

## **Legal Aid Commission – 2018**

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### **1.1 Disclaimer of Opinion**

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The audit of the financial statements of the of Legal Aid Commission of Sri Lanka for the year ended 31 December 2018 comprising the statement of financial position as at 31 December 2018 and the statement of comprehensive income, statement of changes in equity and cash flow statement for the year then ended, and notes to the financial statements, including a summary of significant accounting policies, was carried out under my direction in pursuance of provisions in Article 154 (1) of the Constitution of the Democratic Socialist Republic of Sri Lanka read in conjunction with provisions of the National Audit Act No. 19 of 2018 and the Finance Act, No.38 of 1971. My comments and observations which I consider should be tabled in Parliament appear in this report.

I do not express an opinion on the accompanying financial statements of the Commission. Because of the significance of the matters discussed in the Basis for Disclaimer of Opinion section of my report, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion on these financial statements.

### **1.2 Basis for Disclaimer of Opinion**

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My opinion is disclaimed based on the matters described in paragraph 1.5 of this report.

I conducted my audit in accordance with Sri Lanka Auditing Standards (SLAS). My responsibilities, under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of my report. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my disclaimer of opinion.

### **1.3 Responsibilities of Management and Those Charged with Governance for the Financial Statements**

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Management is responsible for the preparation of financial statements that give a true and fair view in accordance with Sri Lanka Public Sector Accounting Standards and for such internal control as management determine is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is responsible for assessing the Commission's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless management either intends to liquidate the Commission or to cease operations, or has no realistic alternative but to do so.

Those charged with governance are responsible for overseeing the Commission's financial reporting process.

As per Sub-section 16 (1) of the National Audit Act No. 19 of 2018, the Commission is required to maintain proper books and records of all its income, expenditure, assets and liabilities, to enable annual and periodic financial statements to be prepared of the Commission.

#### **1.4 Auditor's Responsibilities for the Audit of the Financial Statements**

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My objective is to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with Sri Lanka Auditing Standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

As part of an audit in accordance with Sri Lanka Auditing Standards, I exercise professional judgment and maintain professional scepticism throughout the audit. I also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Commission's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the management.
- Conclude on the appropriateness of the management's use of the going concern basis of accounting and based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Institute's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my auditor's report. However, future events or conditions may cause the Institute to cease to continue as a going concern.
- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

The scope of the audit also extended to examine as far as possible, and as far as necessary the following;

- Whether the organization, systems, procedures, books, records and other documents have been properly and adequately designed from the point of view of the presentation of information to enable a continuous evaluation of the activities of the Commission, and whether such systems, procedures, books, records and other documents are in effective operation;
- Whether the Commission has complied with applicable written law, or other general or special directions issued by the governing body of the Commission;
- Whether the Commission has performed according to its powers, functions and duties; and
- Whether the resources of the Commission had been procured and utilized economically, efficiently and effectively within the time frames and in compliance with the applicable laws.

## 1.5 Financial Statements

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### 1.5.1 Non-compliances with the Sri Lanka Public Sector Accounting Standards

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Non-compliance with Reference to the Relevant Standard	Management Comment	Recommendation
----- Despite being disclosed in the financial statements that it is the policy of the Commission to account the income and expenditure on accrual basis, the interest income on fixed deposits amounting to Rs. 405,188 had been brought to accounts on cash basis.	----- The interest income on fixed deposits shall be brought to accounts on accrual basis with effect from the year 2019.	----- The accounting policy disclosed should be followed.

### 1.5.2 Transactions without Authority

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Description on the Transaction without Authority	Management Comment	Recommendation
----- A private insurance policy had been introduced for the employees of the Commission in the year 2015 contrary to provisions of Section 9.12 of the Public Enterprises Circular, No. PED/12, dated 02 June 2003. A sum of Rs. 1,335,941 equivalent to 50 per cent of the insurance contribution, had been paid by the Commission to a private insurance company relating to 46 employees for the year under review.	----- Your recommendations are accepted.	----- Provisions of Section 9.12 of the Public Enterprises Circular, No. PED/12, dated 02 June 2003, should be followed when implementing such projects.

### 1.5.3 Lack of Documentary Evidence for Audit

Item	Amount	Audit Evidence not Made Available	Management Comment	Recommendation
	<b>Rs.</b>			
a) Equity and Capital	33,747,436	Ledger Accounts Schedules	<p>Equity 12,827,777</p> <p>Capital b/f 51,300,000</p> <p>During the Year Retained Earning Defect (36,998,200)</p> <p>During Year (13,838,669)</p> <p style="text-align: right;"><u>31,383,715</u></p>	<p>Descriptions required to verify the information that the financial statements are based on, should be furnished to the Audit.</p>
b) Retained Earnings	(36,998,200)	Ledger Accounts Schedules	<p>Printed copies of the ledgers relating to retained earnings saved in the Quick Books Package being used by the Institute, cannot be obtained.</p>	<p>Descriptions required to verify the information that the financial statements are based on, should be furnished to the Audit.</p>
c) Prior Year Adjustments	4,995,019	Ledger accounts showing how the opening balance of Rs. 4,995,019 had been settled in the year.	<p>Your recommendations are accepted.</p>	<p>Descriptions required to verify the information that the financial statements are based on, should be furnished to the Audit.</p>

#### 1.5.4 Financial Management

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Audit Observation -----	Management Comment -----	Recommendation -----
The average savings in a bank account maintained by the Commission, amounted to Rs. 25,728,148 during the period of 12 months from January to December, 2018. During the entire period, a sum ranging from Rs. 21 million to Rs. 33 million remained unutilized. The management had not paid their attention to invest such funds productively.	As informed earlier, the said amount existed from the beginning of the Fund. When the monies received in a year are minimum, those funds will be used. I.e. as the funds received from the Treasury for this year were spent in full, withdrawals were made from the said Fund.	Attention should be drawn to generate income without allowing the financial resources to be idle by investing the excess funds.

## 2. Financial Review

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### Financial Results

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The operating result of the year under review amounted to a deficit of Rs. 13,838,669 as compared with the corresponding deficit of Rs. 22,153,149 for the preceding year, thus observing an improvement of Rs. 8,314,480 in the financial result. That improvement had mainly been attributed by the decrease in expenses on the maintenance of buildings by Rs. 1,797,441.

## 3. Operating Review

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### 3.1 Operating Inefficiencies

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Audit Observation -----	Management Comment -----	Recommendation -----
According to the progress report of the Commission, the number of cases to be proceeded in the year under review was 42,506 including the cases brought forward from the year 2017 for providing legal aid. Legal aid had been given in the year under review in order to settle 10,075 cases therefrom. As at 31 December 2018, a number of 32,431 cases still remained waiting for assistance indicating 76 per cent of the total number of cases.	The delay in solving the cases is an issue in the entire system of Courts.	It is the main task of the Commission to grant legal aid. As such, it should be done efficiently.

### 3.2 Weaknesses in Contract Administration

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Audit Observation -----	Management Comment -----	Recommendation -----
<p>a) A sum of Rs. 15,000,000 had been estimated by the Commission in the year 2018 to construct 05 Centres at the locations of Ruwanwella, Elpitiya, Galagedara, Anamaduwa and Hettipola. However, constructions had not been commenced even up to the end of the year under review.</p>	<p>It is expected to commence constructions of the Centre in Anamaduwa within this year. It is also expected to build the Centre in Bibile during this year instead of the one in Elpitiya. Constructions of the Centre in Wattala have been commenced instead of the Centre in Ruwanwella.</p>	<p>Expenditure on the projects should be accurately estimated and the provision should be obtained by taking into account the feasibility of such projects.</p>
<p>b) Provision amounting to Rs. 2,840,000 had been granted in the year 2017 for the establishment of 02 new branch offices in Kalutara and Kaduwela. However, as no construction had been commenced even by the end of the year under review, the provision had been saved in full.</p>	<p>It was informed by the Urban Development Authority that the Centre in Kalutara be established somewhere else. Even though we have informed the Ministry of Justice that a different location was provided in that connection, that land has not so far been taken over by the Ministry and informed to us in that regard. Hence, we have not been able to act thereon. After the plan of the constructions in Kaduwela and Dambulla was submitted to the Urban Development Authority, they have requested that the deed and plan of the existing land of the Court be made available. The Ministry of Justice has been apprised thereof, but they are yet to furnish the requested items. As such, constructions could not be commenced so far.</p>	<p>Expenditure on the projects should be accurately estimated and the provision should be obtained by taking into account the feasibility of such projects.</p>

### 3.3 Human Resource Management

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Audit Observation	Management Comment	Recommendation
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<p>Although the approved cadre for 06 posts in the senior staff had been 16 as at 31 December 2018, all of the posts remained vacant, and the management had not drawn their attention on filling the vacancies. Furthermore, 02 officers had been recruited on contract basis whereas 51 officers had been recruited permanently to 05 posts not in the approved cadre of the Commission.</p>	<p>The Scheme of Recruitment had not been approved by the Department of Management Services in the year 2018. As such, the said vacancies could not be filled. The Scheme of Recruitment was approved with effect from January 2019. Accordingly, action will be taken to fill vacancies in the future. There did not exist 6 posts not included in the approved cadre, but only five. They were recruited as per the posts remained vacant at the time of their recruitment. They will be placed in the relevant posts in accordance with the approved cadre.</p>	<p>Vacancies in the approved cadre should be filled thus taking action to achieve the objectives of the Institute.</p>

### 4. Accountability and Good Governance

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Audit Observation	Management Comment	Recommendation
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<p>A sum of Rs. 500,000 had been estimated for the preparation of "E" Report on the administration of the Legal Division by establishing a network among the regional centres- an activity proposed in the Action Plan of the Commission for the year 2018. However, the relevant activities had not been completed even up to the end of the year under review.</p>	<p>Although no funds had been spent on the "E" Report, discussions are being held with the parties responsible for planning the said concept.</p>	<p>Action should be taken to properly achieve the goals stated in the Action Plan.</p>