

Head 297 - Report of the Auditor General on the Department of Registrar of Companies – Year 2017

The Appropriation Account, Reconciliation Statement and 03 Revenue Accounts relating to Revenue Codes included in the tables 3.2.1 and 3.2.2 of the Annual Budget Estimate under Head and Item Number stated in the First Schedule and Third Schedule of the Appropriation Act, No. 24 of 2016 as amended by the Appropriation (Amendment) Act, No.32 of 2017 were presented to Audit by the Department of Registrar of Companies. The financial and physical performance reflected by those accounts and the reconciliation statements were audited in terms of Article 154(1) of the Constitution of the Democratic Socialist Republic of Sri Lanka.

1.2 Responsibility of the Chief Accounting Officer, Revenue Accounting Officer and the Accounting Officer for the Financial Management and Accountability

The Minister of Finance is charged with the raising of Revenue and the collection of other Government monies as well as with the general oversight of all the financial operations of Government in terms of Financial Regulation 124 of the Democratic Socialist Republic of Sri Lanka. The Chief Accounting Officers have been appointed by the Minister of Finance to discharge the above responsibility in terms of Financial Regulation 124(2). The Head of the Department will be the Accounting Officer in respect of all the financial transactions of his Department in terms of Financial Regulation 125(1)(a) and the Revenue Accounting Officer has been appointed by the Treasury. This responsibility includes designing, implementing and maintaining internal controls relevant to the maintenance, preparation and fair presentation of Accounts and Reconciliation Statements presented within the limitations imposed by Parliament in accordance with the provisions in Articles 148, 149, 150 and 152 of the Constitution of the Democratic Socialist Republic of Sri Lanka, other Statutory Provisions, Government Financial Regulations and Administrative Regulations.

1.3 Scope of Audit

The audit of Department of Registrar of Companies – Head 297 for the year ended 31 December 2017 was carried out in pursuance of provisions in Article 154(1) of the Constitution of the Democratic Socialist Republic of Sri Lanka in respect of designing of financial and physical performance, Government expenditure, Government revenue, management of human and physical resources, apply of internal control systems, compliance with laws, rules and regulations and maintenance of books, registers, records and reconciliation statements in an updated manner, preparation and presentation of accounts in timely manner, issuance of performance reports to respective parties based on the performance indicators. The Management Audit Report for the year under review was issued to the Registrar General of Companies on 16 October 2018. The audit observations, comments and findings on the accounts and the reconciliation statements were based on a review of the plans, accounts, reconciliation statements and performance reports presented to Audit and tests of samples of transactions. The scope and extent of such review and tests were such as to enable as wide an audit coverage as possible within the limitations of staff, other resources and time available to me.

1.4 Audit Observation

The audit observations of the Department of Registrar of Companies – Head 297 for the year ended 31 December 2017 revealed in audit appear in Management Audit Report in detail, mentioned in paragraph 1.3 above. The material and significant audit observations out of the audit observations appear in paragraph 2.1 to 2.5 of this report. It was observed that the accountability as the Chief Accounting Officer and the Accounting Officer had been satisfactorily executed, to ensure the adequacy of the financial administration subjected to the following summarized audit observations revealed in the execution of the provisions of the Financial Regulation 128 of the Financial Regulations of the Democratic Socialist Republic of Sri Lanka.

Accountability of the Accounting Officer in terms of Financial Regulation 128(1)	Non-compliance with that Provision by the Accounting Officer	Reference to the Paragraph of the report which included the Observation
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Financial Regulations

128(1)(a)	That the work of his department is planned and carried out with due despatch, having regard to the policy laid down by the Government and the intentions of Parliament in granting him financial provision for the activities authorized, and that an endeavour is made to complete the programme of work laid down for the year and/or to attain the targets specified,	Non-preparation of Budget Estimates in a realistic manner. 2.1
128(1)(h)	That special arrangements are made to recover outstanding dues and that the officers assigned that task report to him at least once a quarter or as otherwise directed regarding arrears and action pursued to expedite their recovery;	Recovery of outstanding loan balances in the Advances to Public Officers Account 2.3

Accountability of the Revenue Accounting Officer in terms of Financial Regulation 128(2)

128(2)(a)	That the estimates of Revenue are prepared completely, and as accurately as possible, for the Items of Revenue	Failure to collect the expected revenue/ failure in taking action to revise the Revenue Estimate in case of increase or decrease in the revenue to be collected.	2.2(c)(ii)
128(2)(b)	That at the end of each financial year, a Revenue Account is prepared in terms of F.R. 151	Non-presentation of Revenue Account to Audit/ presentation with delays/failure to prepare in a proper manner.	2.2(a)(ii)
128(2)(c)	That half-yearly returns are prepared and forwarded to the Auditor General showing the state of arrears of Revenue as at 30th June and 31st December of each financial year, under the Items of Revenue (These returns should reach the Auditor-General before the 31st July of the financial year and 31st January of the following financial year respectively, with copy to the Treasury Department of Fiscal Policy and Economic Affairs).	Reports on half yearly revenue in arrears had not been prepared on due date and presented to audit.	2.2(a)(i)
128(1)(d)	That an adequate system of internal check for receipts, payments and issues is maintained and tested from time to time;	Deficiencies in Revenue Accounts	2.2(a),(b), (c)(i)(iii)
128(2)(e)	That special arrangements are made for the expeditious collection of outstanding arrears of Revenue in consultation with the Accounting Officers and departments concerned in collection	Information on revenue in arrears had not been called for from the institutions after collecting revenue pertaining to the Revenue Code/ even though the information was called for,	2.2(a)(iv)(vii)

such information had not been made available by those institutions.

2. Material and Significant Audit Observations

2.1 Utilization of Provisions authorized by Parliament for the Performance of Functions

Information on the utilization and savings of provision made for the Department of Registrar of Companies during the 05 preceding years ended 31 December 2017 is given below.

Year	Category of Expenditure	Net Provision	Utilization	Savings	Savings as a Percentage of Net Provision
		Rs. Million	Rs. Million	Rs. Million	
2013	Recurrent	28.55	26.35	2.20	7.71
	Capital	-	-	-	-
	Total	28.55	26.35	2.20	7.71
2014	Recurrent	30.30	27.60	2.70	8.91
	Capital	-	-	-	-
	Total	30.30	27.60	2.70	8.91
2015	Recurrent	49.20	47.44	1.76	3.58
	Capital	-	-	-	-
	Total	49.20	47.44	1.76	3.58
2016	Recurrent	49.82	47.94	1.88	3.77
	Capital	-	-	-	-
	Total	49.82	47.94	1.88	3.77
2017	Recurrent	53.06	52.95	0.11	0.21
	Capital	-	-	-	-
	Total	53.06	52.95	0.11	0.21

2.2 Estimated and Actual Revenue

The Department had prepared Revenue Estimates totalling Rs.150 million in respect of 03 Revenue Codes for the year 2017 and revenue totalling Rs. 232.96 million had been collected during the year under review. It represented 155.31 per cent of the estimated revenue. Details appear below.

Revenue Code	As at 31 December 2017			Collected Revenue as a Percentage of Estimated Revenue
	Estimated Revenue	Actual Revenue	Excess/ (Deficit)	
	Rs. Millions	Rs. Millions	Rs. Millions	
(1) 20.03.02.10	100.00	200.90	100.90	200.90
(2) 20.03.02.12	25.00	31.17	6.17	124.70
(3) 10.03.07.08	25.00	0.89	(24.11)	3.56
Total	<u>150.00</u>	<u>232.96</u>	<u>82.96</u>	

The following observations are made during the course of audit carried out on the Revenue Accounts mentioned above.

(a) Revenue Code 20.03.02.10- Charges of the Registrar of Companies

- (i) Half-yearly returns on arrears of revenue pertaining to the Revenue Code in terms of Financial Regulation 128 (2)(d), had not been prepared.
- (ii) According to the Revenue Account presented to Audit as at 31 December 2017, no arrears of revenue whatsoever in annual returns had been shown. Nevertheless, the revenue in arrears due to the Consolidated Fund as at 31 December 2017 amounted to Rs. 541.21 million as per the information made available by the Department.
- (iii) Out of 12,380 Societies which should have prepared Annual Returns for the year under review, only 204 Societies had prepared Annual Returns. As such, the revenue collected amounted to Rs.0.20 million or 1.62 per cent of the revenue due to be collected. Accordingly, the arrears of revenue only for the year 2017 had been Rs.12.17 million. Action had not been taken to identify the active Societies and to show the revenue receivable from Societies in respect of Annual Returns as a revenue receivable in the Revenue Account and also to collect the revenue receivable.

- (iv) Even though the number of companies which should register the financial statements in terms of Section 170(1) of the Companies Act stood at 7,468, the number of companies registered the financial reports in the year under review had been 2,215. As such, the total revenue collected was Rs.4.43 million and the arrears of revenue not recovered in respect of financial statements for the year under review amounted to Rs. 10.51 million. Nevertheless, action in terms of the aforesaid Section of the Companies Act had not been taken to identify the companies which had not registered the financial statements and to formulate a methodology for the registration of their financial statements in the Department.
- (v) Due to the failure to set up a formal computer data system by the Department so far, it had not been possible to obtain the accurate statistical data on the actual number of Companies in operation, the number of Companies not in operation, the number of Companies to be submitted the annual financial reports and the number of Companies submitted the financial reports, and the number of registered active societies and the inactive societies and to correctly recognize the revenue that could be collected hereunder and the arrears in revenue.

(b) Revenue Code 10.03.07.08- Tax on Company Registration

It was observed that annual levy on licences had been charged without any legal provision and this levy on licences had been charged only from 15 Companies registered under the Companies Act, No.7 of 2007 during the year under review. Under these circumstances, approximately 25 Companies from which the levy on licences had been charged during the preceding year, had made requests to refund the said amount.

(c) Revenue Code 20.03.02.12- Fees recovered under the Public Contract Act

The following observations are made.

- (i) In terms of the Public Contract Act No.03 of 1987, all public contracts, the cost of which exceeds Rs.5 million should be registered with the Department of Registrar of Companies and all public contracts should be registered within 60 days after the award of agreement contract as per the Gazette Notification No.508/7 of 02 June 1988. An adequate arrangement thereon was not made in the Department and a proper register in terms of paragraph (a) of Section 6(1) of the Act, had not been maintained. According to an audit test check, only 97 public contracts had registered the agreements pertaining to 2,176 registered public contracts.
- (ii) In terms of Financial Regulation 128 2(a) and also Paragraph 03 of the Public Fiscal Policies and Economic Affairs Circular No.01/2002 of 17 July 2002, A Revenue Accounting Officer is responsible to take adequate steps to ensure that the estimates of Revenue are prepared completely, and as accurately as possible. Nevertheless, the actual revenue in respect of Revenue Heads had been 124.70 per cent of the estimated revenue.

- (iii) A certificate issued under Section 11(3) of the Act, shall subject to the provisions of Section 14 remain in force for a period of one year from the grant of such certificate and may from time to time be renewed for a period of one year on payment of the prescribed fee. Nevertheless, action had not been taken to monitor as to whether, the applications are made for the renewal of registration for contracts after the expiry of a period of one year.

2.3 Advances to Public Officers Account

Limits Authorized by Parliament

The limits authorized by Parliament for the Advances to Public Officers Account No.29701 of the Department of Registrar of Companies and the actual amounts are given below.

Expenditure		Receipts		Debit Balance	
Maximum	Actual	Minimum	Actual	Maximum	Actual
Limit		Limit		Limit	
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Rs.Millions	Rs.Millions	Rs.Millions	Rs.Millions	Rs.Millions	Rs.Millions
6.50	6.49	3.00	4.11	20.00	2.38

Non-recovery of Outstanding Loan balances

Methodologies for the recovery of abatements relating to the officers retired from the pension gratuity had been introduced by the Pensions Circular No.01/2016 of 12 January 2016. Nevertheless, a period ranging from 03 months to 04 months had lapsed in the recovery of loan balances amounting to Rs.0.51 million pertaining to two officers during the year under review. Further, a loan balance of Rs.0.017 million older than 05 years and recoverable from an officer interdicted, had not been settled.

2.4 Internal Audit

Even though an Internal Audit Unit had been established in the Department and the Internal Auditor and two other officers had been attached, an internal audit had not been carried out in terms of the Circular No.DMA/2009 (1) dated 09 June 2009 of the Department of Management Services and the Financial Regulation 133 (2). The number of audit queries issued by this Unit during the year under review had been only three.

2.5 Human Resources Management

Approved Cadre, Actual Cadre and Expenditure on Personal Emoluments

The particulars relating to the approved cadre, actual cadre, vacancies and excess cadre to perform the function of the Department as at 31 December 2017 are given below. The Department of Registrar of Companies had spent a sum of Rs.52.71 million on the category of Personal Emoluments for the year under review.

	Category Employees	of Approved Cadre	Actual Cadre	Number of Vacancies
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(i)	Senior Level	15	10	05
(ii)	Tertiary Level	04	01	03
(iii)	Secondary Level	107	76	31
(iv)	Primary Level	29	29	-
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	Total	155	116	39
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The following observations are made in this connection.

- (a) (i) As a qualified officer could not be selected by calling applications for the post of Registrar General of the Company being the key executive post of the Department, the officer who served the longest period in the post of Registrar of Company- Grade III had been appointed to cover up the duties by the Cabinet Paper No.12/1784/515/032 dated 25 January 2013 and an allowance equivalent to 1/6 of the initial salary of the acting post, had been paid. Subsequently, this officer who was promoted to the post of Registrar of Company- Grade II on 24 February 2014, had been appointed to the post of Registrar General on fulltime acting basis from 01 January 2016 and placed on the initial salary step of the acting post in terms of paragraph 12.5.3 of Chapter VII of the Establishments Code.
- (ii) Two officers in Grade II had been appointed for vacancies in the two approved posts of Registrar of Company- Grade I on the basis of covering up duties and allowances equivalent to 1/6 of the salary entitled to the post of Registrar of Company- Grade I had been paid from July 2015.

- (b) Vacancies in the two posts of Legal Officer and Assistant/Deputy Registrar of Companies (Administration) in the Senior Level and also the 10 posts of Company Inspection Officers in the Secondary Level, directly affect the performance of the Department.
- (c) Eleven officers in the Public Management Assistant Service, 05 employees in the Office Employment Service and an employee in the Drivers' Service of the Combined Service which were subject to annual transfers were being served continuously without receiving transfers over a period ranging from 06 years to 17 years.