

g לעלוי נשמת מרת שפרה לאה בת ר' יצחק ע"ה h
Dedicated in loving memory of Susan Lee Brown by her family

Practical Guide to Hilchos Shmitta

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Introduction

We have the special זכות to live in *Eretz Yisroel* and be able to keep the Mitzvos Hatluyos Ba'oretz - Mitzvos that apply only in the land of Israel. One of these Mitzvos that is quite challenging yet very meaningful is the Mitzvah of Shmitta which will commence this Rosh Hashono.

On Shmitta we do not work the land, and we relinquish ownership of fruit that grows in the land. The ספר החינוך writes that this demonstrates our belief that Hashem is the One who really owns the land and makes it possible for us to have fruits from the land.

We can see from the Torah that keeping Shmitta gives us the merit to retain our land in Jewish hands and gives us the blessings reserved for one that lives with בטחון in Hashem.

Although most opinions hold that Shmitta today is only מדרבנן (Rabbinic), the nature of the Mitzvah remains intact. The Chazon Ish said that the blessings set aside for those who keep Shmitta will be bestowed upon those that observe it even today.

The Shmitta year is our agricultural Shabbos. Just as resting on the weekly Shabbos reminds us that Hashem created the world in seven days, refraining from agricultural work during Shmitta reminds us that Hashem retains his special relationship with *Eretz Yisroel* and that only through his benevolence are we able to inhabit it and benefit from it. Just as we learn the הלכות of the weekly Shabbos and prepare and focus our activities in preparation of Shabbos, we must also spend time to learn the הלכות of Shmitta and prepare for its arrival.

People often think that since they are not farmers and do not grow fruits and vegetables in their yards, the laws of Shmitta are not relevant to them. The purpose of this short pamphlet is to help the reader understand the basic laws of Shmitta as they relate to the average person living in an apartment or home in *Eretz Yisroel*.

As in many *Halachic* issues, there are various differences of opinion in the הלכות of Shmitta. This pamphlet is generally written according to the opinion of the Chazon Ish who was the foremost *Posek* on Shmitta. Although many leniencies in these הלכות are applied to *farmers* and others whose livelihood are directly tied to agriculture, it is recommended not to rely on these leniencies for your little garden. If one feels that it is not proper to cause ones gardener to lose a year's remuneration, one could pay him not to work. (Some gardeners spend most of the Shmitta year learning).

May it be Hashem's will that we keep the laws of Shmitta correctly, and through our adherence we will hasten the arrival of Moshiach.

**Please note that this pamphlet is in no way meant to be authoritative or complete.
Please refer any questions to your local Rav.**

Pre Shmitta Halachos:

Take care of all your garden's needs that can be done before Shmitta sets in.

Garden Preparation: Configure your irrigation system before Shmitta. Fertilizing grass, trimming trees and bushes, etc. should all be done before Shmitta. Give your gardener enough time in advance to take care of these needs before the onset of Shmitta.

Planting Fruit Trees: The last day for planting fruit trees before Shmitta is the end of the 16th day of Av (July 31, 2007). A fruit tree that is planted after this time must be uprooted.

Planting non-Fruit Trees: The Chazon Ish held that you can plant non-fruit trees and bushes until Rosh Hashana 5768. Others hold that you should not plant trees later than the end of the 16th of Elul (August 30, 2007), and not plant annuals later than the end of the 27th day of Elul (September 10, 2007)

Planting Vegetables: Vegetables can be planted until the end of the 27th of Elul (September 10, 2007), otherwise their produce will be "ספיקים" and will be prohibited to be eaten during Shmitta. With regards to grains, beans and sunflower seeds ask your Rav.

Before Rosh Hashana, it is proper to proclaim your garden "Hefker" for the needs of those who will come to pick the produce during Shmitta.

Caring For Your Garden during Shmitta:

The Torah prohibits only four types of work during Shmitta - planting, pruning, harvesting (in certain ways) and plowing. Rabbinically forbidden are many additional types of work that are beneficial for the growth of the crops (i.e. watering, fertilizing, weeding, spraying against insects, removing stones etc, clipping branches etc.).

Although we stated above that a number of activities were prohibited מדרבנן, these activities are **permitted** in a situation that

- A) The plant/tree/bush will die or be irreparably damaged by refraining from this work or
- B) It would cause damage that would require large expenses to repair the damage that is done or
- C) If there is concern for loss of the fruit of the Shmitta year.

Watering:

You may water plants that need to be watered, during Shmitta. However, it is preferable to set up an irrigation system before Shmitta, so that the watering is automated and not manual. Plants should not be watered in the rainy season when they do not need the watering to survive. Speak with your expert gardener to determine if your plants need watering and how much water is needed for them to survive.

The Chazon Ish held that one can swish out the water used for washing ones floor into the garden since the intention is to remove the water from the house and not to water the garden. Rav Elyashiv Shlit"a holds that if one has benefit from this watering of the garden one should not swish it into the garden. If the water contains harmful detergent then it is permitted. (This discussion is only applicable if the garden has already had its basic watering).

Fertilizing:

Most trees and bushes do not need constant fertilizing. Have the gardener fertilize before Shmitta. Slow-release fertilizing granules that dissolve in the course of the Shmitta year may be used before Shmitta.

Fertilizing may be done during Shmitta, if there is some danger to the bush that necessitates fertilizing.

Turning over the earth or crumbling it with a hoe etc is prohibited. If the roots of a plant, become exposed they may be covered with earth.

Weeding:

Weeding is prohibited during Shmitta unless the weeds are choking a plant and causing it damage. You may cut the weeds or use weed killer if weeds are growing in places that are not designated for plants (i.e. on one's porch or patio). If one wants to remove weeds that disturb the use of ones garden one should consult his Rav.

Pruning:

Pruning is prohibited during Shmitta. Branches that are diseased or infested may be removed. One can also remove branches that are protruding into a walking path and disturbing passage. Likewise one can cut branches for סכך as long as it is not done in a professional trimming fashion. Flowers may be cut and used them on Shmitta. However, one should not cut them from the middle of the branch but rather from the first or last 1/3 of the branch.

Grass:

If possible one should refrain from cutting grass during Shmitta. If there is a special need to do so, discuss the matter with your Rav.

Cleaning the garden:

Litter from your garden if the only intention is to clean it up for personal preference and not for the benefit of the plants.

A Rav should be consulted regarding the removal of a pile of stones or building material that was left in your garden. Likewise a Rav should be consulted before engaging in any form of digging or filling up holes.

Flowerpots:

In general, the rules of Shmitta apply also to plants growing in a flowerpot.

However, if the pot does not have a hole at the bottom and it is inside the house (under a roof) the Chazon Ish permits taking care of it without restrictions. Nevertheless, if there is no pressing need, one should avoid planting even in such a pot.

A pot 'without a hole' must be made of plastic, metal, glass, or have a plate or the like made of these materials underneath it (such as PVC plastic). This applies even for a pot that is on one of the floors above ground floor. Rav Elyashiv Shlit"א is of the opinion that if the pot is on ground floor, one must put the PVC under the pot *as well as* under all the area where its foliage protrudes.

As was mentioned above, even if it is a 'pot with a hole' one can water it when the plant needs it, and do the other activities that are permitted during Shmitta in a standard garden.

One may not transform a pot from a status of being without a hole to being with a hole since this is a form of planting. Therefore, one may not remove the PVC from under a plant, or transfer a suspended plant or a plant on a table – to the floor.

Likewise one should not remove a pot from the house and place it in the yard. One may take a plant from ones house to another house (Rav S.Z. Auerbach Ztz"l) some say he should put it in a plastic bag while it is being transported (Rav Elyashiv Shlit"a).

Purchasing:

Purchasing potted plants during Shmitta is permitted. However take heed to only purchase a potted plant on Shmitta from a store that sells plants that were not planted during Shmitta !

Non-intended Results:

Some activities are permitted when they are not intended for the benefit of the plants and it is clearly recognizable that you are doing them for other purposes.

Fruit Trees in A Garden during Shmitta:

“הפקר - Hefker”:

Fruit trees growing in private gardens, must be made accessible for the public to pick. If it is complicated to keep the garden open the whole time (especially if it is in your back yard), one may put up a sign stating that the produce is *Hefker* and anyone who wants to pick them can call and you will open up the garden for them to pick the fruit.

The owner of the garden is entitled to pick a small amount of the produce for his family to use for a few days. The owner may not pick a lot of fruit even if his intention is to distribute it to others.

Picking the Fruit:

There is a disagreement amongst the Poskim whether one is permitted to pick the Shmitta fruit with regular clippers that are used for harvesting fruit. Preferably, avoid using the classic picking tool for cutting fruit on Shmitta. If there is a need to use the tool to make it possible to pick the fruit or to prevent damage to the tree, regular clippers may be used.

קרן השביעית

Keren Hashviyis is an organization that helps make it for possible for many farmers to keep the Halachos of Shmitta. Your generous donation strengthens the observation of Shmitta in Eretz Yisroel and will **איי"ה** hasten the Geula and bring you much **ברכה**.

Call and donate - 1800 300 544
or forward your donation to one of the local Rabbonim.

Buying Produce on Shmitta

As we will explain below, some produce grown during Shmitta is completely forbidden to be eaten, while other produce can be eaten but only in a particular manner and with special care.

The special *Halachic* status is called *Kedushas Sheviyis*.

For this reason special care must be taken when purchasing produce in stores during Shmitta (and the year after Shmitta) to understand the Shmitta status of the produce.

In general, produce that has *Kedushas Shviyis* is forbidden to be sold, as it is considered *Hefker* and must be given away free.

Status of Produce Sold in Stores:

There are various categories of the produce sold in stores on Shmitta (and the year after Shmitta).

Produce grown before Shmitta: At the beginning of the Shmitta year (each product has its own timeframe) much of the produce available on the market is 6th year produce.

Produce grown during Shmitta without *Kedushas Shviyis*: This includes produce grown outside *Eretz Yisrael*, or grown under non-Jewish ownership inside Israel.

Produce that relies on Heter Mechira: There are some Hechsherim that rely on "selling" the farmland to Arabs, so as not to have *Kedushas Shviyis* apply to produce grown from that land. This is not recommended and should not be relied upon.

Produce from "*Otzar Beis Din*": In order to make produce available on the market without each person having to travel to the fields to pick their own produce, the Sages enacted a method whereby the "*Beis Din*" hire workers to harvest and transport the fruit. The consumer then pays for the work involved and does not pay for the actual produce. However, bear in mind that this produce has *Kedushas Shviyis* and must be treated with the הלכות listed below.

Hechsherim:

Non Mehadrin Hechsherim: Non Mehadrin Hechsherim often rely on the *Heter Mechira*. This is not recommended.

Mehadrin Hechsherim: Mehadrin Hechsherim do not rely on the *Heter Mechirah* and are only given to produce that does not have *Kedushas Shviyis*.

Otzar Beis Din: Produce may be distributed with special Shmitta Hechsherim or through an *Otzar Beis Din*. Ask your Rav to find out which ones are reliable

***NOTE :Otzar Beis Din produce has Kedushas Shviyis.
How to deal with this produce will be dealt with later in this pamphlet.***

Eating Produce of Shmitta

Note: The following topics apply only to produce that have *Kedushas Shviyis*. This includes:

- Home grown Fruits and vegetables
- Fruit from *Otzar Beis Din*
- Products that do not have a reliable Shmitta Hechsher.

The Halachos on pages 7 and 8 do not apply to produce bought from Mehadrin Hechsherim whose produce does not have *Kedushas Shviyis*.

Vegetables grown during Shmitta: Sfichim – ספחים

Vegetables, grains or beans that started growing during Shmitta may not be eaten, even if they took root by themselves without being intentionally planted. (This is called *Sfichim*)

Vegetables that started growing before Shmitta:

There is a מחלוקת ראשונים regarding eating vegetables that start growing before Shmitta and produce fruit on Shmitta. The Chazon Ish held that one may eat such produce. Only Grains and beans that have grown the first third of their full growth prior to Shmitta are permitted.

Vegetables grown in a flowerpot or under a roof:

The prohibition of *Sfichim* does not apply to plants that grow in a flowerpot that does not have a hole on the bottom (see: Flowerpots), or that grow under a roof. It also does not apply to fruit grown in property owned by non Jews.

Fruit grown during Shmitta

Fruit that started growing during the Shmitta year have *Kedushas Shviyis*. This affects the way one may deal with them and eat them as will be explained below.

Fruit that was grown by one who did not keep the laws of Shmitta:

One may not buy produce that was grown by farmers that do not keep the הלכות of Shmitta. If one received a gift of fruit that was grown in such a fashion then the general custom is not to eat it. For more information consult your Rav.

Kedushas Shviyis of Shmitta Produce - קדושת שביעית

Laws of special *Kedusha* apply to produce that was grown in *Eretz Yisroel* during Shmitta for: A) Human or animal consumption. B) Use as dye or fuel and C) For aroma purposes. Some are of the opinion that flowers with a pleasant scent are also included in this category. In respect to the status of produce grown in Israel in the property of a non Jew, ask your Rav.

Determining the year of the produce:

Annual vegetables: If they are picked on Shmitta they have *Kedushas Shviyis* even though they were primarily grown before Shmitta.

Fruit from trees: If they started growing (ask your Rav for exact definition of the stage) in the Shmitta year they have *Kedushas Shviyis*.

There is a discussion as to the status of fruit that started growing between Rosh Hashanah and Tu B'Shvat of the 8th year - consult your Rav.

Grains, beans, grapes and olives: If they grew the first third of their full growth on Shmitta, they have *Kedushas Shviyis*.

Sale of Shmitta Produce:

One may not sell large quantities of Shmitta produce. Nor may one sell Shmitta produce in a regular store. One may not buy such produce from one who is selling them in a prohibited fashion, since the buyer is causing the seller to transgress this prohibition. (There are other problems with buying in such a fashion. One can discuss this issue with ones Rav).

Wasting and destroying Shmitta produce:

- Edible produce that has *Kedushas Shviyis* must be used for human consumption only and not be fed to animals.
- It should not be given to a non Jew unless the gentile is his guest.
- Food that is fit for human consumption or even for animals may not be thrown into the garbage.
- When using Shmitta wine for Kiddush or Havdala one should be careful not to spill the wine so that it does not go to waste. The Havdala candle may not be extinguished in this wine.
- Children old enough to eat most of their food are permitted to be given Shmitta produce while little babies should not, as that will cause most of it to be wasted.
- Edible peels and seeds and remnants of Shmitta produce may not be thrown into the garbage. These should rather be put into a plastic bag and placed in a special container. The remnants should be left there until they spoil, then they may be thrown out. Some opinions permit one to put the remnants into a plastic bag and throw it out without waiting for it to spoil. Ask your Rav for more information.
- One may rinse out the remains of Shmitta food that is stuck to the pot and wash off plates etc. that have minimal remains of the food on them.
- Shmitta produce may not be used for cosmetic or medicinal uses.
- Ask your Rav regarding making juice from Shmitta fruit.

Biyur of Shmitta Produce - ביעור

Every fruit and vegetable has a specific time in the year when it can no longer be found in the field by animals to eat. From this time, anyone who has this fruit or vegetable in their possession must relinquish ownership of it and proclaim it *Hefker*. This is called *Biyur*. After making it *Hefker* in front of three friends, one may take the produce back into ones house.

The time for *Biyur* differs for the various fruit and vegetables. More specific information will be given as these dates approach.