

## **Land Reform Commission – 2017**

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The audit of financial statements of the Land Reform Commission for the year ended 31 December 2017 comprising 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 year 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 56 of the Land Reform Law, No.01 of 1972. My comments and observations which I consider should be published with the Annual Report of the Commission 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 Chairman of the Commission on 26 April, 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 the audit I conducted my audit in accordance with Sri Lanka Auditing Standards consistent with International Auditing Standards of Supreme Audit Institutions (ISSAI 1000 – 1810).

### **1.4 Basis for Disclaimer of Opinion**

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As a result of the matters described in paragraph 2.2 of this report. I am unable to determine whether any adjustment might have been found necessary in respect of the recorded or unrecorded items and the elements making up the statement of financial position, the statement of financial performance and the statement of changes in equity and the cash flow statement.

## **2. Financial Statements**

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### **2.1 Disclaimer of Opinion**

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Because of the significance of the matters described in paragraph 2.2 of this report, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion. Accordingly, I do not express an opinion on these financial statements.

## **2.2 Comments on Financial Statements**

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### **2.2.1 Accounting Policies**

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Despite being stated under accounting policies that the financial statements were prepared on accrual basis consistent with Public Sector Accounting Standards, the income received from the District Offices had been brought to account in the cash basis.

### **2.2.2 Sri Lanka Public Sector Accounting Standards**

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The following observations are made.

(a.) Sri Lanka Public Sector Accounting Standard 03

- (i) When provisions are made on the post employment benefits, a policy should be formulated based on the Standards and practices introduced by the Institute of Chartered Accountants in terms of Section 09 of the Sri Lanka Public Sector Accounting Standard 03. However, a policy had been identified considering the service period of the employees and half of the salary last received, and provisions had been made accordingly.
- (ii) The Commission had made provisions on employee benefits based on the period of service and last salary received. Examinations carried out on the said computations revealed that provisions made for the year under review, had been overstated by a sum of Rs. 948,438.

(b.) Sri Lanka Public Sector Accounting Standard 07

- (i) In case that the fair value of Property, Plant and Equipment materially differs from its carrying amount, they should be revalued again in terms of the provisions of Section 47 of the Standard. However, the Commission had not done so.
- (ii) In terms of Section 65 of the Standard, the residual value and useful life of an asset should at least be reviewed at the end of every period of annual reporting. However, the Commission had not done so, and the useful life of Property, Plant and Equipment mentioned under Note 2.1 (b) in the financial statements, was observed to be inaccurate.

### **2.2.3 Accounting Deficiencies**

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The following observations are made.

- (a.) Lands owned by the Land Reform Commission, valued at Rs. 676,169,345, had been shown between the non-current assets and current assets in the statement of financial position as at 31 December of the year under review. A part of the said property was observed to have been given on lease basis, and that property had not been shown in the financial statements by being categorized as investment property and property for sale. Moreover, the sales and acquisition of lands, carried out annually, should have been adjusted to the said stock, but it had not been done properly, and an adjustment had been

made slightly in the years 2003 and 2006. Owing to that, the said stock value had remained the same even after a lapse of 39 years from the year 1978 up to the year under review.

- (b.) According to the Reports of the Project Division, the income receivable from mineral resources, amounted to Rs. 108,684,214 by the end of the year under review, whereas that value amounted to Rs. 60,250,626 in the financial statements. As such, the said income had been understated by Rs. 48,433,588 in the accounts.
- (c.) As the interest income of Rs. 6,073,745 from the fixed deposits relating to the year 2017, had been adjusted to the accumulated surplus, the surplus of the year under review, had been understated by that amount.
- (d.) The interest on Treasury Bills relating to the year under review amounted to Rs. 5,775,431, but it was shown as Rs. 1,543,468 in the financial statements. As such, the interest income for the year under review, had been understated by Rs. 4,231,963 in the accounts.
- (e.) Due to failure in accounting the interest income from Treasury Bills amounting to Rs. 212,870 received in advance in the preceding year, as income of the year under review, current liabilities had been overstated by that amount, whilst surplus of the year under review had been understated by that amount.
- (f.) Action had not been taken to account the lease rent income on lands amounting to Rs. 39,472,992 that had remained recoverable over an extensive period from 04 Government institutions and the income from the sale of lands recoverable from 10 institutions amounting to Rs. 103,923,311.
- (g.) The sum of Rs. 1,468,138 relating to the bungalow in Lindula being in use at present after completion, the building belonging to the Farm Garden Estate, and the buildings owned by the Davulkurudu Estate, had further been shown under work in progress instead of being capitalized.
- (h.) Action had not been taken to credit the advances totalling Rs. 100,000 recovered from 10 officers whom lands had been given to, between 2007 – 2015, to the accumulated surplus by eliminating from the Land Sale Advance Account.
- (i.) The usage charges and inheritance charges recoverable had not been brought to accounts. The values that had not been brought to accounts by the end of the year under review relating only to 09 districts, amounted to Rs. 4,256,405, and Rs. 1,017,990 respectively.
- (j.) Debtor balances totalling Rs. 2,392 million equivalent to 49 per cent of the total assets of which the recovery had remained doubtful over an extensive period of time, cannot be recovered in the ensuing year though, those debtors had been shown in the financial statements by deducting only a sum of Rs. 8.2 million as bad debts. Furthermore, the basis of allocating for bad debts had not been disclosed in the financial statements. According to the information made available by the Commission, the recovery of the said loans remained doubtful, but no action had been taken to make allocations adequately by conducting an investigation on the loans.

#### 2.2.4 Unexplained Differences

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As the values shown in the financial statements and the revenue reports of the Revenue Division with respect to 06 Items of miscellaneous income, amounted to Rs. 122,897,000, and Rs. 26,371,334 respectively, an unexplained difference of Rs. 96,525,666 existed.

#### 2.2.5 Lack of Evidence for Audit

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As the evidence shown against each of the following Items of Account, had not been made available to Audit, those Items could not be satisfactorily vouched or accepted.

(a) .

	<u>Item of Account</u>	<u>Value</u> Rs.	<u>Evidence not Made</u> <u>Available</u>
(i)	Buildings	11,168,945	] Reports of the Board of Survey Registers / Schedules Containing Information on Lands.
(ii)	Motor Vehicles	68,571,828	
(iii)	Stock of Stationery	726,534	
(iv)	Lands	676,169,345	
(v)	Balance Receivable from Hadabima Authority	54,911,756	] Confirmation of Balances
(vi)	Balance Receivable from Sri Lanka State Plantations Corporation	319,698	

(b.) Although a sum of Rs. 2,352,148,782 had been stated as being receivable to the Commission from the Janatha Estate Development Board over a period of 12 years as at 31 December of the year under review, such a balance had not been mentioned to be payable to the Commission as per the financial statements of the Janatha Estate Development Board for the year 2016 that had been last audited. Moreover, verification of balances and other relevant audit evidence had not been made available to the Audit in order to verify the said balance; hence, the existence, accuracy and the completeness of the said debtor balance, could not be verified in audit.

#### 2.3 Accounts Receivable and Payable

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The following observations are made.

(a.) Although the Commission had been informed by the COPE meeting held on 23 March 2016 that a decision be taken by summoning all the parties under the involvement of the Secretary to the Ministry, Chairman, and the Treasury with respect to the recovery of the sum of Rs. 11,480,095 that had remained recoverable for a period of over 12 years from 04 Government institutions, action had not been taken in that connection even up to the date of this report.

- (b.) By the end of the year under review, a sum of Rs. 2,311,017 remained recoverable from sundry debtors for a period of more than 18 years, whilst a sum of Rs. 653,098 remained unrecovered over a period of 1-8 years from 45 employees who had vacated the service or been interdicted.
- (c.) The land sales advances shown in the financial statements included a sum of Rs. 10,433,000 older than 10 years, a sum of Rs. 910,000 continued to exist over a period of 5-8 years, and a sum of Rs. 1,160,000 existed over 2-5 years. Eighty three per cent of the total land sales advances had been older than 10 years.
- (d.) The balance in the Compensation Suspense Account amounted to Rs. 109,959,493 as at 31 December of the year under review, and action had not been taken for a period of 12 years to settle the said balance.
- (e.) Eighty per cent of the lease rent advances shown in the financial statements by the end of the year under review equivalent to Rs. 11,216,000, comprised the advances obtained in respect of the lands alienated by the Commission between 2003-2005. Due to failure in taking future action on the said lands in terms of the Cabinet Decision, No. අම/04/0858/001/005/111, dated 12 August 2004, the said monies had remained as advances over a period of 12 years without being settled or credited to the income, whilst a sum of Rs. 2,240,000 obtained from 02 institutions as lease rent advances for the year 2011 had remained for 6 years without being settled or credited to the income.
- (f.) Action had not been taken throughout a period of 11 years to settle a sum of Rs. 800,130 out of the value payable to various Government and private institutions under trade and other payments.

## 2.4 Non-compliances with Laws, Rules, Regulations, and Management Decisions

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The following non-compliances were observed.

### Reference to Laws, Rules, and Regulations, etc.    Non-compliance

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| <ul style="list-style-type: none"> <li>(a.) Land Reform Law, No.01 of 1972.</li> <li>(i) Section (1)</li> <li>(ii) Section 19 (a)</li> </ul> | <p>Action should be taken to acquire agricultural lands owned by a person in excess of 50 acres, and such lands should be utilized in a productive manner. However, with respect to the Uranikaduwatta Land in extent of 58 acres taken over by the Commission, action had not been taken to develop, give on lease, or provide with the sales basis.</p> <p>As for the “statutory determination” for a statutory lessee, the Commission shall take into consideration the preference, if any, expressed by such lessee in the declaration as to the portion of such land that he may be allowed to retain. Contrary to that, instance was observed wherein other lands had been allocated to the lessee.</p> |
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- (iii) Section 14 As for the “statutory determination” for lands, transfers can be made within the family of the lessee. However, an instance was observed in which transfers had been made to external parties.
- (b.) Section 11 of the Finance Act, No. 38 of 1971 Public enterprises should obtain approval of the Minister of Finance to invest the funds in excess. Nevertheless, the Commission had continually made investments based on approval granted by the Department of Public Enterprises on 30 June 2004, and the amount invested without obtaining approval of the Minister of Finance, was Rs. 125,000,000.
- (c.) Regulation 571 of the Financial Regulations of the Democratic Socialist Republic of Sri Lanka. Deposits remaining lapsed for more than 02 years since the date of deposit, should be credited to the Revenue. However, action had not been taken in that manner on tender deposits amounting to Rs. 201,500 lapsed over 02 years.
- (d.) Cabinet Decision, No. 11/Mis/(015-1), dated 25 August 2011. When lands are released by Government institutions including Public Corporations, and Statutory Boards, prior approval of the Cabinet should be obtained for lands over 5 acres in extent given for agricultural activities. However, an area in extent of 70 acres, 02 roods, and 17 perches from Heinford Estate had been given on lease to a private company for cultivating tea and mixed crops without obtaining approval in such a manner. The methodology for the leasing of lands had not been followed as well.
- (e.) Sections 1(i), and (ii) of the Commission Circular, No. 2008/Gen/1, dated 17 April 2008 The outstanding usage charges for the relevant year should be recovered within the same year. However, usage charges for many years had not been recovered, and details on the usage charges in arrears relating to 11 district offices had not been made available.

### **3. Financial Review**

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#### **3.1 Financial Results**

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According to the financial statements presented, the operating result of the Commission for the year under review had been a surplus of Rs. 202,513,000 as compared with the corresponding surplus of Rs. 120,443,000 for the preceding year, thus indicating an improvement of Rs. 82,070,000 in the financial result of the year under review, as compared with the preceding year. Despite the increase in the administrative expenses for the year under review amounting to Rs. 51,829,000, the increase in the income from granite, recovered interest income on compensation, and interest income on fixed deposits by sums of Rs. 82,195,000, Rs. 26,809,000 and Rs. 27,645,000 respectively, had mainly attributed to the said improvement.

An analysis on the financial results of the year under review and 4 preceding years revealed that the net profit of the Commission for the year 2013 amounting to Rs. 97 million, had decreased to Rs. 55 million by the end of the year 2015, and gradually increased in the ensuing years. A net profit of Rs. 202 million had been resulted in by the end of the year under review. Furthermore, when the employee remuneration, depreciation on fixed assets, and the taxes paid to the Government were adjusted to the financial result, the contribution of the Commission for the year 2013 amounting to Rs. 296 million had decreased to Rs. 269 million by the end of the year 2015, but the contribution had gradually increased in the ensuing years reaching Rs. 470 million by the end of the year under review.

### **3.2 Legal Cases Instituted by or against the Commission**

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The number of legal cases filed by or against the Commission up to the end of the year under review had been 696. During the year under review alone, 68 cases had been filed against the Commission, whereas 97 cases had been filed by the Commission. The number of cases for which verdicts had been returned by the Courts in the year under review, had been 42.

## **4. Operating Review**

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### **4.1 Performance**

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#### **4.1.1 Planning**

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The following observations are made.

- (a.) Copies of the updated Corporate Plan approved in accordance with Section 5.1.3 of the Public Enterprises Circular, No. PED/12, dated 02 June 2003, should be furnished to the Line Ministry, Department of Public Enterprises, Secretary to the Treasury, and the Auditor General 15 days prior to the commencement of every year of accounts. Nonetheless, an up-to-date Corporate Plan had not been prepared for the year 2017.
- (b.) The Action Plan had not been prepared by including the annual budget, annual Procurement Plan, human resource development plan, and the internal audit plan in terms of Public Finance Circular, No. 01/2014, dated 17 February 2014.

#### **4.1.2 Review of the Functionality**

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According to Section 2 of the Land Reform Law, No.01 of 1972, the main objectives of the Commission include :to ensure that no person shall own agricultural land in excess of the ceiling, and to take over agricultural land owned by any person in excess of the ceiling and to utilize such land in a manner which will result in an increase in its productivity and in the employment generated from such land. The following observations are made on the achievement of the said objectives.

- (a.) The progress of 9 activities mentioned in the Action Plan, remained below 50 per cent.

- (b.) None of the activities mentioned in the Action Plans for both 2016 and 2017, such as, ergonomic arrangement of the stores with racks, storing items as per 5 S system, computerization of the main stores, establishing a proper appraisal process, development, maintenance and modification of the physical resources of the Commission, conservation of documents, establishing an archive, disposal of unnecessary files, and computerization of files in the archive, had been carried out.
- (c.) Any of the activities mentioned in the Action Plan for the year 2017, such as, updating the assets of lands, preparation of field investigations and precedents, providing statutory determination, providing lands for the under-aged children, identification of lands to be released in accordance with Buddhist Temporalities Ordinance, studying cases based on prior case reports, improvement of cooperation with inter-institutions to coordinate legal affairs, and registration of lands vested with the Commission and the documents, had not been carried out.
- (d.) During the year under review, 3038 deeds had been forwarded by the land alienation division to the Deed Division with respect to housing objectives, whereas 2908 deeds had been issued by the Deed Division. A sum of Rs. 10,598,796 had been incurred as direct expenses in 13 instances on the inaugural distribution of 2751 deeds.
- (e.) There had been 100 files at the beginning of the year under review that the ownership had not been verified of and gazette notifications had been published for on the payment of compensation under Section 29 of the Land Reform Law, No. 01 of 1972. The compensation relating to the said files had not been settled even up to the end of the year.
- (f.) Except for a list of lands located district-wise, the land registers had not been prepared in an updated manner so as for the verification of the extent of lands existed at the beginning of each year, extent of lands sold in the year, extent of lands leased out, and the extent of lands owned by the Commission at the end of each year.

## **4.2 Management Activities**

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The Janatha Estate Development Board had been given 602 acres of land in Kilinochchi district belonging to the Commission in the year 1982 for administration and management, but in the year 1982, the Janawasama had handed over those lands to the Coconut Cultivation Board, and the following observations are made in that connection.

- (i) The legality in the transfer of land to the Coconut Cultivation Board by the Janawasama had not been confirmed in audit. Action had not been taken even by 31 December 2017 to regularize the said lands being enjoyed by the Board.
- (ii) Possession of an area in extent of 50 acres from that land had been given to an external person in the year 2011 by obtaining an advance of Rs. 200,000. Accordingly, external parties had been enjoying the lands owned by the Board since the year 1982 without any income, and no action had been taken by the Commission to take action thereon even by 31 December 2017.



### 4.3 Operating Activities

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- (a.) The following matters were observed in the test check conducted on the acquisition of lands in Galle and Colombo district transferred to the Government sector.
  - (i) About 200 lands plots had been vested with the Government institutions from 1995 to 2017, but compensation had been recovered only for 16 land plots therefrom.
  - (ii) Although gazette notifications had been published between 2000-2017 that 16 plots of land belonging to the Commission would be acquired following decision of the Minister of Lands in terms of Section 2 of the Land Acquisition Act, No. 28 of 1964, the Commission had not taken any future action up to the recovery of compensation.
  - (iii) Due to failure in verifying the ownership of the Commission relating to the lands acquired by Government institutions on various objectives during 2005-2015, fourteen instances were observed wherein the compensation relating to such lands had been deposited in the Court.
- (b.) Providing Statutory Determination
  - (i) Although a period of 40 years had elapsed with respect to 230 declarations presented during 1972-1974 under the Government's taking over of lands owned by persons in excess of 50 acres in terms of Land Reform Law, No.01 of 1972, statutory determination (50 acres of entitled land) could not be provided as 27 per cent of them had not presented plans, whilst statutory lessees had not made their presence with respect to 52 per cent thereof.
  - (ii) The relevant statutory lessee should present the plans with the involvement of District Land Reform Board, but action had not been taken throughout a period of 40 years to obtain plans. As such, in the wake of delays in providing statutory determination, payment of compensation to the statutory lessees had been delayed as well.
- (c.) An extent of 01 acre, 03 roods, and 36.16 perches from the land "Waljapalawatta" at Pathkaduwana village in Minuwangoda Divisional Secretariat of Gampaha district, had been released to a private institution on lease basis for a period of 30 years on 11 June 2002. The lease rents for the first 05 years should have been recovered at once, and the tenure should have been transferred once the lease agreement had been entered into, but tenure had been transferred in the year 2002 without recovering any lease rent. Moreover, the Commission's approval on the lease had been granted after a period of 9 years since then on 23 August 2011. Although the assessment fee and the lease rent in arrears totaled Rs. 7,262,401 as at 31 December 2017, those monies in arrears have not been recovered so far.
- (d.) The following observations are made in respect of 04 land plots given to 03 private companies on lease from the Templeburg Industrial Estate, Homagama and Karanawawatta land.

- (i) lease rents had not been revised once per 5 years in accordance with the administrative Circular, No. 2002/11, dated 23 May 2002 with respect to the lands in extents of 01 acre and 11 perches, and 01 acre and 02 roods given to 02 private companies on lease in the years 1998 and 2000 from the Industrial Estate and Karanawawatta respectively. Furthermore, the tenure of a plot of land in extent of 81.8 perches located in the Industrial Estate had been handed over without recovering the annual lease rent for 05 years at once.
  - (ii) Legal action had not been taken for the recovery of lease rents totaling Rs. 4,571,320 that had remained in arrears over a period of 12 years with respect to 03 plots of land.
  - (iii) The extent of 02 acres in Plot No. 10 under Stage II of the Industrial Estate had been given on lease on 11 July 2005. The lease rent for the first 05 years and the assessment fee totalling Rs. 2,312,311 had been paid in November 2016, but the lease agreements had not been prepared even up to 31 December 2017, and the lease rent in arrears amounted to Rs. 5,280,000 as at that date.
- (e.) An area in extent of 0.414 hectares belonging to the Plot Nos. 11 and 15 of the Templeburg Industrial Estate in Homagama, had been given to a private institution on lease in the year 2001 by the Ministry of Industrial Development. Although lease rents in arrears up to the year 2007 had not been recovered in the context of that institution becoming unsuccessful, the said lands had again been released to another private institution without taking any step in that connection and informing the Commission. The lease rents for 5 years recovered at once when given on lease, had not been recovered from that institution as well. Although the new company had agreed to pay the outstanding lease rents of the previous company, the lease rent in arrears recoverable by the end of the year under review amounted to Rs. 3,999,374.
- (f.) In the sample check conducted on the lands leased out to Coconut Cultivation Board, the leasing of lands namely, Randeniyawatta, Lenawawatta, Nagasolawatta, Ugugamawatta, Welipitiyawatta, Bopitiyawatta, had been examined. Although those lands had been given on lease during the period 1974-1984, the proper methodology had not been followed. Furthermore, completion of the surveying, obtaining approval of the Commission for the lease, obtaining assessment of lease rents, and entering into lease agreements, had not been done. Thus, without paying lease rents for a period of over 40 years, lands in extent of about 1310 acres had been enjoyed. The lease rent and the surcharge recoverable for the period 1984-2000 relating to only 02 lands totaled Rs. 6,873,301.
- (g.) Lands in extent of 269 acres 3 roods and 39 perches from the Pasikudawatta land in Batticaloa alienated to the Coconut Cultivation Board on 15 May 1974 under the objective of cultivating coconut, had been made use of for holiday resorts relating to tourism. In terms of Section 24 (2) of the Land Reform Law, No.01 of 1972, where any term or condition subject to which the land is alienated to any person by the Commission is not complied with, the Commission may cancel such alienation; nevertheless, it had not been done so. Although the lease rent in arrears had totaled Rs. 51,478,177 by the end of the year under review, action had not been taken for the recovery even up to 31 December 2017.

- (h.) An extent of 50 acres, 03 roods and 60 perches from the land named Gabadawatta in North Pitipana, Homagama, had been alienated to Department of Agriculture in the year 1983, and 02 acres therefrom had been given to the Buddhist and Pali University by the Department of Agriculture. Proposals for acquisition had been presented on several occasions in that connection. A sum estimated therefor amounting to Rs. 3,752,286 had been paid to the Commission by the Department of Agriculture in the years 1986 and 1996, whilst a sum of Rs. 20,202,311 had been paid to the Commission by the Buddhist and Pali University, but action had not been taken even up to the date of audit, 31 December 2017 to complete the acquisition process thereby re-vesting the property.
- (i.) The Divisional Secretary of Kaduwela had informed in the year 2011 that unauthorized quarrying had been continuing around the Korathotawatta land in Kaduwela. Despite the Commission's awareness of the land being an encroachment, no action whatsoever had been taken to prevent that.
- (j.) An extent of 10 acres from the Monrovia Estate located in the Divisional Secretariat of Hikkaduwa in Galle district had been alienated to the Deva Pathiraja College on 09 September 2014 under the approval of the Commission, subject to the payment of compensation to the Commission in terms of the Land Acquisition Act. Nevertheless, no future action had been taken even up to 31 December 2017 for the recovery of compensation.
- (k.) The Southern Provincial Ministry of Sports had acquired an extent of 16 acres from the Makurugodawatta land in the Divisional Secretariat of Baddegama owned by the Commission for construction of the Southern Provincial Youth Center and a playground. Constructions relating to the said land had been commenced since the year 2001, and the assessment for the land relating to the year 2008 amounted to Rs. 31,500,000. However, due to an issue relating to the compensation, no action had been taken even up to the date of audit, 31 December 2017 to recover the compensation.
- (l.) Action had not been taken even up to 31 December 2017 to recover compensation and interest relating to 8 out of 47 plots of land dispersed in the year 1998 from the St. Leonard Estate owned by the Commission for the establishment of Anuruddha village.
- (m.) The District Director had reported that, from the 320 acre Kohilawagurawatta land belonging to the Karandeniya Divisional Secretariat of Galle, extents of 25 acres, 110 acres and 10 acres had been enjoyed by the Housing Development Authority, Sri Lanka Army, and a former minister respectively. Action had not been taken either to obtain compensation by acquiring such lands after being regularized, or collect a lease rent or a compensation by giving on lease.

- (n.) An extent of 02 acres 00 roods and 15.18 perches shown in Plot No. 01 of the Plan No. 1828 of the Pembruk Estate in Kalutara district, had been given to Vintor Fashions Private Limited for a period of 30 years on lease to establish a garment factory with effect from February 1992, but the Company has defaulted paying lease rents since then up to the present day. Accordingly, the amount in arrears payable only up to 03 February 2015 amounted to Rs. 2,661,282 whilst the lease rent for the 02 years of 2016 and 2017 had not been computed along with the surcharge. It is necessary to decide with the concurrence of the Ministry of Industries on a methodology to be followed on the default of lease rents with respect to the lands given on long term lease for industrial parks, but due to failure in doing so, it was observed that industries had continuously been maintained without paying lease rents.
- (o.) By deviating from the normal procedure of leasing and without recovering the lease rents for 5 years at once, the land in extent of 2 roods and 16 perches with the tea factory building in the Rathwetiya Estate in Hanguranketha, had been leased out to the Sangaruwanketha Milk Producers' Cooperative Society Limited on 02 May 1997. The lease rent in arrears and the surcharge recoverable as at 01 May 2016 totaled Rs. 4,596,800, and no lease rents had been paid for a period of 15 years though, action had not been taken either to cancel the lease agreement or take other measures in that connection.
- (p.) The extent of 201 acres from the Yalabolawatta land in the district of Monaragala vested in the Commission, had been alienated to the Sugar Corporation on 24 August 1975. Later, extents of 196 acres, 00 roods and 04 perches, and 146 acres, 00 roods and 04 perches had been released for enjoyment to the Pelwatta Sugar Company from 1982 to 1999, and 20 January 1999 to 2011 respectively.

The following observations are made in this connection.

- (i) Enjoyment had been transferred to the Sugar Corporation and the Sugar Company without recovering the lease rents for 5 years at once. The total of the lease rent in arrears recoverable from Pelwatta Sugar Company relating to the period 1982-2011, amounted to Rs. 24,542,165.
- (ii) This land had been surveyed in the year 2005, and accordingly, it was revealed that the extent of land being enjoyed by the Company, was 224 acres, 02 roods, and 38 perches. Thus, an area of about 78 acres had been enjoyed by the Company for 33 years in an unauthorized manner.
- (iii) As per the Commission Paper, P-523, it had been decided to give the said extent of land to Pelwatta Sugar Company on lease for a period of 30 years with effect from 11 November 2011. However, according to the Cabinet Decision, dated 03 October 2012, it had been alienated to Lanka Sugar Private Limited Company with effect from 01 September 2012. Action had not been taken for the recovery of lease rents from the year 2011 up to the date of audit, 31 December 2017.

- (q.) Contrary to Sections 2(a) and 3(1) of the Land Reform Law, No.01 of 1972, it was revealed in the audit test check conducted that lands of 09 persons whose lands had not exceeded the ceiling of 50 acres, had also been vested in the Commission. Even after a lapse of 45 years by 31 December 2017, the Commission had not taken action either to release those lands or provide alternative lands.

#### 4.4 Transactions of Contentious Nature

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The following observations are made.

- (a.) An extent of 1729 acres, 02 roods and 36 perches from the Perth Estate had been alienated to the State Plantations Corporation subject to a nominal payment of Rs. 12,183,100 through the Gazette Notification, No. 415/10, dated 21 April 1994. The Corporation had sold the estate to the Board of Investment for an amount of Rs. 120 million. The following matters were observed in the examination conducted in that connection.
- (i) Three persons had claimed rights with the Commission in the year 2012 that an extent of 146 acres, 01 rood and 28 perches from the Egodawatta and Katukithulwatta lands belonging to the Affil Forest Estate located in the Perth Estate, had been taken over through a deed of transfer on 11 November 1990. That issue should have been resolved by the Land Ceiling Division, but without doing so and taking action to obtain advice or other documents from the Survey or Legal Divisions of the Commission, the Assistant Director (Revenue) had taken measures to verify that the said lands had been privately-owned. As such, the Commission had not verified the accuracy of documents relating to the said land presented by the party who had claimed rights. The Assistant Director's verification of the said lands as being private, had become questionable to the State Plantations Corporation and the Board of Investment as well.
- (ii) None of the files relating to the payment of compensation or documents verifying information such as, the extent of lands for which compensation had been paid to the relevant declarants, date of paying compensation, and amount paid when those lands had been vested in the Commission, were made available to audit. Accordingly, there had been no evidence to verify the ownership of the Company relating to the plot of land mentioned by the party claiming for rights.
- (b.) A land not declared under MAHA 385 had been vested in the Commission in the year 1972. As an alternative land therefor, an extent of 89 acres from the land, Ambalamanawatta, had been surveyed and allocated to the declarant on 25 September 2001. As the land had been encroached, the relevant declarant had not accepted enjoyment. An area of 25 acres from the land so allocated, had been given on 15 year lease to a private company in the year 2011 for a Silica project. Except for the recovery of Rs. 870,000 as an advance, action had not been taken up to 31 December 2017 to recover any lease rent whatsoever.

#### 4.5 Uneconomic Transactions

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Enjoyment of one acre in extent from the Perth Estate in Gurugoda, Horana, had been transferred to Superseam Garments by deviating from the normal procedure of leasing in the year 2003 for establishing a garment factory. However, payment of lease rent for the period 2003-2013 totalling Rs. 4,087,311 had been defaulted. Furthermore, the said institution, without obtaining any approval from the Commission, had vested the aforementioned land and building in British Billion Private Company, a textile printing enterprise, on 26 June 2013 through an affidavit, but after apprising the Commission later, that property had been given on 30 year lease by the Commission to the said party on 29 November 2013.

The following observations are made in this connection.

- (i) The new lessee had agreed to settle the outstanding lease rent of the previous lessee amounting to Rs. 4,087,311 in installments; accordingly, a sum of Rs. 3,746,822 had been paid by 04 May 2017. As such, the lease rent in arrears that remained further recoverable, amounted to Rs. 340,489, whilst the 10 per cent surcharge of Rs. 1,825,000 payable on the lease rent in arrears, had been released by the Commission without any basis whatsoever.
- (ii) The lease rent recoverable as per the new assessment for the period of 04 years since 03 September 2013, the date of current lessee taking over the enjoyment, amounted to Rs. 8,640,000. Action had not been taken even by 31 December 2017 to settle that amount.
- (iii) In the assessment carried out on this land in the year 2003, the value of the land had been mentioned as Rs. 6,000,000, whilst the annual lease rent had been mentioned as Rs. 360,000, whereas the value amounted to Rs. 3,000,000 whilst the lease rent amounted to Rs. 180,000 as per the assessment for the year 2013. Accordingly, the decrease in the annual lease rent by half after a lapse of 10 years, was observed to have been questionable in audit. The lease rent should usually increase after periods of 05 years though, it had decreased by half after 10 years. This plot of land had again been assessed by the Chief Assessor, and the Audit was informed that the annual lease rent had been assessed by the Chief Assessor to be Rs. 1,662,000.

#### 4.6 Utilization of Vehicles

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The following observations are made.

- (a.) A Mitsubishi Cab belonging to the Commission, had been handed over to a private institution on 05 October 2016 to carry out a repair valued at Rs. 526,700. However, even up to the date of this report, the vehicle had not been returned after being repaired.
- (b.) A Cab had been handed over to a private garage on 05 October 2016 for repairs. However, the vehicle had been repaired and returned after a delay of 09 months and 18 days, but without charging penalties for delay or deducting any percentage in accordance with the letter of handing over of the vehicle, payment had been made under the agreement of repaying 10 per cent of the total amount after being retained for 03 months. Moreover, attention of the officers responsible had not been drawn on the delay of 291 days taken for the repair.

- (c.) Paving way for competition with respect to an insurance policy in terms of Treasury Circular, No. 01/2015, dated 29 June 2015, the institution for an insurance should have been selected in accordance with Government Procurement Guidelines. Contrary to that, the Commission had obtained insurance policies from Sri Lanka Insurance Corporation for the vehicles owned by them thereby paying a sum of Rs. 1,142,385 in the year 2017.

#### **4.7 Staff Administration**

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In the event of new cadre requirements, approval of the Department of Public Enterprises should be obtained verifying the requirement in terms of Section 9.2 (e) of the Public Enterprises Circular, No. PED/12, dated 02 June 2003. However, without obtaining approval in such a manner, officers/employees had been recruited on contract basis for 54 posts not included in the approved cadre. Furthermore, a shortage of 06 officers comprising a Deputy /Assistant Director, 03 valuation inspectors, and 02 Draughtsmen were observed in the approved cadre.

#### **5. Sustainable Development**

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Every public institution should act in compliance with the Circular, No. NP/SP/SDG/17 issued by the Secretary to the Ministry of National Policies and Economic Affairs, dated 14 August 2017 and the 2030 Agenda of the UN for Sustainable Development. However, the Land Reform Commission had not been aware as to how to function with respect to the duties under their scope.

#### **6. Accountability and Good Governance**

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##### **6.1 Internal Audit**

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Only 02 internal audit queries had been issued in the year 2017 apart from examining files for the distribution of deeds under the accelerated Deed Programme. Accordingly, an internal audit had not been adequately conducted covering the areas mentioned in the Internal Audit Plan. Examining the lease and sale of lands, examining the activities of the evaluation and compensation division, examining the Revenue and Survey Division, and auditing of the Legal Division and District land reform board offices, had not been carried out.

##### **6.2 Procurement and Contract Process**

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###### **6.2.1 Procurements**

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An Annual Procurement Plan had not been prepared by including main procurements for the year under review in terms of Public Finance Circular, No. 01/2014, dated 17 February 2014.

## 6.2.2 Deficiencies in Contract Administration

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- (a) The following observations are made in respect of the contract for constructing the District land reform board office in Puttalam of which the engineering estimate amounted to Rs. 5,282,146.
- (i) A sum of Rs. 2,112,878 equivalent to 40 per cent of the estimated amount, had been released on 27 November 2014 without entering into any agreement with the District Secretariat. The construction had not been commenced until a lapse of one year since the release of the said amount.
  - (ii) An additional estimate had been prepared to the value of Rs. 296,300 on the building to be torn down that would have been identified at the preparation of initial estimate, and the same contractor had been assigned thereto.
  - (iii) Approvals of the relevant Local Authority, Urban Development Authority, and the Environmental Authority, etc. had not been obtained for the plan of the building.
  - (iv) According to the agreement entered into between the District Secretary and the contractor, the date, by which the building should have been handed over after completion was 11 January 2016, but it had been handed over on 29 July 2016. Accordingly, the penalty for delay totalling Rs. 800,718 at Rs. 2,362 per day for a period of 06 months had been neglected contrary to the agreement entered into with the contractor, thus the District Secretary had been paid the total amount by the Commission.
- (b) The following observations were made with respect to the expenditure amounting to Rs. 5,950,280 incurred on the deeds distribution ceremony held at the sportsground in Elpitiya, Galle on 21 August 2017 for transferring the ownership of lands belonging to the Commission.
- (i) A Technical Evaluation Committee had not been appointed in terms of Section 2.4.1 (a) of the Government Procurement Guidelines.
  - (ii) All activities of the ceremony to grant deeds, such as calling for quotations, selection of the supplier, and preparation of specifications, had been carried out by deviating from the Procurement Guidelines.
  - (iii) Although a sum of Rs. 1,024,380 had been spent on the printing of billboards and envelopes for deeds, a formal agreement had not been entered into on the said activity in terms of Section 8.9 of the Procurement Guidelines.
  - (iv) Although procurements can be made in exceptional circumstances such as natural disasters or unforeseen social obligations in terms of Section 3.8 of the Procurement Guidelines, a sum of Rs. 5,950,280 had been spent on the activities of the deeds distribution ceremony by considering them as emergency procurement needs.



- (c) The Commission had spent a sum of Rs. 909,395 on the deeds distribution ceremony held in Matara on 05 November 2017. A sum of Rs. 200,000 had been spent therein on 04 singers for singing songs. Accordingly, 22 per cent of the total expenditure of a ceremony of which the main objective had been to distribute deeds, had been spent on an activity external thereto. Hence, the features expected in the transaction of public business, such as economy, efficiency, propriety, and integrity, in terms of Financial Regulation 128 (i), had not been taken into consideration.
- (d) A sum of Rs. 768,200 had been spent on aluminium partitions separating each division in the building wherein the Head Office of the Commission had been established. The following observations are made in this connection.
- (i) A Technical Evaluation Committee had not been appointed for that work in terms of Section 2.4.1 of the Procurement Guidelines.
  - (ii) A formal agreement had not been entered into in terms of Section 8.9 (b) of the Procurement Guidelines. About 20 per cent of the total cost had been given as advance.
  - (iii) The relevant work had been executed as an emergency procurement, but the said work did not belong to the category of emergency procurements defined in Section 3.8.1 of the Procurement Guidelines was observed.
  - (iv) Payments had been made without being verified by an authorized officer of the Commission with technical acumen.

### **6.3 Budgetary Control**

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The following observations are made.

- (i) Variances ranging from 32 per cent to 1944 per cent were observed between the budgeted income and actual income, whereas variances ranging from 28 per cent to 808 per cent were observed between the budgeted expenditure and actual expenditure. Hence, the budget had not been made use of as an effective instrument of management control.
- (ii) Of the budget provision made for capital expenses, provision allocated on the construction of buildings and purchase of vehicles, had been saved by 100 per cent. Eighty seven per cent of the provision made for the purchase of computers and accessories had not been utilized, whilst 65 per cent of the provision made for purchasing furniture and office equipment had remained unutilized.

### **6.4 Tabling of Annual Reports**

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The Annual Report should be tabled in Parliament within a period 150 days after lapse of the year of accounts in terms of Section 6.1.4 of the Treasury Circular, No. 01/2004, dated 24 February 2004. However, action had not been taken even up to 28 February 2018 to table the Annual Reports of the years 2015 and 2016 in Parliament.

## 6.5 Unresolved Audit Paragraphs

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The sum of Rs. 17,000,000 paid in the year 2002 for purchasing a computer software had been shown in the financial statements as computer advances over a period of 16 years. However, action had not been taken even up to the date of audit, 30 March 2018 to settle the said advance.

## 7. Systems and Controls

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Deficiencies in systems and controls observed during the course of audit were brought to the notice of the Chairman of the Commission from time to time. Special attention is needed in respect of the following areas of control.

<u>Area of Systems and Controls</u>	<u>Observation</u>
(a.) Control of Operations.	(i) Failure to formulate a proper methodology to acquire lands for the public sector. (ii) As the requests for acquisition had not been documented properly, it could not be determined as to how action had been taken in that connection. (iii) Failure to take action to obtain compensation by completing the acquisition process as soon as possible.
(b.) Management of Vehicles.	(i) Failure to act on vehicle accidents in accordance with Financial Regulations. (ii) Failure to update the vehicle logbooks.
(c.) Leasing of Lands for Projects.	(i) Lack of a methodology to select lessees. (ii) Transfer of enjoyment without recovering the initial amounts. (iii) Impossibility to take legal action for the recovery of lease rents due to non-availability of lease agreements. (iv) Failure of the Commission in taking action to identify the available lands in advance and productively utilize in projects generating income. (v) Delays in the surveys despite the issue of survey orders.

- (vi) Deprivation of the Commission of receivable income due to lands remaining idle owing to delays in returning verdicts by the Project Committees after evaluations although the project reports had been presented.
  - (vii) Occurrence of delays due to failure in taking action promptly to obtain recommendations of the Cabinet with respect to the projects requiring such recommendations.
- (d.) Stores Control.
  - (i) Failure to tally the inventories.
  - (ii) Failure to tally the centralized inventory with the inventories of the Divisions.
- (e.) Control of Fixed Assets.
  - Failure to take action to omit the disposed fixed assets from the Register of Fixed Assets.
- (f.) Control of Advances.
  - Failure in settling advances as soon as the completion of the purpose.