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THE JUDICIARY FUND ACT

(No. 16 of 2016)

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THE JUDICIARY FUND ACT

(No. 16 of 2016)

IN EXERCISE of the powers conferred by section 14 of the Judiciary Fund Act, 2016, the Chief Justice makes the following Regulations—

THE JUDICIARY FUND REGULATIONS, 2018

PART I – PRELIMINARY

1. These Regulations may be cited as the Judiciary Fund Regulations, 2018. Citation.

2. In these Regulations, unless the context otherwise requires Interpretation.

“Account Code” means combination of codes which will be in force at the time of application under the Government Financial Statistics.

“Act” means the Judiciary Fund Act, 2016; No.16 of 2016

“Audit Committee” means the sub-committee of the Commission formed pursuant to the provisions of section 14 of the Judicial Service Act, 2011, section 73 of the Public Finance Management Act, 2012, regulation 174 of the Public Finance Management (National Government) Regulations, 2015 and Audit Committee Guidelines for National Government Entities as may be revised or replaced from time to time; No.1 of 2016
No.18 of 2012
LN No.34/2015

“Authority to Incur Expenditure (AIE) holder” means a Judicial Officer or Judiciary Staff authorized by the Chief Registrar in writing to incur expenditure;

“Commission” means the Judicial Service Commission established by Article 171 of the Constitution;

“Financial Records” comprises all documents that support financial transactions

“Fund” means the Judiciary Fund established by Article 173 of the Constitution.

“Head of Finance Directorate” means a person appointed in such capacity and is a member of a statutory body responsible for the professional regulation of accountants in Kenya.

“Head of Internal Audit” means a person appointed in such capacity as the head of audit and risk management and is a member of a statutory body responsible for the professional regulation of auditors in Kenya.

“Internal auditing” means an independent, objective assurance and consulting activity designed to add value and improve an organization's operations, which helps an organization accomplish its objectives by bringing a systematic, disciplined approach to evaluate

and improve the effectiveness of risk management, control, and governance processes.

"Irregular expenditure" means expenditure, other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any relevant legislation, including the Public Finance Management Act, the Act and these regulations.

"Judiciary Staff" means persons employed in the judiciary but without power to make judicial decisions.

"Public Sector Accounting Standards Board" means the Accounting Standards Board that provides frameworks and set generally accepted standards for the development and management of accounting and financial systems by all State organs and public entities.

"State Corporations and Semi-Autonomous Government Agencies" means any organization established by law to be financed wholly or substantially by the Judiciary from the Fund.

"Unauthorized expenditure" means overspending of a vote or programme within a vote; or expenditure not in accordance with the purpose of a vote or, in the case of a programme, not in accordance with the purpose of the programme;

"Wasteful expenditure" means any expenditure that was incurred which could have been avoided had due care and diligence been exercised.

3. (1) These Regulations shall apply to all matters relating to the financial management of the Fund.

Application and Enforcement.

(2) The administration of the Fund is vested in the Chief Registrar.

(3) The Regulations shall apply to a Judicial Officer or Judiciary Staff in exercise of any powers and functions relating to the administration of the Fund whether in exercise of delegated authority or otherwise.

4. The object and purpose of the Regulations is to –

Object and purpose

- (a) provide for the proper management of the Fund;
- (b) set out a standardized financial management system of the Fund capable of producing accurate and reliable accounts, which will be useful in management decisions and statutory reporting;
- (c) ensure accountability, transparency and the effective, efficient and economic use of the Fund; and
- (d) Ensure adherence to the principles of public finance set out in Article 201 of the Constitution in the management of the Fund.

5. The sources of the Fund comprise—

Sources of Funds

- (a) such monies as may be appropriated by the National Assembly out of the Consolidated Fund;
- (b) any grants, gifts, donations or bequests;
- (c) such monies as may be allocated for that purposes from investments, fees or levies administered by the Judiciary; and
- (d) moneys accruing to or received by the Judiciary from any other source.

6. (1) Revenue collected by the Judiciary include fees, fines and forfeiture and miscellaneous receipts;

Revenue

(2) The Chief Registrar may issue guidelines, rules and procedures on the collection and management of revenue

(3) For purposes of these regulations—

Fees - are charges that are assessed for delivery of services by the Judiciary.

Fines - fines may be assessed as part of the outcome of judicial proceedings and are paid to Judiciary by offenders on conviction.

Forfeitures - funds that are deposited with the Courts pending determination of a matter and forfeited as part of the disposal of the matter. They include both monetary and non-monetary assets. Forfeitures may also arise from convictions in cases such as those connected with drugs or game poaching as well as instances where bail is forfeited when the conditions for bail are breached.

Miscellaneous receipts - these include funds received for miscellaneous services not being fees, fines or forfeitures and include items such as tender fees

PART II – BUDGET PREPARATION

7. (1) At least three months before the commencement of each financial year, the Chief Registrar shall prepare estimates of all income and expenditure required for the purposes of the Act for the following year and shall present such estimates to the Commission for review.

Budget preparation

(2) The Chief Registrar shall, upon review by the Commission, submit the estimates to the National Assembly for approval and provide a copy to the National Treasury and the Chief Justice.

(3) Upon the approval of the estimates by the National Assembly, the expenditure of the Judiciary shall be a charge on the Consolidated Fund and the funds shall be paid from the Consolidated Fund directly into the Fund.

(4) Supplementary estimates may be prepared for approval by the National Assembly in accordance with Article 223 (1) (a) of the Constitution subject to review by the Commission.

(5) The Budget estimates referred to under sub- regulation (1) shall—

- (a) differentiate between recurrent and development expenditure;
- (b) be grouped according to the economic classification;
- (c) be programme based .

8. (1) The Chief Registrar may reallocate funds from the authorised use but may not reallocate funds where- Reallocations

- (a) the funds are appropriated for transfer to another government entity;
- (b) the funds are appropriated for capital expenditure except to defray other capital expenditure;
- (c) the reallocation of funds is from wages to non-wages expenditure; or
- (d) the transfer of funds may result in contravention of fiscal responsibility principles.

(2) The Chief Registrar may reallocate funds between programs, or between Sub-Votes, in the budget for a financial year if—

- (a) there are provisions in the budget of a program or Sub-Vote which are unlikely to be utilised;
- (b) a request for the reallocation has been made to the that Commission explaining the reasons for the reallocation and the Commission has approved the request; and
- (c) the total sum of all reallocations made to or from a program or Sub-Vote does not exceed ten percent of the total expenditure approved for program or Sub-Vote for that financial year.

(3) The Chief Registrar may, with the approval of the Commission, reallocate funds within Sub-votes or programs.

(4) The Chief Registrar shall submit quarterly reports of any reallocations to the Commission.

PART III – UTILIZATION OF THE FUND

9. (1) The appropriations approved by the National Assembly shall constitute the required authorization for the Chief Registrar to incur obligations and expenditures for the purposes for which the appropriations have been approved and for the amounts so voted.

Authorisation of
Expenditure

(2) The Chief Registrar may authorize a Judicial Officer or a Judiciary Staff to be an AIE holder in writing. The authorisation shall in the minimum include;

- (i) the responsibilities of the AIE holder;
- (ii) the guidelines to be adhered to by the AIE holder in discharging their responsibilities;
- (iii) the requirement for the AIE holder to uphold the highest levels of integrity, professionalism, transparency and accountability.

(3) The AIE issued shall in the minimum contain—

- (i) the AIE number and to whom it is issued;
- (ii) the authorized total expenditure;
- (iii) a description of the expenditure item; and
- (iv) the account code to which the expenditure is to be debited.

(4) The Chief Registrar shall keep records in such a form as will clarify at any time, in respect of the Fund—

- (i) the total amount of expenditure sanctioned for the year;
- (ii) the amount of the expenditure charged; and
- (iii) any further known liabilities in respect of the year;

(5) Subject to these Regulations, all procurement and asset disposal in the Judiciary shall be done in accordance with the Public Procurement and Asset Disposal Act, 2015 and its regulations or any other written law governing procurement as may be applicable.

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(6) In the management of the Fund, an AIE holder shall, be subject to the following procedures -

- (a) when the AIE is issued, the allocation shall be entered as a commitment in the master vote book so as to ascertain at all times the available balances;
- (b) the AIE holder shall adhere to the following in relation to control of expenditure—
 - (i) there shall be no divided responsibility and only the officer to whom the AIE has been issued is permitted to commit or incur expenditure against it; and
 - (ii) an AIE holder shall not wait for suppliers to submit invoices in order to clear his or her commitment, but he or she shall regularly have his or her outstanding commitments checked and enquiries made from the suppliers, particularly in the last three months of the financial year.

10. Funding of state corporations and semi-autonomous government agencies shall be effected through transfers from the Fund.
11. (1) Payment from the Fund for goods and services shall only be made on the basis of duly certified supporting vouchers and other documents indicating that the goods or services in respect of which the payment is made have been received in accordance with the procedure and policies governing payment as may be contained in manuals, circulars, guidelines, or directions as may be issued by the Chief Registrar;
- (2) All forms of payments shall be designated and any changes in signatories shall be authorized by the Chief Registrar.
- (3) Advance payments shall not be made to suppliers for goods and services unless provided for in the contractual terms and conditions contained in a valid contract signed between the Judiciary and the supplier.
- (4) Advance payments shall not exceed 20% of the contract price and shall be supported by a bank guarantee.
12. The Chief Registrar shall prepare and submit quarterly budgetary expenditure report for the Fund to the Commission and the Controller of Budget with copies to the National Treasury.
13. (1) Pursuant to section 7 of the Act all receipts, savings and accruals to the Fund and the balance of the Fund at the end of each financial year shall be retained in the Fund and applied in accordance with the Constitution and the Act.
- (2) All funds allocated to the Fund shall be cumulative and shall be carried forward from one financial year to the next.
14. (1) The Chief Registrar, may for purposes of the Fund, delegate to a Judicial Officer or Judiciary Staff, the powers or functions of the Chief Registrar in writing.
- (2) In exercising such delegated powers and functions, the Judicial officer or Judiciary staff, shall comply with any lawful directions of the Chief Registrar.
- (3) The delegation in this regulation may include the authority to incur expenditure in accordance with any limits prescribed by the Chief Registrar.
- (4) Delegation of power under this regulation does not take away the responsibility of accountability from the Chief Registrar.

Funding to state corporations and semi-autonomous government agencies

Payment for goods and services

Quarterly Budgetary expenditure reports

Monies to be retained in the Fund

Delegation of powers and functions

PART IV—EXPENDITURE IN RELATION TO HUMAN RESOURCES

15. (1) Activities relating to the authorization of appointments, payments and the recording of those payments shall be performed by different officers.

Expenditure in relation to human resource.

(2) The budgetary allocation for the cost of human resources shall be determined on the basis of a detailed costing of the staff establishment of the Judiciary as approved by the Commission.

(3) The Chief Registrar shall ensure that the human resources cost of all appointees, as well as promotion and salary increases, can be met within the budgetary allocation of the Fund.

16. The Chief Registrar may authorize salary and other advances for Judicial Officers and Judiciary Staff in accordance with the Judiciary Human Resource Policies and Procedures.

Salary and other advances to staff

PART V - IMPREST MANAGEMENT

17. (1) The Chief Registrar shall establish an imprest facility including the maximum amount for the specific purpose of that imprest facility.

Establishment of an imprest facility

(2) There shall be three types of imprests, namely—

- (i) Temporary or Safari imprest;
- (ii) Standing imprest; and
- (iii) Special imprest.

(3) An imprest shall be issued for a specific purpose, and any payments made from it, shall be only for the purposes specified in the imprest warrant.

(4) Temporary imprests shall be issued in respect of official journeys and are intended to provide officers with funds with which they can meet travelling, accommodation and incidental expenses.

(5) A holder of a temporary imprest shall account or surrender the imprest within seven (7) working days after the end of the official journey.

(6) If the imprest holder fails to account for or surrender the imprest on the due date, the Chief Registrar shall take immediate action to recover the full amount from the salary of the defaulting officer with an interest at the prevailing Central Bank of Kenya Rate.

(7) If the Chief Registrar does not recover the temporary imprest from the defaulting officer as provided for in this regulation, the Chief Registrar commits an offence.

(8) If an imprest is to be recovered from any defaulting officer by instalments, the Chief Registrar shall personally authorize such recovery and such moneys shall no longer be an imprest but an unauthorized advance from the Fund, and in addition to the interest charged under sub- regulation (6), the Chief Registrar shall take appropriate disciplinary action against the officer concerned for the abuse of the imprest.

(9) When an imprest holder leaves the service, or is transferred, he or she shall surrender the total standing imprest which includes cash plus payment vouchers which together amount to the fixed level of the imprest.

(10) The holder of a standing imprest shall keep a memorandum cash book to record all receipts and payments and the balance on hand shall agree with the cash balance recorded in the cash book, and in the absence of any receipts, the actual cash balances plus the expenses paid shall equal at all times the fixed level of the imprest for which the imprest holder is personally responsible.

(11) An imprest holder who needs replenishment of funds shall send an abstract and analysis of his memorandum cash book, together with the originals of the supporting payment vouchers to the Head of Finance Directorate.

(12) Upon receipt of the abstract under sub-regulation (11), the Head of Finance Directorate upon being satisfied that the expenditure has actually been incurred for the intended purposes, and there is no irregularity in the payment vouchers, shall authorize replenishment of the imprest.

(13) The Head of Finance Directorate shall ensure that regular random reviews are made of the standing imprest by—

- (a) counting the cash on hand;
- (b) confirming that the actual cash on hand corresponds with the balance on hand as recorded in the cash book;
- (c) confirming that all movements (expenses and receipts) since the last check have been properly recorded and are properly documented;
- (d) ensuring that the documents justify the difference between the fixed imprest level and the actual cash balance; and
- (e) reporting on any anomalies found to the Chief Registrar who shall take appropriate action.

(14) A special imprest utilized for any expenditure on services of a confidential nature, the purpose and the particulars of which cannot be made public, shall be supported by a certificate that the money has been paid, and a declaration by the Chief Justice and the Chief Registrar that they have satisfied themselves that the money has been properly expended, and has not been used to supplement the emoluments of any officer.

(15) For purposes of this Regulation—

- (a) a special imprest is any imprest utilised for expenditure on services of a confidential nature.
- (b) the Chief Registrar shall only classify expenditure as confidential expenditure, if the disclosure of that expenditure—

- (i) is likely to interfere with the independence of the Judiciary as may be determined by the Chief Justice and the Chief Registrar;
- (ii) is likely to prejudice the security, defence or international relations of the Government of the Republic of Kenya;
- (iii) is likely to involve the disclosure of confidential deliberations or decisions of the Commission or of a committee of the Commission;
- (iv) is likely to divulge any confidential information communicated in confidence by the Judiciary to any other arm of government or a by another arm of government to the Judiciary and which would prejudice national security or relations between the arms of government;
- (v) would unfairly prejudice the commercial interests of anybody or person; and
- (vi) is likely, for any other reason, to form the basis for a claim by a foreign state or persons on the national government or county government in a judicial proceeding; and

(c) the Chief Registrar shall be required under a closed door session, and is permitted, to disclose to a special or joint committee of the Commission and Parliament information or any other document on the nature of confidential expenditure under this Regulation.

18. An officer holding an imprest shall ensure that—

Imprest holder

- (a) the imprest issued to him or her shall be used for the intended purpose only;
- (b) the imprest moneys and any payment vouchers awaiting replenishment are adequately safeguarded at all times;
- (c) proper cash sale receipts are received for all payments out of the imprest;
- (d) the full amount of the imprest is accounted for at all times in cash, money at bank and completed payment vouchers; and
- (e) goods purchased through imprest are taken on charge and certificate issued.

PART VI – ACCOUNTS AND REPORTING

19. (1) Financial records shall be maintained in manual and electronic form.

Financial records
and automation of
financial records

(2) The Chief Registrar shall develop mechanisms to ensure that financial records are safeguarded, accurate, reliable and free from fraud.

(3) Any alteration or deletion of any financial record or data whether electronic or manual must be authorised and approved in writing by the Chief Registrar.

20. (1) All Journal entries prepared for all adjustments shall be authorised by the Chief Registrar or any Judicial Officer or Judiciary Staff exercising delegated authority before posting them in the general ledger. Adjustments

(2) All journal vouchers shall be supported by sufficient explanations, authorizations and documentation to facilitate the accounting adjustments.

21. (1) All receipts and payment vouchers shall be properly supported by the appropriate authorization and documentation. Receipts and payment vouchers

(2) All receipts and payment vouchers shall be, or made out, in indelible ink and shall contain adequate narration of the particulars of the services, goods or works procured and being paid for.

(3) All amounts appearing in a voucher shall be written in words as well as in figures.

22. (1) The Chief Registrar or an AIE holder may authorize payment vouchers for expenditure chargeable to the respective vote. Authorisation of payment vouchers

(2) The Chief Registrar may prescribe the financial limits and other conditions under which the authority in sub-regulation (1) may be exercised.

23. (1) All the transactions relating to clearance and suspense accounts shall be supported by authentic and verifiable source documents, clearly indicating the approved allocation. Clearance and suspense account

(2) Where it is necessary and to account for expenditure transactions in a clearing or suspense account, the Head of Finance Directorate shall ensure that—

- (a) amounts included in clearing or suspense accounts are cleared and correctly allocated to the relevant cost centres on a monthly basis;
- (b) monthly reconciliations are performed to confirm the balance of each account; and
- (c) reports on uncleared items are prepared on a monthly basis and submitted to the Chief Registrar.

24. (1) All accountable documents whether manual or in electronic form shall be under strict control at all times and they shall include—

Accountable documents

- (a) indent forms (for supplies from government printer or government stores);
- (b) local purchase order;
- (c) local service order;
- (d) authority to incur expenditure; (e) cheques;
- (e) receipt books; and
- (f) imprest warrants.

(2) The Chief Registrar shall keep stock of all accountable documents in manual form under safe custody, issuing them in accordance with the daily needs of the Fund, and keep an accurate up-to-date record of their use.

(3) Where the accountable documents are in electronic form, the Chief Registrar shall put in place appropriate mechanisms for safeguarding and tracking them.

25. (1) The Chief Registrar shall, subject to the provisions of the relevant national legislation, retain certain documents of whatever kind and such documents shall be preserved in the following circumstances—

Preservation of accountable documents, books and records

- (a) where they may be of value to the national archives; or
- (b) if they are the subject of unfinished audit enquiries; or
- (c) if they are likely to be needed for pension purposes.

(2) Despite the provisions of sub-regulation (1), the following classes of documents and records shall be preserved for a stipulated minimum period of time as detailed below—

- (a) Principal ledger - 10 years
- (b) Cash books - 10 years
- (c) Journals - 3 years
- (d) Payment vouchers - 5 years
- (e) Paid cheques or electronic payments - 3 years
- (f) Completed indent warrants - 12 months after the end of the financial year to which they relate.
- (g) Completed order forms - 12 months after the end of the financial year to which they relate.
- (h) Duplicate receipts - 12 months after the end of the financial year to which they relate.

- (i) Duplicate payment vouchers - 12 months after the end of the financial year to which they relate.
- (j) Receipt books either fully used, obsolete or partly used - 6 months after date of completion but must be inspected by the Auditor General and the disposal noted in the main counterfoils receipts, book registers.

(3) After the expiry of the retention periods under sub-regulation (2) of this regulation, the information may, if required, be secured in an alternative form that ensures the integrity and reliability of the data and that the information can be reproduced, where necessary.

26. (1) Pursuant to section 9 of the Act, the Chief Registrar shall open and maintain, such bank accounts as may be necessary for the effective management of the Fund.

Bank Accounts

(2) The bank accounts referred to in sub-regulation (1) shall be opened and closed with the approval of the Commission.

(3) Separate ledger accounts shall be maintained for each bank account held.

(4) The Head of Finance Directorate shall obtain from the banks monthly bank statements, which shall, where applicable, be accompanied by withdrawal instructions and debit and credit advice.

(5) The Head of Finance Directorate shall reconcile each bank account monthly and submit to the Chief Registrar detailed information on the reconciled accounts.

(6) No bank account shall be overdrawn, nor shall any advance or loan be obtained from bank accounts held for the management of the Fund.

(7) Personal cheques shall not be deposited in any Judiciary bank account.

(8) For all bank accounts held, there shall be at least two authorized signatories to approve payment or funds transfer.

(9) All signatories in respect of cheques, or electronic payments and fund transfers authorized and any changes thereto shall be designated by the Chief Registrar.

(10) The names, designation and specimen signatures and any changes thereto shall be communicated to the bank in writing by the Chief Registrar.

(11) The signatories under this regulation shall—

- (a) initial the counterfoil or enter with their personal passwords;
- (b) be equally responsible for the regularity of the payment; and
- (c) thoroughly scrutinize the documents supporting the payment.

(12) Spoilt cheques shall be marked prominently with the stamp "Cancelled", and fixed securely to the cheque-list used for controlling the cheques issued each day.

(13) The Head of Finance Directorate shall be responsible for the safe custody of the cheques and counterfoils as evidence of payment.

27. (1) The Chief Registrar shall, by the 30th September of each year, provide the National Treasury with an up- dated list of all bank accounts held by the Fund.

Submission of
list of bank
accounts to
National
Treasury

(2) The list referred to under sub-regulation (1) shall include the following information—

- (a) name of the bank where the account is held;
- (b) name of the bank account;
- (c) type of bank account;
- (d) signatories of the bank account;
- (e) date on which the bank account was opened;
- (f) the bank account number;
- (g) purpose for the bank account, if different from the main operational bank account of the government entity;
- (h) the bank account balances as at the 30th June each year.

28. The classification of financial transactions in the Fund shall be based on the Standard Chart of Accounts and/ or any such standards as may be applicable and issued by the Public Sector Accounting Standards Board.

Application of
the Standard
Chart of
Accounts

29. (1) The Chief Registrar shall ensure that proper control systems exist for safe keeping of assets and that —

Control systems

- (a) Preventative mechanisms are in place to eliminate theft, security threats, losses, wastage and misuse;
- (b) Movement and conditions of assets can be tracked; and
- (c) Stock levels are at an optimum and economical level.

(2) The Chief Registrar shall put in place proper processes and procedures both electronic and manual for the effective, efficient, economical and transparent use of the Fund's assets.

(3) The Chief Registrar shall be responsible for the proper custody, care and use of inventories under control of the Judiciary.

(4) Accountability shall only be discharged when inventories have been—

- (a) consumed in the course of business and records to show that such inventories have been consumed are available.

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- (b) worn out in the normal course of public business and removed from the stores records and has been approved by Chief Registrar or they have been disposed off in accordance with the Public Procurement and Asset Disposal Act, 2015; or
- (c) lost, stolen, destroyed, damaged or rendered unserviceable other than by fair wear and tear, and is removed from the store's record.

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(6) If the Chief Registrar is satisfied that the retention of any inventories is no longer in the public interest, the Chief Registrar may authorize disposal in accordance with the Public Procurement and Asset Disposal Act, 2015.

(7) the Chief Registrar shall report annually to the Commission any removal and disposal from the store's record under sub-regulation (6).

(8) Where the Chief Registrar has reason to believe that any officer—

- (a) has received an inventory and has not duly handed it over;
- (b) has received an inventory for which the person is accountable but has not duly accounted for it; or
- (c) has in hand an inventory which has not duly been applied to the purpose for which they were collected, the Chief Registrar shall serve a notice upon the said officer requesting that within a time specified in the notice, the officer shall pay for, account for, or apply the inventory and the officer shall submit to the Chief Registrar satisfactory evidence that this has been done.

30. (1) The Chief Registrar through the Head of Finance Directorate shall maintain a register of all assets under his or her control or possession.

Register of assets

(2) The register of assets shall record each asset, the terms on which it is held with reference to its acquisition, location and address, dates and cost of acquisition, disposal or major changes in use and value and other pertinent management details.

31. The loss of any cash, inventories assets or equipment of the Judiciary shall be reported to the Chief Registrar who shall launch an investigation and take appropriate action.

Loss of assets

32. The authorization of disposal of a case of loss does not prejudice the right of the Auditor-General to carry out further investigation.

Further investigation by Auditor General

33. (1) The Chief Registrar shall prepare financial statements for the Fund for each financial year in a form prescribed by the Public Sector Accounting Standards Board and shall ensure that the report contains information on the financial and non-financial performance of the Fund

Financial
Statements

(2) Upon approval by the Commission and not later than three months after the end of each financial year, the Chief Registrar shall submit the financial statements prepared under this regulation to the Auditor-General.

(3) The Chief Registrar shall disclose in the financial statements a list of special funds or State Corporations and Semi-Autonomous Government Agencies funded from the Fund.

PART VII-INTERNAL AUDIT AND RISK MANAGEMENT

34. (1) The key functions of Internal Auditors shall include among others—

Responsibilities
of internal
auditors

- (a) Reviewing mechanisms for governance, transparency and accountability with regard to the finances and assets of the Judiciary;
- (b) Conducting risk-based, value-for-money and systems audits aimed at strengthening internal control mechanisms that could have an impact on achievement of the strategic objectives of the Judiciary;
- (c) Verifying the existence of assets and ensuring that there are proper safeguards for their protection;
- (d) Providing assurance that appropriate institutional policies and procedures and good business practices are followed;
- (e) Evaluating the adequacy and reliability of information available to management for making decisions;
- (f) Reviewing and evaluating budgetary performance, financial management, transparency and accountability mechanisms and processes; and
- (g) Giving reasonable assurance through the audit committee on the state of risk management, control and governance within the Judiciary.

(2) In carrying out their functions, the internal auditors may, subject to the approval of the Audit Committee enlist the services of professional experts on a need basis.

35. The Head of Internal Audit shall report administratively to the Chief Registrar and functionally to the Chief Justice and the Audit Committee.

Operational
independence of
internal audit

36. (1) The Internal Audit and Risk Management Unit shall prepare and submit an annual internal audit work plan based on risk assessment of the Fund to the Chief Justice and Audit Committee by the 15th February each financial year.

Annual internal
audit work plan

(2) The Audit Committee shall, if satisfied approve the work plan and submit to the Chief Registrar.

(3) Once the work plan is approved, the Chief Registrar shall ensure that the budget to implement it is included in the Judiciary budget.

37. In undertaking audit of the Fund the internal auditors shall have unrestricted, direct and prompt access to all records, officials or personnel holding any contractual status with the Judiciary and to all the premises and properties of the Judiciary.

Unrestricted access by internal auditors

38. The internal auditors shall maintain confidentiality in the course of undertaking their work and shall use such information with discretion and only in so far as, it is relevant to reach an internal audit opinion.

Confidentiality by internal auditors

39. The Chief Registrar shall develop for the Fund -

- (a) risk management strategies, which include fraud detection and prevention mechanisms; and
- (b) a system of risk management and internal control that builds robust business operations.

Risk Management and internal control

40. The Head of the Internal Audit shall as soon as is practicable notify the Chief Justice and the Audit Committee upon identification of indications of fraud, material breaches and wasteful expenditure in the management of the Fund.

Notification of incidences of fraud, material breach etc to Chief Justice

41. (1) The findings and recommendations arising from each internal audit assignment on the Fund shall be promptly reported to the Chief Registrar and the Chief Justice.

Report to Chief Registrar on findings and recommendations

(2) The final internal audit report on each audit assignment, including the actions taken by the Chief Registrar shall be reported to the Chief Justice and the Audit Committee

42. (1) The Chief Registrar shall be responsible for the implementation of the recommendations made in the audit reports on the Fund.

Implementation of the recommendations of audit reports

(2) The Chief Registrar shall within fourteen days of receipt of the audit report on the Fund develop the response and action plan which shall be submitted to the Chief Justice and the Audit Committee.

(3) The response and action plan shall contain a summary of the findings and recommendations of the audit report, the proposed corrective action to be undertaken and the timelines within which to implement the report.

(4) The Chief Justice and Audit Committee shall ensure that the response and action plan developed in sub-regulation (3) is implemented.

43. (1) The Head of Internal Audit shall prepare and submit a quarterly internal audit report on the Fund to the Chief Justice, Chief Registrar and the Audit Committee within fourteen days of the end of the quarter.

Quarterly and annual internal audit reports

(2) The Head of Internal Audit shall prepare and submit an annual internal audit report on the Fund to the Chief Justice, Chief Registrar and the Audit Committee at the end of each financial year.

PART VIII – MISCELLANEOUS

44. The Chief Registrar shall issue guidelines, circulars, policies and procedure manuals and other documents to assist in the implementation of these Regulations.

Guidelines, circulars, policies and procedure manuals etc

45. (1) The Chief Registrar shall provide rules and procedures for proper financial management of court deposits.

Deposits

(2) Separate deposit accounts shall be operated by each Court Station.

(3) For purposes of these regulation, deposits are funds that are potentially revocable and refundable to the depositor and include: cash bail, surety, cash, bonds and cash that is suspected as being the proceeds from a crime such as cash seized from drug offenders, from persons entering the country with above the legal limits in cash.

(4) Refunds of deposits as may be ordered by the court must be processed as promptly as possible and take into account any timelines as may be issued by the courts.

(5) Any forfeiture collected as revenue under this sub regulation may be refunded as necessary where the circumstances warrant such refund

46. These Regulations shall prevail in the case of any inconsistency between these Regulations and any other regulations in so far as they relate to the Judiciary Fund.

Regulations to prevail

47. Any reference to laws, regulations, policy and other professional guidelines in these regulations includes amendments and revisions made and applicable at the time.

Reference to laws, regulations etc

Dated the 22nd May, 2018.

D. K. MARAGA,
Chief Justice/President, Supreme Court.