

Lorenz & Partners

Legal, Tax and Business Consultants

Office Information No.: 19 (EN)

Duties and Liabilities of Directors in a Thai Company

December 2025

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Summary of Duties and Liabilities of Directors in a Thai Company

This document provides a comprehensive overview of the legal framework governing the duties and potential liabilities of directors in a Thai limited company. Directors are accountable to the company, shareholders, and third parties, and can face both civil and criminal liability for their actions and omissions.

Core Duties and Standard of Care

Directors of a Thai limited company are required to manage the company's affairs with the diligence of a "prudent and careful businessman". Their primary responsibilities are to act in compliance with laws, the company's Articles of Association, and shareholder resolutions.

Civil Liability

Directors can be held personally liable for damages caused to the company, shareholders, or third parties. Liability typically arises from:

- Breach of laws or the company's Articles of Association.
- Negligence in performing their duties.
- Acting outside the scope of their authorization.

Key Aspects of Civil Liability:

- **Claims:** Claims for compensation can be brought by the company. If the company refuses, a shareholder may initiate the claim. In some cases, company creditors can also bring claims.
- **Joint Liability:** The Board of Directors can be held jointly and severally liable, particularly for severe violations of key duties like maintaining proper accounting books.
- **Exemptions:** A director's liability may be limited if their actions were approved by a shareholder resolution. However, shareholders who did not approve the act can still bring a claim within six months. A director can also be exonerated by proving they were not involved in, or formally objected to, the decision that caused the damage.

Criminal Liability

In addition to civil liability, directors can be personally prosecuted for criminal offenses. Key statutes imposing criminal liability include the Act on Offences Relating to Partnerships, Companies, the Accounting Act, the Penal Code, Revenue Code, Labour Law, and Anti-Money Laundering Act.

Liability During Dissolution

Director duties and liabilities continue throughout the liquidation process until the company is officially removed from the company register.

Recommendation

Given the extensive scope of potential personal liability, the document strongly recommends that directors obtain Directors and Officers (D&O) liability insurance to mitigate these risks.

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