

## **National Authority for the Protection of Victims of Crime and Witnesses – 2017**

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The audit of financial statements of the National Authority for the Protection of Victims of Crime and Witnesses for the period ended 31 December 2017 comprising of the statement of financial position as at 31 December 2017 and the statement of financial performance, statement of changes in equity and cash flow statement for the quarter then ended, and a summary of significant accounting policies and other explanatory information, 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 Section 13(1) of the Finance Act, No. 38 of 1971 and Section 39 (1) of the Assistance to and Protection of Victims of Crime and Witnesses Act, No. 4 of 2015. My comments and observations which I consider should be published with the Annual Report of the Institution in terms of Section 14(2) (c) of the Finance Act appear in this report. A detailed report in terms of Section 13(7) (a) of the Finance Act was issued to the Director General of the Institution on 12 November 2018.

### **1.2 Management's Responsibility for the Financial Statements**

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

### **1.3 Auditor's Responsibility**

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My responsibility is to express an opinion on these financial statements based on my audit. I conducted my audit in accordance with Sri Lanka Auditing Standards consistent with International Auditing Standards of Supreme Audit Institutions (ISSAI 1000 – 1810). Those Standards require that I comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material statements.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatements of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal controls relevant to the Board's preparation and fair presentation of the financial statements 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 Board's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of financial statements. Subsections (3) and (4) of Section 13 of the Finance Act, No. 38 of 1971 give discretionary powers to the Auditor General to determine the scope and extent of the audit.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

#### 1.4 Incorporation

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The National Authority for the Protection of Victims of Crime and Witnesses has been established for the protection of victims of crime and witnesses in terms of Section 11 (1) of Part IV of the Assistance to and Protection of Victims of Crime and Witnesses Act, No. 4 of 2015. The date of 18 May 2016 has been prescribed as the date for the execution of the Parts I, II, III, IV, V, VI, VII, VIII and IX of the Assistance to and Protection of Victims of Crime and Witnesses Act, No. 4 of 2015 by the Gazette Extra- ordinary No.1967/8 of 16 May 2016 of the Democratic Socialist Republic of Sri Lanka.

#### 1.5 Governing Board

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The administration and management of the affairs of the Authority shall be vested in a Board of Management which shall consist of the following members in terms of Section 12 of Part IV of the Assistance to and Protection of Victims of Crime and Witnesses Act, No. 4 of 2015.

- (a) The following ex-officio members
- (i) The Secretary to the Ministry of the Minister in charge of the subject of justice or an Additional Secretary to the said Ministry, nominated by such Secretary;
  - (ii) The Secretary to the Ministry of the Minister in charge of the Police Department or an Additional Secretary to the said Ministry, nominated by such Secretary;
  - (iii) The Secretary to the Ministry of the Minister in charge of the subject of Women's Affairs or an Additional Secretary to the said Ministry, nominated by such Secretary;
  - (iv) The Secretary to the Ministry of the Minister in charge of the subject of Children or an Additional Secretary to the said Ministry, nominated by such Secretary;
  - (v) A member of the Human Rights Commission of Sri Lanka established by the Human Rights Commission of Sri Lanka Act, No.21 of 1996, nominated by such Commission;
  - (vi) a nominee of the Attorney-General; and
  - (vii) a nominee of the Inspector General of Police holding the rank of a Senior Deputy Inspector General of Police:

Provided that where the subjects specified in sub-paragraphs (iii) and (iv) of this paragraph are assigned to or remain in charge of a single Minister, the Secretary to the Ministry of that Minister alone shall be eligible to become a member of the Board under this paragraph;

- (b) five appointed members, selected from among persons who are academically or professionally qualified and have experience in professions or fields of professional activity associated with criminology, the criminal justice system, the promotion and protection of human rights or medicine appointed by the President.

- (2) The President shall, designate as the Chairman of the Board, a member from among the members of the Board who shall also be the Chairman of the Authority.

The Board of Management of the Authority has appointed 11 members in terms of the aforesaid Sections of the Act.

## 1.6 Objects / Targets

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The objects of this Act in terms of Section 2 of Part 1 of the Act shall be to

- (a) set out, uphold and enforce the rights and entitlements of victims of crime and witnesses and to provide for a mechanism to promote, protect, enforce and exercise such rights and entitlements;
- (b) provide assistance and protection to victims of crime and witnesses ;
- (c) enable victims of crime to obtain compensation from persons convicted of having committed offences against them ;
- (d) provide for obtaining redress by victims of crime, including restitution, compensation, reparation and rehabilitation of such victims ;
- (e) set out duties and responsibilities of the State, judicial officers and public officers towards the promotion and protection of the rights and entitlements of victims of crime and witnesses ;
- (f) stipulate offences that may be committed against victims of crime and witnesses and the penal sanctions that may be imposed on persons who commit such offences; and
- (g) provide for the adoption and implementation of best practices relating to the protection of victims of crime and witnesses.

The duties and functions of the Authority in terms of the Section 13 (1) of Part IV of the Act. shall be to—

- (a) promote the recognition of and respect for the rights of victims of crime;
- (b) promote the recognition of and respect for the entitlements of witnesses; protect or cause to be protected the rights of victims of crime and entitlements of witnesses;
- (c) protect or cause to be protected the rights of victims of crime and entitlements of witnesses;
- (d) on receiving a complaint or any information regarding an alleged infringement or imminent infringement of any right or entitlement of a victim of crime or a witness, investigate and inquire into such alleged infringement or imminent infringement and to require any relevant authority to take such appropriate corrective measures in that regard, in order to ensure the protection and promotion of the rights and entitlements of victims of crime and witnesses provided by this Act;

- (e) provide necessary assistance to victims of crime and witnesses, including appropriate measures for their treatment, reparation, restitution and rehabilitation;
- (f) make an award for payment of compensation to a victim and for that purpose develop and implement a scheme for the grant of compensation to victims of crime from the Victims of Crime and Witnesses Assistance and Protection Fund established under section 29 of this Act;
- (g) create awareness among the public regarding the rights and entitlements of victims of crime and witnesses provided by this Act;
- (h) advice and make recommendations to the Sri Lanka Police Department and any other government department, statutory institution and to public officers, either generally or on a case by case basis, on appropriate and specific measures that should be adopted or implemented to give effect to the rights and entitlements of victims of crime and witnesses and in particular regarding the provision of—
  - (i) effective protection;
  - (ii) necessary treatment, rehabilitation and counseling; and
  - (iii) other appropriate assistance, to victims of crime and witnesses.
- (i) review existing policies, legislation and the practices and procedures being adopted and followed by various authorities, to ensure their conformity with recognized standards and best practices relating to the promotion and protection of the rights and entitlements of victims of crime and witnesses, and based on such review, to make recommendations regarding the adoption, amendment and application of appropriate policies, legislation and practices;
- (j) make available on request to any Court or a Commission or any other person information on best practices pertaining to the reception of evidence of victims of crime or witnesses through contemporaneous or near contemporaneous audiovisual linkage;
- (k) take measures to sensitize public officers involved in the enforcement of the law, including officers of the Sri Lanka Police, the Prisons Department, government medical officers and public officers associated with probation and social services, on the needs of victims of crime and witnesses and on any special needs of particular categories of victims of crime, arising as a result of the harm inflicted or possible harm that may be inflicted on them due to their age, gender, religion, language, cultural beliefs and practices, ethnic or social origins or disabilities or any other reason;
- (l) promote and ensure the observance and application of codes of conduct and recognized norms and best practices relating to the protection of the rights and entitlements of victims of crime and witnesses, by Courts, Commissions, any other tribunals, public officers and employees of statutory bodies involved in the enforcement of the law, including officers of the Sri Lanka Police, the Prisons

Department, government medical officers and officers of government social service institutions;

- (m) conduct or promote the conduct of research into ways and means in which—
  - (i) incidents of crime can be reduced;
  - (ii) impact of specific crimes on victims could be minimized or prevented;
  - (iii) victims of crime can be effectively treated, rehabilitated, counseled, assisted, compensated and protected;
  - (iv) a conducive environment could be created for witnesses to make statements before the law enforcement authorities or to testify fearlessly at proceedings before courts, any Commissions and other tribunals; and
  - (v) assistance and protection could be provided to victims of crime and witnesses;
- (n) recommend to appropriate government institutions, social, health, educational, economic and crime prevention policies that may be adopted by such institutions for the reduction of incidents of crime and for facilitating assistance and protection being provided to victims of crime and witnesses;
- (o) promote the development, adoption and implementation of measures of restitution to victims of crime as a sentencing option in the criminal justice system;
- (p) promote the development and implementation of measures of restorative justice as a method of administering criminal justice and as a sentencing option in the criminal justice system;
- (q) develop, adopt and implement a scheme for providing assistance and protection to victims of crime and witnesses;
- (r) issue guidelines pertaining to the establishment and maintenance of the Victims of Crime and Witnesses Assistance and Protection Division;
- (s) present annually to Parliament, a report on the:—
  - (i) manner in which the Authority has given effect to the objects of this Act;
  - (ii) performance and discharge of the duties and functions of the Authority; and
  - (iii) proposals for necessary policy and legislative reforms.
- (t) do or perform any further functions and activities that may be necessary to achieve the objects of this Act.

## **1.7 Functioning**

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The functioning of the Authority has been started with effect from 08 January 2016 and Bank accounts had been initiated in a State Bank for conducting transactions on 20 September 2017 and on 10 October 2017.

## **2. Financial Statements**

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### **2.1 Qualified Opinion**

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In my opinion, except for the effects of the matters described in paragraph 2.2 of this report, the financial statements give a true and fair view of the financial position of the National Authority for the Protection of Victims of Crime and Witnesses in relation to the period of 3 months ended 31 December 2017 and its financial performance and cash flows for the year then ended in accordance with the Sri Lanka Public Sector Accounting Standards.

### **2.2 Comments on Financial Statements**

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#### **2.2.1 Accounting Deficiencies**

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The following observations are made.

- (a) The Expenses for telephones amounting to Rs. 24,078 related to December 2017 had not been accounted on the Accrual basis.
- (b) The Accounting period of the Institute starts from 01 October 2017. Nevertheless, the expenses for the telephone bills amounting to Rs. 11,859 incurred in the month of September 2017 which was not related to the Accounting Period had been accounted as expenditure incurred in the period.
- (c) As per the Agreement entered in to with the United Nations Development Project, an amount of Rs. 21,660,500 received in the year under review had been directly deposited in the bank without accounting in the cash book and the relevant income account.

#### **2.2.2 Unexplained Differences**

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Even though a Government recurrent grant of Rs. 5,462,000 had been provided by the Ministry for the year 2017, it had been recorded as Rs. 5,123,226 in the Financial Statements and thus, a difference of Rs. 338,774 was observed.

### 2.3 Non-compliance with Laws, Rules, Regulations and Management Decisions

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The following non-compliances with Laws, Rules and Regulations were observed at the Audit.

	<b>Reference to Laws, Rules and Regulations</b>	<b>Non-compliance</b>
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(a)	FR 625 of the Financial Regulations of the Democratic Socialist Republic of Sri Lanka and Para 5 of the State Accounts Circular 30/94 of 20 April 1994.	A sum of Rs. 21,660,500 that had been directly credited by the UNDP Project to the Current Account of the bank maintained by the Authority had not been accounted as per the Circulars.
(b)	Financial Regulations 753 (2)	The institution had not issued receipt orders for the receipts of fixed assets worth Rs.2,729,531 provided by the Ministry of Justice to the institution.

### 3. Financial Review

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#### Financial Results

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The Financial result had become zero as the total income of the Authority was Rs. 5,191,464 while the total expenditure of the Authority was Rs. 5,191,464 of the Authority for the quarter ended 31 December 2017.

### 4. Operating Review

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#### 4.1 Staff Administration

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Even though the approved staff of the institution was 54, the number of posts prevailed in the institution as at 31 December 2017 was 27. It was observed that 20 Posts (Eg: - Legal Officers – 02, Investigation Officers – 06, Translator – 01, Information Officer – 01, Security Officers – 10) which directly affect the accomplishment of the task of the institution had remained vacant even by 31 December 2017.

## 5. Accountability and Good Governance

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### 5.1 Presentation of Financial Statements

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In terms of Paragraph 6.5.1 of the Public Enterprises Circular No. PED/12 of 02 June 2003, financial statements for the year under review and the draft annual report should have been presented to the Auditor General within 60 days after the closure of the Accounting Year. However, the financial statements of the year under review had been submitted on 11 May 2018.

### 5.2 Internal Audit

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An internal Audit Unit had not been established by the Authority. An Internal Audit in relation to the year under review had not been conducted even by the Internal Audit Unit of the Ministry of Justice.

## 6. Systems and controls

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Special attention is needed in respect of the following areas of control.

<u>Area of Systems and Controls</u>	<u>Observations</u>
(a) Accounting	The Institution had not used the Standard Accounting format (As debits and Credits) in keeping ledger accounts.
(b) Payment of Advances	The institution had not used a separate advance account in the issue of advances to the officers and settling such advances.