremony in memory of this *mitzvah* on the second<sup>2</sup> day of *chol hamo'ed Sukkot* on the year following *shemita*.<sup>3</sup>

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1. The *mitzvah* of *hakhel* appears in *Devarim* 31:10–13; *Mishnah, Sotah* 7:8; Rambam, *Hilchot Chagigah*, ch. 3; *Sefer Hachinuch, mitzvah* 612. With regard to the biblical obligation, some maintain that it depends on *shemita*, which today is not a biblical obligation: Aderet, *Kuntres Zecher Lamikdash*, Warsaw 5649, reprinted in *Sefer Hakhel*, published by Torah VeHa'aretz Institute, 5761, p. 495; Rabbi Herzog, "Zecher Lehakhel," *Sefer Hakhel*, p. 618. However, Rabbi Shlomo David Kahana ("Hakehel bazeman hazeh," *ibid.*, p. 549) deliberates whether the *mitzvah* of *hakhel* also applies today, suggesting it might be biblical. On the reason that the *mitzvah* of *hakhel* does not apply today (even *miderabanan*), *Minchat Chinuch* writes (*mitzvah* 612) based on *Sotah* 41b, that the *mitzvah* is contingent on the Temple courtyard standing. However, he notes that further study is necessary. This is also the opinion of Aderet (*Zecher Lamikdash, ibid.*) and Rabbi Avraham Shapira (*Sefer Hakhel*, p. 558) that the obligation of *hakhel* may depend on the *mitzvah* of *re'iyah* ("making an appearance" before G-d when making the pilgrimage to the *Beit Hamikdash* during the three festivals: *Sukkot, Pesach*, and *Shavu'ot*); this *mitzvah*, in turn, is contingent on the existence of the *Beit Hamikdash*. Furthermore, *hakhel* includes the condition of "*bevo kol yisra'el*;" that is, when the majority of the Jewish People live in the Land of Israel. It is possible that in the times of the Second *Beit Hamikdash* this *mitzvah* applied *miderabanan*. However, in the absence of a *Beit Hamikdash*, there is no obligation whatsoever.
  2. While technically *hakhel* should take place on the first day of *chol hamo'ed*, practically it is observed on the second day of *chol hamo'ed*. This allows those who observe a second day of *yom tov* to join. The ceremony is generally performed in the afternoon, several hours after the major *birkat kohanim* (priestly blessing) ceremony in the morning.
  3. For a historical survey of all of the years following *shemita* from 5636 to 5755, see *Sefer Hakhel*, p. 653. This is the opinion of the great *posekim* of the past

3. At the onset of *yom tov*, Torah scholars should study the Torah portion in the written Torah (*Devarim* 31) and the oral Torah (*Sotah* 41). The next day, a platform should be set up at the Western Wall and the entire nation should attend. Torah giants should teach the populace Torah and speak about topics that inspire the nation to draw closer to G-d.<sup>4</sup>
4. "This is a *mitzvah* that is a strong pillar and great honor for the religion."<sup>5</sup> In the merit of the yearning for Zion, there will be a balm for our afflictions.<sup>6</sup>

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generations, including the chief rabbis of Israel: Aderet (*ibid.*); Rabbi Herzog (*ibid.*); Rabbi Tzvi Yehuda Kook; and Rabbi Avraham Shapira, *ibid.* See also Rabbi Zevin, *Le'or Hahalachah*, p. 135. For the opinions of those opposed to holding this ceremony today, see *Sefer Hakhel*, p. 676.

4. Rabbi Herzog, *ibid.* For a comprehensive review of the laws of *Hakhel*, see articles in *Sefer Hakhel* 5706, reprinted in 5733, and *Sefer Hakhel* 5761. In 5776 (2015, following the previous *shemittah* year), tens of thousands attended the event, led by the chief rabbis of Israel and Jerusalem, with the participation of leading rabbis and public officials. The event included reading chapters of *Tehillim* by Israel's President (Reuven Rivlin).
5. *Sefer Hachinuch*, end of *mitzvah* 612.
6. See *Chiddushei Chatam Sofer, Sukkah* 41a.

## Part VII

# Appendices

*Kedushat shevi'it* and *bi'ur* schedules for various types of produce, instructions for in-depth readers, a bibliography, and the map of the borders of Israel (back inside cover).



## Appendix A

***Kedushat shevi'it* schedule for fruit**Based on the solar calendar<sup>1</sup>

| <b>Fruit</b>          | <b><i>Kedushat shevi'it</i> starts</b>                          | <b><i>Kedushat shevi'it</i> ends</b>                      | <b><i>Bi'ur</i> time</b>                               |
|-----------------------|---|---|--|
| <b>Almond (dry)</b>   | Early Sept. end of <i>shemita</i> (Early <i>Elul</i> 5782-2022) | Mid-Sept. end of eighth year (Late <i>Elul</i> 5783-2023) | Late Jan. eighth year (Early <i>Shevat</i> 5783-2023)  |
| <b>Almond (green)</b> | Early May <i>shemita</i> (Early <i>Iyar</i> 5782-2022)          | Late May eighth year (Early <i>Sivan</i> 5783-2023)       | Late Jan. eighth year (Early <i>Shevat</i> 5783-2023)  |
| <b>Apple</b>          | Mid-May <i>shemita</i> (Mid- <i>Iyar</i> 5782-2022)             | Late June eighth year (Mid- <i>Tamuz</i> 5783-2023)       | Mid-Jan. eighth year (Late <i>Tevet</i> 5783-2023)     |
| <b>Apricot</b>        | Early April <i>shemita</i> (Late II <i>Adar</i> 5782-2022)      | Early May eighth year (Early <i>Iyar</i> 5783-2023)       | Late Aug. <i>shemita</i> (Early <i>Elul</i> 5782-2022) |
| <b>Avocado</b>        | Early Aug. <i>shemita</i> (Early <i>Av</i> 5782-2022)           | Late June eighth year (Mid- <i>Tamuz</i> 5783-2023)       | Late July eighth year (Mid- <i>Av</i> 5783-2023)       |
| <b>Blueberry</b>      | Late Dec. <i>shemita</i> (Late <i>Tevet</i> 5782-2021)          | Late Dec. eighth year (Early <i>Tevet</i> 5783-2022)      | Late April eighth year                                 |

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1. General note: The *sefichin* prohibition does not apply to fruit. Since the stage that determines *kedushat shevi'it* for fruit is *chanatah*, the beginning of the fruit's formation, we follow the solar calendar. This is because the processes of growth for both fruits and vegetables follow the solar calendar. See Tosafot, *Rosh Hashanah* 15a, s.v. *dechadashim*. The dates in parenthesis (Gregorian and Hebrew) are correct for this *shemita* year only. These tables were prepared with the help of Mr. Meir Frankel of blessed memory (The Agriculture Guide, Training and Professional Services Unit of the Ministry of Agriculture) and Agron. Dr. Mordechai Shomron (Torah VeHa'arets Institute). The tables appear on Torah VeHa'arets Institute's website.

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| <b>Fruit</b>  | <b><i>Kedushat shevi'it</i><br/>starts</b>                         | <b><i>Kedushat shevi'it</i><br/>ends</b>                              | <b><i>Bi'ur</i> time</b>                                 |
|---|--|---|--|
|   |  |   | (Early <i>Iyar</i> 5783-2023)                            |
| <b>Carob</b>  | Mid-Sept. end of <i>shemita</i><br>(Late <i>Elul</i> 5782-2022)    | Late Oct. ninth year<br>(Mid- <i>Cheshvan</i> 5784-2023)              | Mid-Jan. eighth year<br>(Late <i>Tevet</i> 5783-2023)    |
| <b>Cherry</b>   | Mid-April <i>shemita</i><br>(Mid- <i>Nisan</i> 5782-2022)          | Early June eighth year<br>(Mid- <i>Sivan</i> 5783-2023)               | Early Aug. <i>shemita</i><br>(Early <i>Av</i> 5782-2022) |
| <b>Clementine<br/>(tangerine)<br/>(citrus: Or,<br/>Ora, Nova)</b> | Early Sept. end of <i>shemita</i><br>(Early <i>Elul</i> 5782-2022) | Early Sept. end of eighth year<br>(Mid- <i>Elul</i> 5783-2023)        | Late April eighth year<br>(Early <i>Iyar</i> 5783-2023)  |
| <b>Date</b>   | Early Aug. <i>shemita</i><br>(Early <i>Av</i> 5782-2022)           | Late Sept. beginning of ninth year<br>(Mid- <i>Tishrei</i> 5784-2023) | <i>Purim</i> eighth year<br>(March 7, 5783-2023)         |
| <b><i>Etrog</i></b>   | 3 <i>Tishrei shemita</i><br>(Sept. 9, 5782-2021)                   | Mid-April eighth year<br>(Late <i>Nisan</i> 5783-2023)                | Mid-April eighth year<br>(Late <i>Nisan</i> 5783-2023)   |
| <b>Feijoa</b>   | Mid-Oct. eighth year<br>(Late <i>Tishrei</i> 5783-2022)            | Mid-Oct. ninth year<br>(Late <i>Tishrei</i> 5784-2023)                | Late Feb. eighth year<br>(Early <i>Adar</i> 5783-2023)   |
| <b>Fig</b>  | Late April <i>shemita</i><br>(Late <i>Nisan</i> 5782-2022)         | Late May eighth year<br>(Early <i>Sivan</i> 5783-2023)                | <i>Chanukah</i> eighth year<br>(Dec. 19, 5783-2022)      |
| <b>Grapefruit</b>   | Early Sept. end of <i>shemita</i><br>(Early <i>Elul</i> 5782-2022) | Mid-Nov. ninth year<br>(Early <i>Kislev</i> 5784-2023)                | Mid-May eighth year<br>(Late <i>Iyar</i> 5783-2023)      |

Kedushat shevi'it schedule for fruit

| <b>Fruit</b>                | <b><i>Kedushat shevi'it</i><br/>starts</b>                           | <b><i>Kedushat shevi'it</i><br/>ends</b>                            | <b><i>Bi'ur</i> time</b>   |
|-----------------------------|--|---|--|
| <b>Guava</b>                | Mid Aug. end of <i>shemitah</i><br>(Mid- <i>Av</i> 5782-2022)        | Late Aug. end of eighth year (Mid- <i>Elul</i> 5783-2023)           | Mid-Dec. eighth year<br>(Late <i>Kislev</i> 5783-2022)               |
| <b>Hazelnut<sup>3</sup></b> | No <i>kedushat shevi'it</i> ( <i>k.s.</i> )                          | Not Applicable (NA)   | NA   |
| <b>Kiwi</b>                 | Mid-Sept. end of <i>shemitah</i><br>(Mid. <i>Elul</i> 5782-2022)     | Mid-Sept. end of eighth year (Late <i>Elul</i> 5783-2023)           | Mid-March eighth year<br>(Late <i>Adar</i> 5783-2023)                |
| <b>Kobo</b>                 | Late Dec. <i>shemitah</i><br>(Late <i>Tevet</i> 5782-2021)           | Late Dec. eighth year<br>(Early <i>Tevet</i> 5783-2022)             | Mid-Sep. <i>shemitah</i><br>(Late <i>Elul</i> 5782-2022)             |
| <b>Kumquat</b>              | Mid-Oct. beginning of eighth year<br>(Late <i>Tishrei</i> 5783-2022) | Mid-Oct. beginning of ninth year<br>(Late <i>Tishrei</i> 5784-2023) | Mid-March eighth year<br>(Late <i>Adar</i> 5783-2023)                |
| <b>Lemon</b>                | Early May <i>shemitah</i><br>(Early <i>Iyar</i> 5782-2022)           | Early May eighth year<br>(Early <i>Iyar</i> 5783-2023)              | Late July eighth year<br>(Mid- <i>Av</i> 5783-2023)                  |
| <b>Lime</b>                 | Mid-July <i>shemitah</i><br>(Mid- <i>Tamuz</i> 5782-2022)            | Mid-July eighth year<br>(Late <i>Tamuz</i> 5783-2023)               | Mid-Oct. beginning of eighth year<br>(Late <i>Tishrei</i> 5783-2022) |
| <b>Loganberry</b>           | Early June <i>shemitah</i><br>(Early <i>Sivan</i> 5782-2022)         | Early June eighth year<br>(Mid- <i>Sivan</i> 5783)                  | Mid-Aug. <i>shemitah</i><br>(Mid- <i>Av</i> 5782-2022)               |
| <b>Loquat</b>               | Early Feb. <i>shemitah</i><br>(Early I <i>Adar</i> 5782-2022)        | Early March eighth year<br>(Early <i>Adar</i> 5783-2023)            | Mid-May <i>shemitah</i><br>(Mid- <i>Iyar</i> 5782-2022)              |

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| <b>Fruit</b>           | <b><i>Kedushat shevi'it</i> starts</b>                       | <b><i>Kedushat shevi'it</i> ends</b>               | <b><i>Bi'ur</i> time</b>   |
|------------------------|--|--|--|
| <b>Lychee</b>          | Mid-June <i>shemitah</i><br>(Mid-Sivan 5782-2022)            | Mid-June eighth year<br>(Late Sivan 5783-2023)     | Mid-Aug. <i>shemitah</i><br>(Mid-Av 5782-2022)                   |
| <b>Mandarin orange</b> | Early Sept. end of <i>shemitah</i><br>(Early Elul 5782-2022) | Mid-Sept. end of eighth year (Late Elul 5783-2023) | Late April eighth year<br>(Early Iyar 5783-2023)                 |
| <b>Mango</b>           | Mid-June <i>shemitah</i><br>(Mid-Sivan 5782-2022)            | Mid-June eighth year<br>(Late Sivan 5783-2023)     | Mid-Jan. eighth year<br>(Late Tevet 5783-2023)                   |
| <b>Mulberry</b>        | Early May <i>shemitah</i><br>(Early Iyar 5782-2022)          | Early May eighth year<br>(Early Iyar 5783-2023)    | Late Sept. beginning of eighth year<br>(Early Tishrei 5783-2022) |
| <b>Nectarine</b>       | Early Feb. <i>shemitah</i><br>(Early I Adar 5782-2022)       | Early Feb. eighth year<br>(Early Shevat 5783-2023) | Late Nov. eighth year<br>(Early Kislev 5783-2022)                |
| <b>Oil olives</b>      | Mid-Oct. eighth year<br>(Late Tishrei 5783-2022)             | Late Oct. ninth year<br>(Mid-Cheshvan 5784-2023)   | <i>Shavu'ot</i> eighth year<br>(May 26, 5783-2023)               |
| <b>Orange</b>          | Mid-Sep. end of <i>shemitah</i> .<br>(Late Elul 5782-2022)   | Late Nov. ninth year<br>(Mid-Kislev 5784-2023)     | Late July eighth year<br>(Mid-Av 5783-2023)                      |
| <b>Passionfruit</b>    | Late Oct. <i>shemitah</i><br>(Late Cheshvan 5782-2021)       | Mid-Dec. eighth year<br>(Late Kislev 5783-2022)    | Mid-Dec. eighth year<br>(Kislev 5783-2022)                       |
| <b>Peach</b>           | Early Feb. <i>shemitah</i><br>(Early I Adar 5782)            | Early Feb. eighth year<br>(Mid-Shevat 5783-2023)   | Late Nov. eighth year<br>(Early Kislev 5783-2022)                |

Kedushat shevi'it schedule for fruit

| <b>Fruit</b>                   | <b><i>Kedushat shevi'it</i><br/>starts</b>                          | <b><i>Kedushat shevi'it</i><br/>ends</b>                      | <b><i>Bi'ur</i> time</b>   |
|--------------------------------|---|---|--|
| <b>Pear</b>                    | Late June <i>shemitah</i><br>(Late <i>Sivan</i> 5782-2022)          | Late June eighth year<br>(Mid- <i>Tamuz</i> 5783-2023)        | Late Oct. eighth year<br>(Early <i>Cheshvan</i> 5783-2022)       |
| <b>Pecan<sup>2</sup></b>       | Mid-Oct. eighth year<br>(Late <i>Tishrei</i> 5783-2022)             | Mid-Nov. ninth year<br>(Early <i>Kislev</i> 5784-2023)        | Mid-May eighth year<br>(Late <i>Iyar</i> 5783-2023)              |
| <b>Persimmon</b>               | Mid-Sept. end of <i>shemitah</i><br>(Mid- <i>Elul</i> 5782-2022)    | Mid-Sept. end of eighth year<br>(Late <i>Elul</i> 5783-2023)  | Late Dec. eighth year<br>(Early <i>Tevet</i> 5783-2022)          |
| <b>Pistachio<sup>3</sup></b>   | No <i>k.s.</i>  | NA  | NA   |
| <b>Pitaya</b>                  | Late Dec. <i>shemitah</i><br>(Late <i>Tevet</i> 5782-2021)          | Late Dec. eighth year<br>(Early <i>Tevet</i> 5783)            | Mid-Sept. end of <i>shemitah</i><br>(Mid- <i>Elul</i> 5782-2022) |
| <b>Plum - European (oval)</b>  | Early Aug. <i>shemitah</i><br>(Early <i>Av</i> 5782-2022)           | Late Sept. end of eighth year<br>(Mid- <i>Elul</i> 5783-2023) | Late Nov. eighth year<br>(Early <i>Kislev</i> 5783-2022)         |
| <b>Plum - Japanese (round)</b> | Early May <i>shemitah</i><br>(Early <i>Iyar</i> 5782-2022)          | Mid-May eighth year<br>(Late <i>Iyar</i> 5783-2023)           | Late Dec. eighth year<br>(Early <i>Tevet</i> 5783-2022)          |
| <b>Pomegranate</b>             | Late July <i>shemitah</i><br>(Early <i>Av</i> 5782-2022)            | Mid-Aug. eighth year<br>(Late <i>Av</i> 5783-2023)            | Mid-Feb. eighth year<br>(Late <i>Shevat</i> 5783-2023)           |
| <b>Pomelo</b>                  | Early Sept. end of <i>shemitah</i><br>(Early <i>Elul</i> 5782-2022) | Mid-Nov. ninth year<br>(Early <i>Kislev</i> 5784-2023)        | Mid-June eighth year<br>(Late <i>Sivan</i> 5783-2023)            |

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2. Some maintain that *bi'ur* does not apply to pecans; see Chapter 24 §B.7.

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| <b>Fruit</b>                       | <b><i>Kedushat shevi'it</i> starts</b>                           | <b><i>Kedushat shevi'it</i> ends</b>                        | <b><i>Bi'ur</i> time</b>                                    |
|------------------------------------|--|---|---|
| <b>Quince</b>                      | Late Sept. end of <i>shemita</i><br>(Late <i>Elul</i> 5782-2022) | Early Sept. end of eighth year (Mid- <i>Elul</i> 5783-2023) | Mid-Jan. eighth year<br>(Late <i>Tevet</i> 5783-2023)       |
| <b><i>Sabra</i> (prickly pear)</b> | Mid-May <i>shemita</i><br>(Mid- <i>Iyar</i> 5782-2022)           | Late June eighth year<br>(Mid- <i>Tamuz</i> 5783-2023)      | Early Nov. eighth year<br>(Early <i>Cheshvan</i> 5783-2022) |
| <b>Star fruit (carambola)</b>      | Late Sept. end of <i>shemita</i><br>(Late <i>Elul</i> 5782-2022) | Early Sept. end of eighth year (Mid- <i>Elul</i> 5783-2023) | Mid-Feb. eighth year<br>(Late <i>Shevat</i> 5783-2023)      |
| <b>Sweet cherry (Hackberry)</b>    | Mid-April <i>shemita</i><br>(Mid- <i>Nisan</i> 2022-5782)        | Mid-May eighth year<br>(Late <i>Iyar</i> 5783-2023)         | Early Aug. <i>shemita</i><br>(Early <i>Av</i> 5782-2022)    |
| <b>Sweetsop (sugar apple)</b>      | Mid-July. <i>shemita</i><br>(Mid- <i>Tamuz</i> 5782-2022)        | Late June eighth year<br>(Mid- <i>Tamuz</i> 5783-2023)      | Mid-April eighth year<br>(Late <i>Nisan</i> 5783-2023)      |
| <b>Table grapes</b>                | Late March <i>shemita</i><br>(Late II <i>Adar</i> 5782-2022 )    | Early April eighth year<br>(Early April 2023-5783)          | <i>Pesach</i> eighth year<br>(April 6, 5783-2023)           |
| <b>Table olives</b>                | Mid-Aug. end of <i>shemita</i><br>(Mid- <i>Av</i> 5782-2022)     | Mid-Aug. end of eighth year (Late <i>Av</i> 5783-2023)      | <i>Shavu'ot</i> eighth year<br>(May 26, 5783-2023)          |
| <b>Walnut</b>                      | No <i>k.s.</i> <sup>3</sup>                                      | NA  | NA  |
| <b>Wine grapes</b>                 | Early July <i>shemita</i><br>(Early <i>Tamuz</i> 5782-2022)      | Early June eighth year<br>(Mid- <i>Sivan</i> 5783-2023)     | <i>Pesach</i> eighth year<br>(April 6, 5783-2023)           |

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3. This fruit is not grown in Israel (as of 5781). Since all such fruits are imported, the laws of *shemita* do not apply.

Appendix B

***Kedushat shevi'it* schedule for grains, legumes, and seeds**

| Grain/legume/seed                    | <i>Kedushat shevi'it</i> and <i>sefichin</i> prohibition starts <sup>1</sup> | <i>Sefichin</i> prohibition ends                     | <i>Bi'ur</i> time                                      |
|--------------------------------------|--|--|--|
| <b>Barley</b>                        | Early May <i>shemitah</i> (Early <i>Iyar</i> 5782-2022)                      | Early May eighth year (Early <i>Iyar</i> 5783-2023)  | Late Nov. eighth year (Early <i>Kislev</i> 5783-2022)  |
| <b>Black-eyed peas<sup>4</sup></b>   | No <i>k.s.</i> ( <i>kedushat shevi'it</i> )                                  | NA   | NA   |
| <b>Caraway<sup>4</sup></b>           | No <i>k.s.</i>   | NA   | NA   |
| <b>Coriander (seeds)<sup>2</sup></b> | Early June <i>shemitah</i> (Early <i>Sivan</i> 5782-2022)                    | Early June eighth year (Mid- <i>Sivan</i> 5783-2023) | Early Dec. eighth year (Early <i>Kislev</i> 5783-2022) |
| <b>Corn on the cob</b>               | 3 <i>Tishrei shemitah</i> (Sept. 9, 5782-2021)                               | <i>Chanukah</i> eighth year (19 Dec. 5783-2022)      | NA <sup>3</sup>  |
| <b>Dried beans<sup>4</sup></b>       | No <i>kedushat shevi'it</i>  | NA   | NA   |

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1. For these crops, the stage of growth that determines their status is one-third of their growth as of *Rosh Hashanah* of *shemitah*.
  2. These are coriander seeds, not the leaves. Coriander seeds are needed to grow coriander leaves, and the growing time is much longer for the seeds than for the leaves. This is why its *bi'ur* time is different than the one found for coriander leaves in Appendix C.
  3. Since it can be found growing in the field all year round, *bi'ur* does not apply.

Consumer's Guide to Shemita Appendix B

| <b>Grain/legume/<br/>seed</b>    | <b><i>Kedushat shevi'it</i><br/>and <i>sefichin</i><br/>prohibition starts<sup>1</sup></b> | <b><i>Sefichin</i><br/>prohibition<br/>ends</b>                    | <b><i>Bi'ur</i> time</b>  |
|----------------------------------|--|--|---|
| <b>Ful (fava beans)</b>          | Early April <i>shemita</i><br>(Late II <i>Adar</i><br>5782-2022)                           | Early April<br>eighth year<br>(Early April<br>2023-5783)           | Late Nov.<br>eighth year<br>(Early <i>Kislev</i><br>5783-2022)  |
| <b>Ginger<sup>4</sup></b>        | No <i>k.s.</i>   | NA   | NA  |
| <b>Hummus</b>                    | Early June <i>shemita</i><br>(Early <i>Sivan</i><br>5782-2022)                             | Early June<br>eighth year<br>(Mid- <i>Sivan</i><br>5783-2023)      | Early Dec.<br>eighth year<br>(Early <i>Kislev</i><br>5783-2022) |
| <b>Lentils<sup>4</sup></b>       | No <i>k.s.</i>   | NA   | NA  |
| <b>Millet</b>                    | Early Aug. <i>shemita</i><br>(Early <i>Av</i><br>5782-2022)                                | Mid-Aug.<br>eighth year<br>(Late <i>Av</i><br>5783-2023)           | Mid-Sept. end<br>of <i>shemita</i>                              |
| <b>Oats<sup>4</sup></b>          | No <i>k.s.</i>   | NA   | NA  |
| <b>Peanuts</b>                   | Mid-Sept. end<br>of <i>shemita</i><br>(Mid. <i>Elul</i><br>5782-2022)                      | Mid-Sept. end of<br>eighth year<br>(Late <i>Elul</i><br>5783-2023) | Late Nov.<br>eighth year<br>(Early <i>Kislev</i><br>5783-2022)  |
| <b>Peas<sup>4</sup></b>          | No <i>k.s.</i>   | NA   | NA  |
| <b>Popcorn</b>                   | Early July <i>shemita</i><br>(Early <i>Tamuz</i><br>5782-2022)                             | Early Aug. eighth<br>year<br>(Mid- <i>Av</i><br>5783-2023)         | Late Nov.<br>eighth year<br>(Early <i>Kislev</i><br>5783-2022)  |
| <b>Poppy<sup>4</sup></b>         | No <i>k.s.</i>   | NA   | NA  |
| <b>Pumpkin seeds<sup>4</sup></b> | No <i>k.s.</i>   | NA   | NA  |

Kedushat shevi'it schedule for grains, legumes, and seeds

| <b>Grain/legume/<br/>seed</b> | <b><i>Kedushat shevi'it</i><br/>and <i>sefichin</i><br/>prohibition starts<sup>1</sup></b> | <b><i>Sefichin</i><br/>prohibition<br/>ends</b>            | <b><i>Bi'ur</i> time</b>  |
|-------------------------------|--|--|---|
| <b>Rice<sup>4</sup></b>       | No <i>k.s.</i>   | NA   | NA  |
| <b>Soy<sup>4</sup></b>        | No <i>k.s.</i>   | NA   | NA  |
| <b>Sunflower<br/>seeds</b>    | Mid-Aug. <i>shemitah</i><br>(Mid-Av 5782-2022)   | Mid-Aug.<br>eighth year<br>(Late Av<br>5783-2023)          | Early Dec.<br>eighth year<br>(Early <i>Kislev</i><br>5783-2022) |
| <b>Watermelon<br/>seeds</b>   | Early July <i>shemitah</i><br>(Early <i>Tamuz</i><br>5782-2022)                            | Early July eighth<br>year (Mid- <i>Tamuz</i><br>5783-2023) | Late Nov. eighth<br>year<br>(Early <i>Kislev</i><br>5783-2022)  |
| <b>Wheat<sup>5</sup></b>      | No <i>k.s.</i>   | NA   | NA  |

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4. These plants do not grow in Israel (as of 5781) and are all imported—so the laws of *shemitah* do not apply to them.
  5. Almost all wheat for human consumption is imported. Locally grown wheat is used for animal fodder. As this is the case, we need not be concerned that the wheat and wheat products on the market need *bi'ur*.

## Appendix C

***Kedushat shevi'it* schedule for vegetables**

| Vegetable                                     | <i>Kedushat shevi'it</i> starts <sup>1</sup>  | <i>Sefichin</i> prohibition starts <sup>2</sup>           | <i>Sefichin</i> prohibition ends                        | <i>Bi'ur</i> time <sup>3</sup>                |
|---|---|---|---|---|
| <b>Artichoke<sup>4</sup></b>                  | 3 <i>Tishrei shemita</i> (Sept. 9, 5782-2021) | Not <i>sefichin</i>                                       | NA  | Mid-July <i>shemita</i> (Mid-Tamuz 5782-2022) |
| <b>Arum</b>                                   | 3 <i>Tishrei shemita</i> (Sept. 9, 5782-2021) | Early Feb. <i>shemita</i> (Late <i>Shevat</i> 5782-2022)  | <i>Chanukah</i> eighth year (Dec. 19, 5783-2022)        | NA  |
| <b>Asparagus<sup>4</sup></b>                  | 3 <i>Tishrei shemita</i> (Sept. 9, 5782-2021) | Not <i>sefichin</i>                                       | NA  | NA  |
| <b>Baby radish (cherry belle/ cherriette)</b> | 3 <i>Tishrei shemita</i> (Sept. 9, 5782-2021) | Late Oct. <i>shemita</i> (Late <i>Cheshvan</i> 5782-2021) | Late Oct. eighth year (Early <i>Cheshvan</i> 5783-2022) | NA  |
| <b>Bamiah (okra)</b>                          | No <i>k.s.</i> <sup>5</sup>                   | NA  | NA  | NA  |

1. The timetable was prepared based on the average arrival time on the market.
2. The time the *sefichin* prohibition begins is determined based on the custom to be lenient with vegetables that sprouted before *shemita*. For vegetables that sprouted by 29 *Elul* prior to the onset of *shemita*, we checked for the earliest date that they can appear on the market.
3. Most vegetables are not subject to *bi'ur* since they are grown throughout the year in Israel today, so the status of "gone for the animals of the field" does not apply. This includes vegetables that in the distant and recent past were only seasonal. However, there are still some vegetables that are seasonal and there are times when they are not growing in the field. Therefore, the laws of *bi'ur* do apply to them.
4. The *sefichin* prohibition does not apply to perennial plants.
5. *Yivul nochri*, crops raised and owned by non-Jews, so the laws of *shemita* do not apply.

Kedushat shevi'it schedule for vegetables

| <b>Vegetable</b>            | <b><i>Kedushat shevi'it</i> starts<sup>1</sup></b> | <b><i>Sefichin</i> prohibition starts<sup>2</sup></b>       | <b><i>Sefichin</i> prohibition ends</b>               | <b><i>Bi'ur</i> time<sup>3</sup></b>                    |
|-----------------------------|--|---|---|---|
| <b>Banana<sup>4</sup></b>   | 3 <i>Tishrei shemitah</i> (Sept. 9, 5782-2021)     | NA  | NA  | NA  |
| <b>Beet</b>                 | 3 <i>Tishrei shemitah</i> (Sept. 9, 5782-2021)     | Mid-Jan. <i>shemitah</i> (Mid- <i>Shevat</i> 5782-2022)     | Late Dec. eighth year (Early <i>Tevet</i> 5783-2022)  | NA  |
| <b>Beet leaves</b>          | 3 <i>Tishrei shemitah</i> (Sept. 9, 5782-2021)     | Early Dec. <i>shemitah</i> (Late <i>Kislev</i> , 5782-2021) | Early Jan. eighth year (Early <i>Tevet</i> 5783-2023) | NA  |
| <b>Broccoli</b>             | 3 <i>Tishrei shemitah</i> (Sept. 9, 5782-2021)     | Early Jan. <i>shemitah</i> (Early <i>Shevat</i> 5782-2022)  | <i>Chanukah</i> eighth year (Dec. 19, 5783-2022)      | Late May <i>shemitah</i> (Late <i>Iyar</i> 5782-2022)   |
| <b>Butternut squash</b>     | 3 <i>Tishrei shemitah</i> (Sept. 9, 5782-2021)     | Mid-Jan. <i>shemitah</i> (Mid- <i>Shevat</i> 5782-2022)     | Late July eighth year (Early <i>Av</i> 5783-2023)     | Early Oct. eighth year (Early <i>Tishrei</i> 5783-2022) |
| <b>Carrot</b>               | 3 <i>Tishrei shemitah</i> (Sept. 9, 5782-2021)     | Late Jan. <i>shemitah</i> (Late <i>Shevat</i> 5782-2022)    | <i>Chanukah</i> eighth year (Dec. 19, 5783-2022)      | NA  |
| <b>Cauliflower</b>          | 3 <i>Tishrei shemitah</i> (Sept. 9, 5782-2021)     | Mid-Dec. <i>shemitah</i> (Early <i>Tevet</i> 5782-2021)     | <i>Chanukah</i> eighth year (Dec. 19, 5783-2022)      | NA  |
| <b>Chard</b>                | 3 <i>Tishrei shemitah</i> (Sept. 9, 5782-2021)     | Early Dec. <i>shemitah</i> (Late <i>Kislev</i> 5782-2021)   | Early Jan. eighth year (Early <i>Tevet</i> 5783-2023) | NA  |
| <b>Coriander (cilantro)</b> | 3 <i>Tishrei shemitah</i> (Sept. 9, 5782-2021)     | Mid-Nov. <i>shemitah</i> (Early <i>Kislev</i> 5782-2022)    | <i>Chanukah</i> eighth year (Dec. 19, 5783-2022)      | NA  |
| <b>Cucumber</b>             | 3 <i>Tishrei shemitah</i> (Sept. 9, 5782-2021)     | Late Oct. <i>shemitah</i> (Mid- <i>Cheshvan</i> 5782-2021)  | Mid-Nov. eighth year (Late <i>Cheshvan</i> 5782-2022) | NA  |

Consumer's Guide to Shemita Appendix C

| <b>Vegetable</b>                        | <b><i>Kedushat shevi'it</i> starts<sup>1</sup></b>       | <b><i>Sefichin</i> prohibition starts<sup>2</sup></b>     | <b><i>Sefichin</i> prohibition ends</b>               | <b><i>Bi'ur</i> time<sup>3</sup></b>                  |
|---|--|---|---|---|
| <b>Dill</b>                             | 3 <i>Tishrei shemita</i> (Sept. 9, 5782-2021)            | Mid-Nov. <i>shemita</i> (Mid- <i>Kislev</i> 5782-2021)    | Mid-Nov. eighth year (Late <i>Cheshvan</i> 5782-2022) | NA  |
| <b>Dry onion</b>                        | Early Dec. <i>shemita</i> (Late <i>Kislev</i> 5782-2021) | Early Feb. <i>shemita</i> (Late <i>Shevat</i> 5782-2022)  | Late Jan. eighth year (Early <i>Shevat</i> 5783-2023) | NA  |
| <b>Eggplant<sup>6</sup></b>             | 3 <i>Tishrei shemita</i> (Sept. 9, 5782-2021)            | Mid-Jan. <i>shemita</i> (Mid- <i>Shevat</i> 5782-2022)    | <i>Chanukah</i> eighth year (Dec. 19, 5783-2022)      | NA  |
| <b>Fava beans in a pod</b>              | 3 <i>Tishrei shemita</i> (Sept. 9, 5782-2021)            | Early Jan. <i>shemita</i> (Late <i>Tevet</i> 5782-2022)   | <i>Chanukah</i> eighth year (Dec. 19, 5783-2022)      | Mid-July <i>shemita</i> (Mid- <i>Tamuz</i> 5782-2022) |
| <b>Fennel</b>                           | 3 <i>Tishrei shemita</i> (Sept. 9, 5782-2021)            | Late Jan. <i>shemita</i> (Late <i>Shevat</i> 5782-2022)   | <i>Chanukah</i> eighth year (Dec. 19, 5783-2022)      | NA  |
| <b>Garlic</b>                           | Mid-Feb. <i>shemita</i> (Mid- <i>Adar</i> I 5782-2022)   | Mid-March <i>shemita</i> (Mid- <i>Adar</i> II 5782-2022)  | Mid-March eighth year (Late <i>Adar</i> 5783-2023)    | Mid-Aug. <i>shemita</i> (Mid- <i>Av</i> 5782-2022)    |
| <b>Green beans (or yellow) in a pod</b> | 3 <i>Tishrei shemita</i> (Sept. 9, 5782-2021)            | Late Nov. <i>shemita</i> (Late <i>Kislev</i> 5782-2021)   | Late Nov. eighth year (Early <i>Kislev</i> 5783-2022) | Mid-July <i>shemita</i> (Mid- <i>Tamuz</i> 5782-2022) |
| <b>Horseradish</b>                      | 3 <i>Tishrei shemita</i> (Sept. 9, 5782-2021)            | Early Oct. <i>shemita</i> (Late <i>Tishrei</i> 5782-2021) | <i>Chanukah</i> eighth year (Dec. 19, 5783-2022)      | NA  |
| <b>Hot pepper<sup>7</sup></b>           | 3 <i>Tishrei shemita</i> (Sept. 9, 5782-2021)            | Late Jan. <i>shemita</i> (Late <i>Shevat</i> 5782-2022)   | <i>Chanukah</i> eighth year (Dec. 19, 5783-2022)      | NA  |

6. From *Cheshvan* through *Adar*, most eggplants sold in Israel are grown in the Arava, which is within the *olei Mitzrayim* borders. Some are grown by non-Jews.

7. Black and white pepper powder are imported from abroad; see Appendix D.

Kedushat shevi'it schedule for vegetables

| Vegetable                        | <i>Kedushat shevi'it</i> starts <sup>1</sup>   | <i>Sefichin</i> prohibition starts <sup>2</sup>             | <i>Sefichin</i> prohibition ends                        | <i>Bi'ur</i> time <sup>3</sup>                         |
|----------------------------------|--|---|---|--|
| <b>Kohlrabi (turnip cabbage)</b> | 3 <i>Tishrei shemitah</i> (Sept. 9, 5782-2021) | Mid-Dec. <i>shemitah</i> (Early <i>Tevet</i> 5782-2021)     | <i>Chanukah</i> eighth year (Dec. 19, 5783-2022)        | NA   |
| <b>Lettuce<sup>8</sup></b>       | 3 <i>Tishrei shemitah</i> (Sept. 9, 5782-2021) | Mid-Oct. <i>shemitah</i> (Early <i>Cheshvan</i> 5782-2021)  | Late Oct. eighth year (Early <i>Cheshvan</i> 5783-2022) | NA   |
| <b>Melon<sup>9</sup></b>         | 3 <i>Tishrei shemitah</i> (Sept. 9, 5782-2021) | Early Jan. <i>shemitah</i> (Late <i>Shevat</i> 5782-2022)   | <i>Chanukah</i> eighth year (Dec. 19, 5783-2022)        | NA   |
| <b>Mint<sup>4</sup></b>          | 3 <i>Tishrei shemitah</i> (Sept. 9, 5782-2021) | Not <i>sefichin</i>   | NA  | NA   |
| <b>Mushroom</b>                  | No <i>k.s.</i> <sup>10</sup>                   | NA  | NA  | NA   |
| <b>Paprika</b>                   | 3 <i>Tishrei shemitah</i> (Sept. 9, 5782-2021) | Mid-Aug. <i>shemitah</i> (Mid- <i>Av</i> 5782-2022)         | Late Sept. eighth year (Early <i>Tishrei</i> 5783-2022) | Late Nov. eighth year (Late <i>Cheshvan</i> 5782-2022) |
| <b>Parsley leaves</b>            | 3 <i>Tishrei shemitah</i> (Sept. 9, 5782-2021) | Early Nov. <i>shemitah</i> (Late <i>Cheshvan</i> 5782-2021) | Late Nov. eighth year (Early <i>Kislev</i> 5783-2022)   | NA   |
| <b>Parsley root</b>              | 3 <i>Tishrei shemitah</i> (Sept. 9, 5782-2021) | Mid-Jan. <i>shemitah</i> (Mid- <i>Shevat</i> 5782-2022)     | Late Nov. eighth year (Early <i>Kislev</i> 5783-2022)   | NA   |
| <b>Peas in a pod</b>             | 3 <i>Tishrei shemitah</i> (Sept. 9, 5782-2021) | Mid-March <i>shemitah</i> (Mid- <i>Adar</i> II 5782-2022)   | <i>Chanukah</i> eighth year (Dec. 19, 5783-2022)        | Mid-June <i>shemitah</i> (Mid- <i>Tamuz</i> 5782-2022) |

- 
8. Insect-free leafy vegetables growing on detached platforms do not have *kedushat shevi'it*, so the *sefichin* prohibition does not apply to them.
  9. During the winter most melons are grown in the Aravah.
  10. Not a plant according to *halachah*, so the laws of *shemitah* do not apply to it.

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| <b>Vegetable</b>             | <b><i>Kedushat shevi'it</i> starts<sup>1</sup></b>        | <b><i>Sefichin</i> prohibition starts<sup>2</sup></b>    | <b><i>Sefichin</i> prohibition ends</b>               | <b><i>Bi'ur</i> time<sup>3</sup></b>                  |
|------------------------------|---|--|---|---|
| <b>Pepper<sup>11</sup></b>   | 3 <i>Tishrei shemita</i> (Sept. 9, 5782-2021)             | Late Jan. <i>shemita</i> (Late <i>Shevat</i> 5782-2022)  | <i>Chanukah</i> eighth year (Dec. 19, 5783-2022)      | NA  |
| <b>Pineapple</b>             | 3 <i>Tishrei shemita</i> (Sept. 9, 5782-2021)             | Not <i>sefichin</i> <sup>12</sup>                        | NA  | NA  |
| <b>Potato</b>                | Late Oct. <i>shemita</i> (Late <i>Cheshvan</i> 5782-2021) | Early Jan. <i>shemita</i> (Late <i>Tevet</i> 5782-2022)  | <i>Chanukah</i> eighth year (Dec. 19, 5783-2022)      | NA  |
| <b>Pumpkin</b>               | 3 <i>Tishrei shemita</i> (Sept. 9, 5782-2021)             | Early Feb. <i>shemita</i> (Late <i>Shevat</i> 5782-2022) | Late July eighth year (Early <i>Av</i> 5783-2023)     | Mid-Nov. eighth year (Late <i>Cheshvan</i> 5782-2022) |
| <b>Radish</b>                | 3 <i>Tishrei shemita</i> (Sept. 9, 5782-2021)             | Mid-Nov. <i>shemita</i> (Mid- <i>Kislev</i> 5782-2021)   | Mid-Nov. eighth year (Late <i>Cheshvan</i> 5782-2022) | NA  |
| <b>Raspberry<sup>4</sup></b> | 3 <i>Tishrei shemita</i> (Sept. 9, 5782-2021)             | Not <i>sefichin</i>                                      | NA  | Late Aug. <i>shemita</i> (Late <i>Av</i> 5782-2022)   |
| <b>Red cabbage</b>           | 3 <i>Tishrei shemita</i> (Sept. 9, 5782-2021)             | Late Jan. <i>shemita</i> (Late <i>Shevat</i> 5782-2022)  | <i>Chanukah</i> eighth year (Dec. 19, 5783-2022)      | NA  |
| <b>Scallions</b>             | 3 <i>Tishrei shemita</i> (Sept. 9, 5782-2021)             | Mid-Nov. <i>shemita</i> (Mid- <i>Kislev</i> 5782-2021)   | Mid-Nov. eighth year (Late <i>Cheshvan</i> 5782-2022) | NA  |
| <b>Spinach</b>               | 3 <i>Tishrei shemita</i> (Sept. 9, 5782-2021)             | Mid-Nov. <i>shemita</i> (Mid- <i>Kislev</i> 5782-2021)   | Late Nov. eighth year (Early <i>Kislev</i> 5783-2022) | NA  |

11. During the winter peppers grow in the Arava, which is within the *olei Mitzrayim* borders.

12. The *sefichin* prohibition does not apply to perennial plants.

Kedushat shevi'it schedule for vegetables

| Vegetable            | <i>Kedushat shevi'it</i> starts <sup>1</sup>             | <i>Sefichin</i> prohibition starts <sup>2</sup>             | <i>Sefichin</i> prohibition ends                     | <i>Bi'ur</i> time <sup>3</sup>                       |
|----------------------|--|---|--|--|
| <b>Spring onion</b>  | Late Nov. <i>shemitah</i> (Late <i>Kislev</i> 5782-2021) | Late Jan. <i>shemitah</i> (Late <i>Shevat</i> 5782-2022)    | <i>Chanukah</i> eighth year (Dec. 19, 5783-2022)     | NA   |
| <b>Squash</b>        | 3 <i>Tishrei</i> <i>shemitah</i> (Sept. 9, 5782-2021)    | Early Nov. <i>shemitah</i> (Late <i>Cheshvan</i> 5782-2021) | Mid-Oct. eighth year (Late <i>Tishrei</i> 5783-2022) | NA   |
| <b>Strawberry</b>    | 3 <i>Tishrei</i> <i>shemitah</i> (Sept. 9, 5782-2021)    | Early Jan. <i>shemitah</i> (Late <i>Tevet</i> 5782-2022)    | <i>Chanukah</i> eighth year (Dec. 19, 5783-2022)     | Late Aug. <i>shemitah</i> (Late <i>Av</i> 5782-2022) |
| <b>Sweet potato</b>  | 3 <i>Tishrei</i> <i>shemitah</i> (Sept. 9, 5782-2021)    | Mid-July <i>shemitah</i> (Mid- <i>Tamuz</i> 5782-2022)      | <i>Chanukah</i> eighth year (Dec. 19, 5783-2022)     | Mid-March eighth year (Late <i>Adar</i> 5783-2023)   |
| <b>Tomato</b>        | 3 <i>Tishrei</i> <i>shemitah</i> (Sept. 9, 5782-2021)    | Late Dec. <i>shemitah</i> (Late <i>Tevet</i> 5782-2021)     | <i>Chanukah</i> eighth year (Dec. 19, 5783-2022)     | NA   |
| <b>Turnip</b>        | 3 <i>Tishrei</i> <i>shemitah</i> (Sept. 9, 5782-2021)    | Mid-Jan. <i>shemitah</i> (Mid- <i>Shevat</i> 5782-2022)     | <i>Chanukah</i> eighth year (Dec. 19, 5783-2022)     | NA   |
| <b>Watermelon</b>    | 3 <i>Tishrei</i> <i>shemitah</i> (Sept. 9, 5782-2021)    | Mid-Jan. <i>shemitah</i> (Mid- <i>Shevat</i> 5782-2022)     | <i>Chanukah</i> eighth year (Dec. 19, 5783-2022)     | NA <sup>13</sup>                                     |
| <b>White cabbage</b> | 3 <i>Tishrei</i> <i>shemitah</i> (Sept. 9, 5782-2021)    | Mid-Dec. <i>shemitah</i> (Mid- <i>Tevet</i> 5782-2022)      | <i>Chanukah</i> eighth year (Dec. 19, 5783-2022)     | NA   |

13. Since *heter mechirah* watermelons grow in the *Aravah* throughout the *shemitah* year, *bi'ur* does not apply. That is, watermelons are always available to animals in the field, similar to most other vegetables that are grown all year long. In the past, watermelon did not grow in Israel around the year, which is why they had been previously subject to the laws of *bi'ur*.

## Appendix D

***Kedushat shevi'it* schedule for herbs and spices**For herbs, see the footnote.<sup>1</sup>

| <b>Herb</b>                          | <b><i>Kedushat shevi'it</i> starts</b>                 | <b><i>Kedushat shevi'it</i> ends</b>                 | <b><i>Sefichin</i> prohibition starts</b>                | <b><i>Sefichin</i> prohibition ends</b>               | <b><i>Bi'ur</i> time</b>                              |
|--------------------------------------|--|--|--|---|---|
| <b>Anise</b>                         | No <i>k.s.</i> <sup>2</sup>                            | NA   | NA <sup>2</sup>  | NA  | NA <sup>2</sup>                                       |
| <b>Basil</b>                         | 3 <i>Tishrei shemita</i> (Sept. 9, 5782-2021)          | 3 <i>Tishrei</i> eighth year (Sept. 28, 5783-2022)   | Early Dec. <i>shemita</i> (Early <i>Tevet</i> 5782-2021) | Late Nov. eighth year (Early <i>Kislev</i> 5783-2022) | NA <sup>5</sup>                                       |
| <b>Bay leaf (Laurel)</b>             | Mid-April <i>shemita</i> (Mid- <i>Nisan</i> 5782-2022) | Mid-May eighth year (Late <i>Iyar</i> 5783-2023)     | No <i>sefichin</i> <sup>2</sup>                          | NA  | NA <sup>2</sup>                                       |
| <b>Bible Hyssop (<i>za'atar</i>)</b> | 3 <i>Tishrei shemita</i> (Sept. 9, 5782-2021)          | Late Dec. eighth year (Late <i>Kislev</i> 5783-2022) | No <i>sefichin</i> <sup>4</sup>                          | NA  | NA <sup>5</sup>                                       |
| <b>Black pepper</b>                  | No <i>k.s.</i> <sup>2</sup>                            | NA   | NA <sup>2</sup>  | NA  | NA <sup>2</sup>                                       |
| <b>Caper</b>                         | Late May <i>shemita</i> (Late <i>Iyar</i> 5782-2022)   | Late May eighth year (Early <i>Sivan</i> 5783-2023)  | No <i>sefichin</i> <sup>4</sup>                          | NA  | Mid-Nov. eighth year (Late <i>Cheshvan</i> 5783-2022) |

1. Herbs assume *kedushat shevi'it* from the time there is new growth. If the beginning of the plant growth occurred after *Rosh Hashanah*, the plant has *kedushat shevi'it*.
2. *Shemita* laws do not apply to imports. However, if one grows such plants in their garden, the plant assumes *kedushat shevi'it*. Nevertheless, *bi'ur* does not apply. For annuals, however, if the plant self-seeded and sprouted during the *shemita* year, the *sefichin* prohibition also applies.

Kedushat shevi'it schedule for herbs and spices

| <b>Herb</b>  | <b>Kedushat shevi'it starts</b>                | <b>Kedushat shevi'it ends</b>                         | <b>Sefichin prohibition starts</b>                       | <b>Sefichin prohibition ends</b>                    | <b>Bi'ur time</b> |
|--|--|---|--|---|-------------------|
| <b>Caraway</b>   | 3 <i>Tishrei shemitah</i> (Sept. 9, 5782-2021) | Late Jan. eighth year (Early <i>Shevat</i> 5783-2023) | Late Feb. <i>shemitah</i> (Mid- <i>Shevat</i> 5782-2022) | Mid-Feb. eighth year (Late <i>Shevat</i> 5783-2023) | NA                |
| <b>Cardamom</b>  | No <i>k.s.</i> <sup>2</sup>                    | NA  | NA <sup>2</sup>  | NA  | NA <sup>2</sup>   |
| <b>Chives</b>  | 3 <i>Tishrei shemitah</i> (Sept. 9, 5782-2021) | Late Nov. eighth year (Early <i>Kislev</i> 5783-2022) | Not <i>sefichin</i> <sup>4</sup>                         | NA  | NA <sup>5</sup>   |
| <b>Cinnamon</b>  | No <i>k.s.</i> <sup>2</sup>                    | NA  | NA <sup>2</sup>  | NA  | NA <sup>2</sup>   |
| <b>Clove</b>   | No <i>k.s.</i> <sup>2</sup>                    | NA  | NA <sup>2</sup>  | NA  | NA <sup>2</sup>   |
| <b>Cumin</b>   | No <i>k.s.</i> <sup>2</sup>                    | NA  | NA <sup>2</sup>  | NA  | NA <sup>2</sup>   |
| <b>Fenugreek</b>   | No <i>k.s.</i> <sup>2</sup>                    | NA  | NA <sup>2</sup>  | NA  | NA <sup>2</sup>   |
| <b>Ginger</b>  | No <i>k.s.</i> <sup>2</sup>                    | NA  | NA <sup>2</sup>  | NA  | NA <sup>2</sup>   |
| <b>Hawaij - coffee mix</b>                                   | No <i>k.s.</i> <sup>2</sup>                    | NA  | NA <sup>2</sup>  | NA  | NA <sup>2</sup>   |
| <b>Hawaij - soup (Yemenite soup mix)</b>                     | No <i>k.s.</i> <sup>2</sup>                    | NA  | NA <sup>2</sup>  | NA  | NA <sup>2</sup>   |
| <b>Hyssop (medicinal plant, <i>Hyssopus officinalis</i>)</b> | 3 <i>Tishrei shemitah</i> (Sept. 9, 5782-2021) | Late Dec. eighth year (Late <i>Kislev</i> 5783-2022)  | Not <i>sefichin</i> <sup>4</sup>                         | NA  | NA <sup>5</sup>   |
| <b>Lemon balm</b>  | 3 <i>Tishrei shemitah</i> (Sept. 9, 5782-2021) | Late Nov. eighth year (Early <i>Kislev</i> 5783-2022) | Not <i>sefichin</i> <sup>4</sup>                         | NA  | NA <sup>5</sup>   |
| <b>Lemon grass</b>   | 3 <i>Tishrei shemitah</i> (Sept. 9, 5782-2021) | Late Nov. eighth year (Early <i>Kislev</i> 5783-2022) | Not <i>sefichin</i> <sup>4</sup>                         | NA  | NA <sup>5</sup>   |
| <b>Lemon verbena</b>   | 3 <i>Tishrei shemitah</i> (Sept. 9, 5782-2021) | Late Nov. eighth year (Early <i>Kislev</i> 5783-2022) | Not <i>sefichin</i> <sup>4</sup>                         | NA  | NA <sup>5</sup>   |

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| <b>Herb</b>                           | <b><i>Kedushat shevi'it</i> starts</b>                    | <b><i>Kedushat shevi'it</i> ends</b>                  | <b><i>Sefichin</i> prohibition starts</b> | <b><i>Sefichin</i> prohibition ends</b> | <b><i>Bi'ur</i> time</b> |
|---------------------------------------|---|---|---|---|--------------------------|
| <b>Mint and peppermint</b>            | 3 <i>Tishrei shemita</i> (Sept. 9, 5782-2021)             | Late Nov. eighth year (Early <i>Kislev</i> 5783-2022) | Not <i>sefichin</i> <sup>4</sup>          | NA                                      | NA <sup>5</sup>          |
| <b>Mustard</b>                        | No <i>k.s.</i> <sup>2</sup>                               | NA  | NA <sup>2</sup>                           | NA                                      | NA <sup>2</sup>          |
| <b>Nigella (black cumin, kalonji)</b> | No <i>k.s.</i> <sup>3</sup>                               | NA  | NA <sup>3</sup>                           | NA                                      | NA <sup>3</sup>          |
| <b>Oregano (wild marjoram)</b>        | 3 <i>Tishrei shemita</i> (Sept. 9, 5782-2021)             | Late Dec. eighth year (Late <i>Kislev</i> 5783-2022)  | Not <i>sefichin</i> <sup>4</sup>          | NA                                      | NA <sup>5</sup>          |
| <b>Poppy</b>                          | No <i>k.s.</i> <sup>2</sup>                               | NA  | NA <sup>5</sup>                           | NA                                      | NA <sup>5</sup>          |
| <b>Rosemary</b>                       | Late Sept. <i>shemita</i> (Mid- <i>Tishrei</i> 5782-2021) | Late May eighth year (Early <i>Sivan</i> 5783-2023)   | Not <i>sefichin</i> <sup>4</sup>          | NA                                      | NA <sup>5</sup>          |
| <b>Saffron crocus (autumn crocus)</b> | No <i>k.s.</i> <sup>2</sup>                               | NA  | NA <sup>2</sup>                           | NA                                      | NA <sup>2</sup>          |
| <b>Sage</b>                           | 3 <i>Tishrei shemita</i> (Sept. 9, 5782-2021)             | Late Nov. eighth year (Early <i>Kislev</i> 5783-2022) | Not <i>sefichin</i> <sup>4</sup>          | NA                                      | NA <sup>5</sup>          |
| <b>Sesame</b>                         | No <i>k.s.</i> <sup>2</sup>                               | NA  | Not <i>sefichin</i> <sup>2</sup>          | NA                                      | NA <sup>2</sup>          |
| <b>Tarragon</b>                       | 3 <i>Tishrei shemita</i> (Sept. 9, 5782-2021)             | Late Jan. eighth year (Early <i>Shevat</i> 5783-2023) | Not <i>sefichin</i> <sup>4</sup>          | NA                                      | NA <sup>5</sup>          |
| <b>Thyme</b>                          | 3 <i>Tishrei shemita</i> (Sept. 9, 5782-2021)             | Early <i>Kislev</i> eighth year (Late Nov. 5783-2022) | Not <i>sefichin</i> <sup>4</sup>          | NA                                      | NA <sup>5</sup>          |

3. Produced by non-Jews—*shemita* laws do not apply.
4. Perennial plant—the *sefichin* prohibition does not apply.
5. Grows all year long—the *bi'ur* obligation does not apply.

Kedushat shevi'it schedule for herbs and spices

| <b>Herb</b>            | <b><i>Kedushat shevi'it</i> starts</b>                     | <b><i>Kedushat shevi'it</i> ends</b>                  | <b><i>Sefichin</i> prohibition starts</b> | <b><i>Sefichin</i> prohibition ends</b> | <b><i>Bi'ur</i> time</b> |
|------------------------|--|---|---|---|--------------------------|
| <b>Tree wormwood</b>   | 3 <i>Tishrei shemita</i> (Sept. 9, 5782-2021)              | Early <i>Kislev</i> eighth year (Late Nov. 5783-2022) | Not <i>sefichin</i> <sup>4</sup>          | NA                                      | NA <sup>5</sup>          |
| <b>True watercress</b> | 3 <i>Tishrei shemita</i> (Sept. 9, 5782-2021)              | Early <i>Kislev</i> eighth year (Late Nov. 5783-2022) | Not <i>sefichin</i> <sup>4</sup>          | NA                                      | NA <sup>5</sup>          |
| <b>Turmeric</b>        | No <i>k.s.</i> <sup>2</sup>                                | NA  | NA <sup>2</sup>                           | NA                                      | NA <sup>2</sup>          |
| <b>Wormwood</b>        | 3 <i>Tishrei shemita</i> (Sept. 9, 5782-2021) <sup>2</sup> | Late Nov. eighth year (Early <i>Kislev</i> 5783-2022) | Not <i>sefichin</i> <sup>4</sup>          | NA                                      | NA <sup>2</sup>          |

## Appendix E

### **Growing indoors on detached platforms**

As a rule, the laws of *shemitah* apply to soil in open areas, soil indoors, and on detached platforms in open areas.

The laws of *shemitah* do not apply to growing crops indoors, when the growing platform is detached from the ground. For this reason, to facilitate sowing or planting indoors, the indoor structure needs to meet the criteria delineated below. The following guidelines are for home gardens; for large-scale farmers, different guidelines apply.

This appendix deals with when it is permitted to sow or plant indoors during the *shemitah* year. However, Torah VeHa'aretz Institute believes that when it is unnecessary, it is best to avoid planting during the *shemitah* year in general, even on detached platforms. This is because there are certain *posekim* who forbid this. The guidelines below are for situations when there is a need to do so.

In any case, when there are already plants indoors or on the windowsill that were planted before the onset of *shemitah*, there is no problem to continue to tend to them, and even water them as usual. In the case when such plants are not halachically considered growing on detached platforms, it is a good that they have *kedushat shevi'it* (this only includes plants for human consumption, herbs, and fragrant flowers; see Chapter 4).

#### **A. Structure**

1. The structure should be permanent and not mobile, such as a porch, pergola, and the like.
2. If a hothouse, the structure should be composed of strong material that cannot be torn easily, such as polyethylene (nylon). It is possible to use a net only if it is composed of at least 50% material (a 50-mesh net is insufficient—it needs to have 50% material). It is possible to use several nets (laid one

on top of the other) for this purpose, as long as they are close together. Two 50-mesh nets are sufficient.

In the case of a pergola, the percentage of holes in the netting should not exceed 50%. It is possible to use a cane mat to shade the pergola, and the like.

A shade or net that can be opened is not considered a permanent roof with regard to defining a "house" vis-à-vis *shemitah* (unless it is permanently fixed in place).

3. The height of the structure needs to be at least 80 cm (10 *tefachim*) from ground to roof. Optimally, it should be at least 80 cm above the planters.
4. Optimally, the walls should be at least 80 cm from the ground.
5. For porches that are shaded only in part, it is possible to plant only under the shaded portion.

## **B. Growing platforms**

1. Planters should be placed on a platform detached from the ground. Ascertain that the surface is composed of strong, waterproof material.
2. There is a halachic dispute whether or not a surface that is completely fixed to the ground is considered connected to the ground (and therefore could not serve as a barrier). If the platform is a sheet connected to the ground by nails or stakes, the surface is considered detached from the ground. If it is asphalt, however, it is not considered a detached surface (see below).
3. It is possible to use the following materials: strong polyethylene plastic sheets; coated, waterproof Palrig sheets; and galvanized metal panels.
4. Lightweight material should not be used: wooden boards, expanded polystyrene foam (a.k.a. Styrofoam, known in Israel as *kalkar*), cardboard, cement blocks, woven nylon sheets (such as regular Palrig and synthetic grass), and the like.

5. Asphalt and concrete surfaces are not sufficient to consider crops growing on them to be detached from the ground. The materials delineated above should be placed on them, for two reasons: (1) Often asphalt and concrete crack, so plants can derive their nourishment from the soil; (2) some maintain that since these surfaces are connected permanently to the ground, they are secondary to it.<sup>1</sup>
6. Ceramic tiles on asphalt or cement are not sufficient, *lechatchilah*. For this reason, if the planter is indoors an additional detaching surface is necessary (this is true for the ground-floor or basement; see §10 below).
7. The area should be wide enough so the plants do not protrude from the hothouse, even when the plants reach their full width and height.
8. Indoor planters with a dish underneath (even if only to collect water) should be wide enough so that leaves and branches do not protrude from them. This dish should not be ceramic (ceramic is porous).
9. The area needs to be kept clean so that even a thin layer of dirt (that can be used to sow seeds) does not cover it.
10. When growing plants indoors, if on the first floor or higher, there is no need for an additional surface to detach plants from the ground. Planters may be placed directly on the floor.
11. If there is a planter on the windowsill, ensure that there is a detaching surface above and below it. The best solution is when there are three partitions for the windowsill (that is, the windowsill is a niche, so there are two walls on either side, in addition to the outer wall of the house, so it is closed from three

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1. While we are lenient with surfaces that are attached to the ground (see §B.2 above), we are only lenient with surfaces that (1) do not crack and (2) are not hermetically connected to the ground. For surfaces that can crack or are hermetically connected to the ground, such as cement and asphalt, we are stringent *lechatchilah*. Such surfaces are not considered a barrier.

sides). However, if the windowsill protrudes outside of the outer wall of the house and is not closed on either side, it is sufficient. See §A.4 above.

12. Ensure that the plant does not spread out where there is no detaching surface (generally, plants tend to grow towards light and heat sources).

### **C. Planters**

1. Do not spread dirt or a growing substrate on the detached surface. Use only a planter/flowerpot.
2. The volume of each planter may not exceed 70 L (this is a size that average people can move by themselves or at least push by themselves); it does not help to have a nylon sheet to divide a larger planter—each planter is considered an individual unit. In extenuating circumstances, it is possible to be lenient and use a planter whose volume does not exceed 40 *se'ah*, approximately 330 L—each situation should be dealt with on an individual basis. The size of the perforation in the planter should not exceed 1 cm<sup>2</sup>; all perforations in the planter together should not exceed 2 cm<sup>2</sup>.
3. Planters may be filled with all sorts of growing substrates, such as: dirt, tuff, perlite, peat, coconut fiber, sand, and the like.
4. It is not problematic if leaves protrude from the planter, as long as the entire plant (branch extensions and leaves included) is sitting on a surface detached from the ground. However, if branches or leaves spread out to the ground in areas that are not detached surfaces, the plant receives its nourishment from the ground and is not considered detached from it. This is the case even if the plant does not touch the ground, and is only hanging directly above it (without a detaching surface in between).
5. If all of the above criteria are met, it is possible to plant in such planters and perform all actions necessary for the plant. Plants growing in such planters do not have *kedushat shevi'it*. *Terumot*

and *ma'aserot* should be separated from such crops, due to doubt (without a blessing). Both *ma'aser sheni* and *ma'aser ani* should be separated.

## Appendix F

### **Instructions for the in-depth reader**

This book is a practical *halachah* guide. For this reason we have not cited all the sources that deal with the subject, not even Tannaitic sources such as *Mishnah*, *Tosefta* and *Midrash Halachah*; sources from the *Yerushalmi* and *Bavli*; nor most of the opinions of the *Rishonim*. While we did not quote sources, we wrote in simple English the practical *halachot*. In almost all areas we cited Rambam, as well as Rabbi Kook's *Shabbat Ha'aretz* commentary, and a few additional *Acharonim*.

For most of the *halachot* we included references to *Shabbat Ha'aretz*, which is Rabbi Kook's commentary on Rambam's *Hilchot Shemitah*, first printed in 1910. We refer to the Torah VeHa'aretz Institute's edition. Our institute's edition includes *Tosefet Shabbat*, which cites opinions and interpretations from the *Rishonim* and *Acharonim* that differ from Rabbi Kook, including detailed comments written by the rabbis of Torah VeHa'aretz Institute. The three volumes of the book can be found in *Otzar HaHochma* (a depository of Torah-related books) and can be purchased from Torah VeHa'aretz Institute. When citing *Shabbat Ha'aretz*, we include the chapter and associated *halachah* in Rambam, as well as the relevant letter (subsection). Sometimes we also cite the number of the relevant footnote.

*Shabbat Ha'aretz* I, 5768, chapters 1–4, includes a preface and extensive introduction of fifteen chapters.

*Shabbat Ha'aretz* II, 5768, chapters 5–9, is followed by another pamphlet called *Kuntres Acharon* and other additions. *Shabbat Ha'aretz* III, 5768, chapters 9–13, deals with *shemitat kesafim* (cancellation of debts) and *yovel*.

We frequently cite the rulings of Rabbi Mordechai Eliahu that were transmitted orally to our Institute's rabbis; therefore, they are not quoted from his books.

In the list of books, you can see the wide variety of rabbis in recent generations who dealt with the topic of *shemita*. Most of the general public is not familiar with these books, and sometimes even Torah scholars are not aware of them either.

Some of the sources we cite are found in the Bar Ilan Responsa Project (the Global Jewish Database), and almost all appear in *Otzar HaHochma* and/or in HebrewBooks.

## **Shortlist of Rabbis**

For brevity's sake, in the footnotes we list only the last names of rabbis.

Below is a list of the rabbis' full names:

Rabbi Yaakov Ariel

Rabbi Shlomo Zalman Auerbach

Rabbi Mordechai Eliahu

Rabbi Yosef Shalom Elyashiv

Rabbi Tzvi Pesach Frank

Rabbi Shlomo Goren

Rabbi Avraham Yitzchak Hakohen Kook

Rabbi Avraham Shapira

Rabbi Moshe Sternbuch

Rabbi Ben Tzion Uziel

Rabbi Shmuel Vosner

Rabbi Shaul Yisraeli

Rabbi Binyamin Zilber

## Bibliography

Below is a list of most of the sources mentioned in the book, although this is not a standard bibliography. It includes the name of the work, type of work (responsa, commentary, etc.), where the work can be found (the name of the section, or where it appears in another work), the author's name, when he lived, the place and year in which the work was first published, the place and year of the most updated version of the work, and sometimes additional details. Dates for multi-volume responsa are not included. As mentioned previously, nearly all books can be found in *Otzar HaHochma*.

**Acharit Hashanim** – On the *mitzvah* of *viduy ma'aserot*. Rabbi Eliyahu David Aderet Rabinowitz Teomim, known as the Aderet [1843–1905]. Warsaw 5653, Jerusalem 5744.

**Aruch Hashulchan** – *Aruch Hashulchan Ha'atid* (of the future), vol. I *zera'im (shemita)*, ch. 15–29). Rabbi Yechiel Epstein [1829–1908]. Tel Aviv 5698, Mossad HaRav Kook Jerusalem 5732, 5763.

**Aser Te'aser** – Laws of *terumot and ma'aserot*. Rabbi Yosef Zvi Halevi [1874–1960]. Jerusalem 5695. *Av beit din* of Tel Aviv-Jaffa and son-in-law of Rabbi Naftali Hertz Halevi Widenbaum [1852–1902], the first Ashkenazi Rabbi of Jaffa.

**Atah Or** – *Shevi'it*. Rabbi Emanuel Toledano [1940–]. Jerusalem 5761.

**Avkat Rochel** – Responsa, Rabbi Yosef Caro [1488–1575].

**Az Nidberu** – Responsa, Rabbi Binyamin Zilber [1916–2008]. Bnei Brak.

**Barkai** – Vol. V, a journal for rabbis of the Mizrahi World Movement - *Hapoel Hamizrachi*, edited by Rabbi Shaul Yisraeli, *Mifal Rabanim Uvnei Torah*, Jerusalem 5749.

**Beit Ridbaz with Mishmeret Lehabayit** – Commentary on *Pe'at Hashulchan*. Rabbi Yaakov David ben Ze'ev Vilovsky, the Ridbaz [1845–1913]. Jerusalem 5760. Generally, the reference is to the commentary

that is located on the side, and sometimes for annotations inside the text of *Pe'at HaShulchan. Mishmeret Lehabayit*—printed at the end of the book *Beit Ridbaz*, Rabbi Nachum Weidenfeld [1875–1939].

***Betzet Hashanah*** – Department of *Mitzvot Hateluyot Ba'aretz*, Chief Rabbinate of Israel, Heichal Shlomo, Jerusalem 5718.

***Brit Olam*** – *Shevi'it*. Rabbi Binyamin Zilber [1916–2008], Bnei Brak 5739.

***Chavot Binyamin*** – Rabbi Shaul Yisraeli [1909–1995]. Torah VeHa'aretz Institute 5752.

***Chazon Ish*** – *Zera'im* (laws of *shemita* pp. 84–154). Rabbi Yeshayahu Karelitz [1878–1953]. Bnei Brak 5733, 5754. Published also as an independent pamphlet, *Hilchot Shevi'it* 5693, Jerusalem 5712.

***Chiddushim Ubiurim*** – *Seder Zera'im*. Rabbi Chaim Greineman [1926–2015]. Jerusalem 5717, Bnei Brak 5733.

***Chochmat Adam*** – *Sha'arei Tzedek*, laws of the *mitzvot* dependent on the land of Israel, *Sha'ar mitzvot ha'aretz* (§§15–21). Rabbi Avraham Danzig [1748–1820]. Vilna 5572, Bnei Brak 5732, Modi'in Illit 5772.

***Da'at Kohan*** – Rabbi Avraham Yitzchak Hakohen Kook [1865–1935]. Jerusalem 5702; Mossad HaRav Kook, Jerusalem 5762.

***Dinei Mamonot*** – Rabbi Ezra Batzri [1937–]. Jerusalem 5750.

***Emunat Itecha*** – Quarterly periodical by Torah VeHa'aretz Institute.

***Emunat Yosef*** – *Zera'im*, commentary on the Jerusalem Talmud, printed together with the commentary of the Rashas. Rabbi Yosef Dinklis [1892–1976]. Jerusalem 5695, 5733.

***Eretz Chayim*** – Rabbi Chaim Sethon [1871–1916]. Tzfat 5666, Jerusalem 5750.

***Gedulat Mordechai*** – *Responsa*, Rabbi Mordechai Galante [circa 1600]. Found at the end of the *Sefer Divrei Mordechai*, Livorno 5620.

***Ha'aruch, Sefer*** – Rabbi Natan ben Yechiel of Rome [11<sup>th</sup> century, Italy].

**Hakhel** – The *mitzvah* of *hakhel* and its related *halachot*, collection of articles. Mossad HaRav Kook, Jerusalem 5706, 5733.

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**Hama'aser Vehaterumah** – Rabbi Chanoch Zundel Grossberg [1904–1977]. Jerusalem 5699, Jerusalem 5718.

**Har Tzvi** – *Zera'im*, vol. II (responsa vol. VII, ch. 31–60). Rabbi Tzvi Pesach Frank [1873–1960]. Machon HaRav Frank, Jerusalem 5754.

**HaTorah VeHa'aretz** – Vols. I–VIII, Torah VeHa'aretz Institute.

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**Hilchot Shevi'it** – Commentary on *Pe'at Hashulchan*, with the following commentaries: *Kisse David* and *Bi'ur Halachah*. Rabbi Binyamin Zilber [1916–2008]. Second ed., Bnei Brak (not to be confused with Rabbi Michel Tukachinsky's *Hilchot Shevi'it*, Jerusalem 5670, republished under a new name, *Sefer Hashemitah*; and not *Hilchot Shevi'it* by Rabbi Yitzchak Rosenthal).

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**Iggerot Moshe** – Responsa, Rabbi Moshe Feinstein [1895–1986]. New York 5763.

**Imrei Yosher** – *Zera'im*. Rabbi Chaim Shaul Greineman [1926–2015], a disciple of the Chazon Ish. Bnei Brak 5758.

**Kaftor Vaferach** – Rabbi Ishtori Haparchi [1280–1355]. Venice 5309; Luntz ed., Jerusalem 5647; Beit Midrash for Halacha in Agricultural Settlements – Emunat Ish, Jerusalem 5754–5759.

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***Kerem Tziyon*** – Laws of *shemitah* with comments of *Gidulei Tziyon* and *Gaon Tzvi*, Rabbi Yitzchak Rosenthal [1906–1979]. Midrash Bnei Zion, Jerusalem 5739, 5740 (and not *Halachot Pesukot Shevi'it* 5725, which is a different work).

***Ketav Sofer*** – Responsa. Rabbi Avraham Shmuel Binyamin Sofer [1815–1871], son of the Chatam Sofer. Pressburg, Bratislava 5633–5654. Machon Chatam Sofer, Jerusalem 5720.

***Kuntres Acharon*** – Appended to the end of vol. II of *Shabbat Ha'aretz*.

***Le'or Hahalachah*** – Rabbi Shlomo Yosef Zevin. Jerusalem 5706, 5764.

***Ma'adanei Eretz*** – Laws of *shemitah*. Rabbi Shlomo Zalman Auerbach [1910–1995]. Jerusalem 5704, 5752, revised ed. 5767 (with a different numbering system for the sections).

***Mabit*** – Responsa. Rabbi Moshe ben Yosef MiTrani [1500–1580], lived in Tzfat. Venice 5389.

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***Megillat Esther*** – Rabbi Yitzchak Leon [16<sup>th</sup> century], Italy. Venice 5352.

***Mikdash David*** – *Zera'im, Shivi'it*. Rabbi David Hakohen Rappaport [1890–1942], Bilgoraj 5698. Yeshivat Or Elchanan ed., Jerusalem 5746, 5769.

***Minchat Chinuch*** – Annotations on the *Sefer Hachinuch*, Rabbi Yosef Ba'avad [1801–1874]. Lvov 5729, Vilna 5672, New York 5712, Jerusalem Institute 5748.

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***Nitei Gavriel*** – *Shemitat kesafim* and *prozbul*. Rabbi Gavriel Zinner [1940–]. New York. Jerusalem 5747, 5767.

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***Penei Moshe*** – Commentary on the Jerusalem Talmud. Rabbi Moshe Margalio [1710–1781], Europe.

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***Rash*** – Commentary on the *Mishnah*. Rabbi Shimshon of Sens (or Shantz), the Rash Mishantz [1150–1214], France, immigrated to the

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**Yaskil Avdi** – Responsa. Rabbi Ovadia Hedaya [1889–1969]. Jerusalem.

**Yeshu'at Moshe – Zera'im**. Rabbi Yehoshua Moshe Aharonson [1910–1993], a rabbi in Petach Tikva. Tel Aviv 5728.

**Yeshu'ot Malko** – Responsa. Rabbi Yehoshua Trunk of Kutna [1821–1893]. Piotrków 5687, New York 5718.

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1. Note that this is the official English spelling found on his letterheads; his son, Rabbi Yitzchak Yosef, spells his last name "Yosef" (S.R.).