

THEMATIC TITLE	LEGAL PROBLEM RELATING TO LIABILITY FOR A WRONGFUL ACT OF THE OFFICIAL: CASE STUDY OF THE COUNCIL OF MINISTERS PROVIDING THE RULE FOR THE LIABLE OFFICIAL TO PAY IN INSTALLMENT
KEYWORDS	LAW ON LIABILITY FOR A WRONGFUL ACT OF THE OFFICIAL/DELICT/LIABILITY FOR A WRONGFUL ACT/ LIABILITY FOR A WRONGFUL ACT OF THE OFFICIALS/ THE OFFICIALS/STATE AGENCY/SUBSIDIARY SUBORDINATE LEGISLATION/PAYING BY INSTALLMENT/
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ABTRACT

Act of liability for a wrongful act of the officials B.E. 2539 (1996) came into force on 15 November 1996 which is a fairly long period of time, however, all 15 Sections of this Act are insufficient for the performance relating to liability for a wrongful act of the officials. In addition, Section 13 also provides that the powers of the Council of Ministers which is the Executive has the power to issue regulations to enable the officials who are liable under Section 8 and Section 10 to pay installments to be liable taking into account income, family status, responsibility and the circumstances of the case include, therefore, the Regulations of the Office of Prime Minister on the Performing Rule relating to liability for a wrongful act of the officials B.E. 2539 (1996), was issued and enforced on 16 November 1996. This Regulation was enforced just a day after the date of the Act of liability for a wrongful act of the officials B.E. 2539 (1996) came into force. Due to the urgency to enforce the Act of liability for a wrongful act of the officials B.E.

2539 (1996) to keep up with the administrative procedure law along with issuing the Regulations of the Office of Prime Minister on the Performing Rule relating to liability for a wrongful act of the officials B.E. 2539 (1996), to support the implementation of the Act of liability for a wrongful act of the officials B.E. 2539 (1996), which has been promulgated.

Considering the results of the study, it was seen that the Regulations of the Office of Prime Minister on the Performing Rule relating to liability for a wrongful act of the officials B.E. 2539 (1996) provided the contents about the appointment of Fact-Finding Commission for a Wrongful Act, the consideration of the Commission on Liability Examination, the consideration of the appointed orders, and the consideration of the Ministry of Finance by Considering Committee for a Civil Liability. The contents, as mentioned above, extended the scope of its powers beyond the Act of liability for a wrongful act of the officials B.E. 2539 (1996), which is the Primary Law. This is the case that the Executive issue rules that contain substance and conditions exceed the provisions of Section 13 of the Act of liability for a wrongful act of the officials B.E. 2539 (1996) empowered, since Section 13 of this ACT empowers the Council of Ministers to provide regulations for the officials who are liable under Section 8 and Section 10 to be able to pay installments to be liable taking into account income, family status, responsibility and the circumstances of the case included. Such problems cause conflicts with the Theory of hierarchy of law and affect the principle of individual rights and liberties if the Executive shall issue rules without limitations and exercise wide discretion by providing rules of secondary law beyond the primary law and this primary law does not require the issuance of such rules.

After consideration, solving such problems, shall be divided into two approaches as follows:

(1) Suggestions for solving urgent problems

It is deemed appropriate to repeal Section 13 and Section 15 of the Act of liability for a wrongful act of the officials B.E. 2539 (1996) and to amend the authority of the Ministry of Finance from the original stipulated in Section 21 of the Regulations of the Office of Prime Minister on the Performing Rule relating to liability for a wrongful act of the officials B.E. 2539 (1996) to be provided in Section 13 of the aforementioned act (Act of liability for a wrongful act of the officials B.E. 2539 (1996)), this is because the Comptroller General's Department, Ministry of Finance is not only a person who is directly responsible for the annual government statement of

expenditure and the establishment of relevant regulations including issuing circulars on rules and guidelines for government agencies to adhere but also supervise the operations under the liability for a wrongful act of the officials law. Moreover, Section 15 of this act provides that the person who is in charge of the implementation of this act is the Prime Minister, but the provisions of Section 15 may be amended to include both the Prime Minister and the Minister of Finance to be in charge of the implementation. As a result of perusal, the nature of the work in fact, the Ministry of Finance is an agency directly related to the liability for a wrongful act of the officials, while the Prime Minister is the supreme commander in the Executive that oversees all civil servants and State officials.

(2) Suggestions for long-term solutions

If the case of the act of government procurement and supply management B.E. 2560 (2017) and the Regulations of the Office of Prime Minister on Supply B.E. 2535 (1992), were compared with the Act of liability for a wrongful act of the officials B.E. 2539 (1996) and the Regulations of the Office of Prime Minister on the Performing Rule relating to liability for a wrongful act of the officials B.E. 2539 (1996), it shall be seen that In this case, this may lead to the example of the law development by repealed the Regulations of the Office of Prime Minister on Supply B.E. 2535 (1992) and take them to provide as the part of the act of government procurement and supply management B.E. 2560 (2017). In this case, it may be applied to develop and improve the law on liability for a wrongful act of the officials, especially problems arising from the regulations of the Office of Prime Minister on the performing rule relating to liability for a wrongful act of the officials B.E. 2539 (1996) and the provisions of regulations are included in the act of liability for a wrongful act of the officials B.E. 2539 (1996) that shall make amendments, improvements and development of law on liability for a wrongful act of the officials to be more efficient. It shall be fair to the officials and also make moral and courageous of the officials which will result for the officials daring to decide to perform the work that will benefit the State administration. It makes clear the rules and considerations relating to liability for a wrongful act of the officials. Furthermore, it shall make justice and increase efficiency in the performance of the State and make people more confident in the operation of the officials and State agencies