

Head 235 – Department of Law Commission

1. Financial Statements

1.1 Qualified Opinion

The audit of the financial statements of the Department of Law Commission for the year ended 31 December 2021 comprising the statement of financial position as at 31 December 2021 and the statement of financial performance and cash flow statement for the year then ended, 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. The summary report including my comments and observations on the financial statements of the Department of Law Commission was issued to the Accounting Officer on 31 May 2022 in terms of Sub-section 11 (1) of the National Audit Act, No. 19. The Detailed Annual Management Audit Report relating to the Department in terms of Section 11 (2) of the National Audit Act, No. 19 of 2018 was issued to the Accounting Officer on 15 June 2022. This report will be presented in Parliament in pursuance of provisions in Article 154 (6) of the Constitution to be read in conjunction with Section 10 of the National Audit Act, No. 19 of 2018.

In my opinion, except for the effects of the matters described in Paragraph 1.6 of this report, the financial statements give a true and fair view of the financial position of the Department of Law Commission as at 31 December 2021, and of its financial performance and its cash flows for the year then ended in accordance with Generally Accepted Accounting Principles.

1.2 Basis for Qualified Opinion

My opinion is qualified based on the matters described in paragraph 1.6 of this report. I conducted my audit in accordance with Sri Lanka Auditing Standards (SLAuS). 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 opinion.

1.3 Responsibilities of Chief Accounting Officer and the Accounting Officer for the Financial Statements

The Accounting Officer is responsible for the preparation of financial statements that give a true and fair view in accordance with Generally Accepted Accounting Principles and provisions in Section 38 of the National Audit Act, No.19 of 2018 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.

As per Section 16(1) of the National Audit Act No. 19 of 2018, the Department 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.

As per Sub-section 38 (1) (c) of the National Audit Act, the Accounting Officer shall ensure that effective internal control system for the financial control of the Department exists, and carry out periodic reviews to monitor the effectiveness of such systems and accordingly make any alterations as required for such systems to be effectively carried out.

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

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 internal control.
- Evaluate the 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.
- 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.

I communicate with the Accounting Officer regarding, significant audit findings, any significant deficiencies in internal control and other matters that I identify during my audit.

1.5 Report on Other Legal and Regulatory Requirements

I express the following matters in accordance with Section 6 (1) (d) of the National Audit Act, No. 19 of 2018.

- (a) The financial statements are consistent with the preceding year.
- (b) The recommendations made by me on the financial statements relating to the preceding year had been implemented.

1.6 Comments on Financial Statements

1.6.1 Accounting Deficiencies

(a) Property Plant and Equipment

Audit Observation	Comments of the Accounting Officer	Recommendation
-----	-----	-----
According to Paragraph 3.2 of State Accounts Guideline No. 2021/03 dated 26 November 2021, although it should be ensured that the figures in the financial statements agree with the figures shown in the final Treasury accounts, there was no balance at the end of the year in the Statement of Non-financial Assets (Form SA-82) obtained through the CIGAS web application, but the balance of Non-financial Assets at the end of the year under review had been stated as Rs.25,086,952 as per the Statement of Financial Position. Further, Form SA-82 had not been attached to the financial statements.	It was not possible to submit the Non-financial Assets format as an attachment since this Department does not use the CIGAS programme.	The form relating to Non-financial Assets should be attached to the financial statements and the figures in the financial statements should be reconciled with the figures shown in the final Treasury accounts.

(b) Receipts and Payments of Advances

Audit Observation	Comments of the Accounting Officer	Recommendation
-----	-----	-----
The loan (advances) installments amounting to Rs.775,445 which were collected from salary and sent	The advance installments were recorded under the credits made to the Advance "B" Account by	The Cash Flow Statement should be prepared by entering both cash and cross entries as per the State Accounts

to the Treasury during the year had not been stated as advance receipts and payments in the cash flow statement. other Heads in the Imprest Reconciliation Statement as per the instructions of the State Accounts Department. Guideline No. 2021/03 dated 26.11.2021 regarding the preparation of financial statements.

(c) Subsidies and Transfers

----- Audit Observation -----	----- Comments of the Accounting Officer -----	----- Recommendation -----
Although subsidies and transfers amounting to Rs.67,732 in the year under review should be shown separately as subsidies and transfers under cash expenditure, that value had been stated by adding it to staff salaries and operating expenses.	It was informed that the subsidies and transfers had been included under the staff salaries and operating expenses as per the instructions received from the State Accounts Department.	It should be stated separately according to the format related to the cash flow statement in the State Accounts Guideline No. 2021/03 dated 26.11.2021 regarding the preparation of financial statements.

1.6.2 Non-maintenance of Registers and Books Properly

----- Audit Observation -----	----- Comments of the Accounting Officer -----	----- Recommendation -----
(a) The total liabilities of Rs.75,071 related to 04 Expenditure Codes stated in the Statement of Commitments and Liabilities (Note iii) presented as at 31 December 2021 had not been included in the Liability Register of the Institute.	It would inform that only the liabilities arising specifically for the respective year are recorded in the Liability Register and the liabilities arising only once at the end of the year are not recorded in the Liability Register.	All the liabilities should be recorded in the Liability Register and it should also be recorded at the time of settlement.
(b) The 05 liabilities amounting to Rs.133,175 which were shown in the Vote Ledger at the beginning of the year under review had not been shown in the Liability Register and there was a difference of Rs.651 between the balance of one liability shown and the balance stated in the Vote Ledger.	It was kindly informed that there had been a difference of Rs.651 in recording the bills related to Mobitel institute in the Liability Register.	All the liabilities should be recorded in the Liability Register accurately and it should also be recorded at the time of settlement.

2. Financial Review

2.1 Expenditure Management

Audit Observation	Comments of the Accounting Officer	Recommendation
The allocations were saved in the range from 100 per cent to 94 per cent of the total net allocation of 03 Expenditure Codes due to non-compliance with Financial Regulations No.50.	The provisions in capital expenditure codes were saved due to closure of institutions due to the Covid pandemic and coming to work according to a time schedule and also provisions were not received from the Department of Treasury Operations for any purchases.	The realistic cost estimates should be prepared with due regard to economy and efficiency as per the instructions of Financial Regulation 50.

2.2 Non-compliance with Laws, Rules and Regulations

The following non-compliances with the laws, rules and regulations were observed.

Audit Observation	Reference to laws, rules and regulations	Non-compliance	Comments of the Accounting Officer	Recommendation
(a) Department of State Accounts Circular No. 2021/03 dated 26 November 2021.				
(i) Section 3:7		Although all figures should be reported to the nearest rupee in preparing the financial statements, the figures in the Statement of Financial Position as at 31 December 2021 were given with also cents values.	Agree with the content of the report.	Action should be taken in accordance with the State Accounts Guidelines 2021/03 dated 26.11.2021 in the preparation of financial statements.

- | | | | |
|--|--|--|--|
| (ii) Section 7.6 | Although it is stated that the Statement of Cash Flows should be prepared taking into account both cash and cross entries, the Cash Flow Statement was prepared by removing the cross entries. | The cross entries were recorded in the Imprest Reconciliation Statement as per the instructions received from the State Accounts Department. | The Cash Flow Statement should be prepared by including cross entries according to Paragraph 7.6 of the State Accounts Guideline 2021/03 dated 26.11.2021 regarding the preparation of financial statements. |
| (b) Public Finance Circular No. 02/2020 dated 28 August 2020 | A Draft Annual Performance Report as per the format mentioned in Guideline No. 14 issued by the Public Finance Department had not been submitted along with the financial statements. | It would kindly inform that action will be taken in accordance with the Circular in the ensuing years. | A Draft Annual Performance Report should be submitted along with the financial statements as per Public Finance Circular No. 02/2020 dated 28.08.2020. |

3. Operating Review

3.1 Performance

3.1.1 Achievement of Functions

Audit Observation -----	Comments of the Accounting Officer -----	Recommendation -----
(a) Although three legal recommendations were to be implemented in the year under review, it had been agreed to send the final drafts related to those recommendations to the Minister of Justice.	Agree with the content of the report.	Action should be taken in accordance with the Action Plan.

- | | | |
|--|--|---|
| (b) The review of the legal framework of the Prevention of Terrorism Bill has been ongoing since 2019 and the discussions on divorce, custody and End-of-Life law reforms have been ongoing since 2018. | Agree with the content of the report. | The timeliness of legal reforms should be preserved. |
| (c) The progress of the legal recommendations related to the amendment of the Companies Act was not included in the progress report of the years 2020 and 2021. | It was not included in 2020 due to the fact that there was not a progressive development situation to report on the relevant legal recommendations. | All legal reforms carried out by the Department should be included in the progress report. |
| (d) Meetings had not been conducted in the first half of 2021 when considering the conducting of the meetings of the Commission and although 06 meetings were conducted in the second half of the year, the participation of committee members remained at a low level of 48 per cent. Five members had not attended any meetings. | The work related to the Law Commission is also done by the Legal Division of the Ministry of Justice and there is a repetition of the work in two places. Therefore, it is informed that through the intervention of the Secretary of the Ministry of Justice and the Minister of Justice, a decision will be reached in consultation with the Law Commissioners including the Chairman. | The meetings should be conducted regularly and their performance should be developed since the performance of the Department is depending on the performance of the Commission. |

3.2 Action Plan

Audit Observation	Comments of the Accounting Officer	Recommendation
-----	-----	-----
According to the Public Finance Circular No. 02/2020 dated 28 August 2020, the Action Plan had not been prepared as per the said Circular due to the Action Plan prepared for the year 2021 did not include the updated organizational structure, approved and actual cadre, the activity plan based on the priorities based on the annual budget for the year under	It was informed that the information regarding the Action Plan was provided in accordance with the form forwarded to us by the Ministry of Justice.	Action should be taken as per the Public Finance Circular No. 02/2020 dated 28.08.2020.

review, the time frame to be implemented and the imprest requirement plan etc.

3.3 Procurement Plan

Audit Observation -----	Comments of the Accounting Officer -----	Recommendation -----
A detailed procurement plan for the year 2021 had not been prepared as per 4 (2) (2) of the Government Procurement Guidelines.	The procurement plan was prepared in accordance with the advisory letter referred by the Ministry of Justice.	Action should be taken in accordance with Government Procurement Guidelines.

4. Good Governance

4.1 Internal Audit

Audit Observation -----	Comments of the Accounting Officer -----	Recommendation -----
An internal audit had not been conducted at the Institute in accordance with Financial Regulation 134 and Section 40 (3) of the National Audit Act No. 19 of 2018 as emphasized in the Management Audit Department Circular No. DMA/01-2019 dated 12 January 2019.	The internal audit of the Department is carried out by the Internal Audit Division of the Ministry of Justice and it is expected that the Covid situation in 2021 may have led to the internal audit not being carried out. It was informed that conducting of internal audit is not a function related to our Department.	Action should be taken in accordance with the relevant provisions.

5. Human Resource Management

5.1 Signing of Annual Performance Agreements

Audit Observation	Comments of the Accounting Officer	Recommendation
Annual Performance Agreements had not been signed for all the staff employed in the Institution according to the Public Administration Circular No. 02/2018 dated 24 January 2018.	Agree with the content of the report.	Action should be taken as per Public Administration Circular No. 02/2018 dated 24.01.2018.

5.2 Approved Cadre and Actual Cadre

Audit Observation	Comments of the Accounting Officer	Recommendation
(a) According to Section 13.3 of Chapter II of the Establishment Code of the Democratic Socialist Republic of Sri Lanka, although an acting appointment should be made as a temporary remedy until a regular appointment is made, a permanent appointment had not been made for the post of Secretary which had been vacant since 2014 even as at the date of this report.	Although the Ministry of Justice had tried to fill the vacancies in the post of Secretary, it had not been possible to fill the vacancy due to the non-appearance of suitable candidates who had completed the professional qualification and professional service period.	Action should be taken to fill the vacancies as per the Establishment Code.
(b) Although the approved cadre of the Institute was 29, the actual cadre as at 31 December 2021 was 18, thus the vacancies in the staff were 11.	At present, a woman officer is working full-time in the post of Secretary and actions are being taken to fill the vacancies in the other posts.	Action should be taken to fill the vacancies of the essential posts immediately.