



REPUBLIC OF ZAMBIA

MINISTRY OF LOCAL GOVERNMENT

**MINISTERIAL STATEMENT BY THE MINISTER OF LOCAL
GOVERNMENT HON VINCENT MWALE, MP, ON COUNCILLORS
ALLOWANCES**

Mr. Speaker,

I wish to submit on the floor of the House the Ministerial Statement on Councillors Allowances.

Mr. Speaker,

The House may recall that Councillors across the Country contend that because they are elected by registered voters within the districts as the case is with the Mayor and Council Chairperson, they should also be full time, as the case is with the Mayor and Council Chairpersons.

Mr. Speaker,

Furthermore, the Councillors contend that Articles **264** and **265** of the Constitution mean that elected Councillors, like public officers such as judges, should be paid a salary and not an allowance.

Mr. Speaker,

Article **153 (1)** of the Constitution provides that ***“(a) councillor shall be elected in accordance with Article 47 (3) by registered voters resident within the district”***. Article **47 (3)** of the Constitution prescribes a first –past –the post system of electing a councillor. It is noteworthy from the outset that the Constitution does not state as to

whether or not Councilors are to serve on a fulltime or part-time basis.

Mr. Speaker,

On the question whether as to Councillors are entitled to an allowance or a salary, Article **264** of the Constitution provides that the emoluments of a Councillor shall be determined by the Emoluments Commission, as prescribed. Article **266** of the Constitution states that emoluments include ***“salaries, allowances, benefits and rights that form an individual’s remuneration for services rendered, including pension benefits or other benefits on retirement”***. It is noteworthy, however, that the Emolument Commission has not yet been operationalized as the envisaged law to operationalize it has not yet been passed. Once the Emoluments Commission is operationalized, it will be responsible for approving Councillors’ emoluments.

Mr. Speaker,

I wish to inform the House that in the absence of the Emoluments Commission, sections **71** and **119** of the Local Government Act Cap **281** of the Laws of Zambia are instructive on the entitlement of Councillors. Recourse to the Local Government Act provisions on Councillors’ emoluments with regard to remuneration is grounded in section **6** of the Constitution of Zambia Act, No. **1** of **2016**, which

continues the force of existing laws that are consistent with the Constitution as amended.

Mr. Speaker,

The House may wish to note that my Ministry sought legal guidance from the Attorney General at the Ministry of Justice on the following:

- (i) Whether the Councillors would remain part-time or become full-time; and
- (ii) Whether the Councillors were entitled to an allowance or a salary.

Mr. Speaker,

I wish to report that it is the considered view of the Attorney General Chambers that the said sections **71** and **119** of the Local Government Act Cap **281** of the Laws of Zambia are consistent with the Constitution to the extent that Article **264** of the Constitution (vesting the power to determine Councillor's emoluments in the Emoluments Commission) has not yet come into operation by virtue of section **21** of the Constitution of Zambia Act. Section **21** of the Constitution of Zambia Act provides:

“subject to section six, where an Act of Parliament is required to give effect to an Article of the Constitution as amended, that Article shall come into effect upon the publication of the Act of

Parliament or such other date as may be prescribed by, or under, the Act of Parliament”.

Mr. Speaker,

The Attorney General guided that Section **71** of the Local Government Act empowers a Council to pay fees and allowances to Councillors with the approval of the Minister responsible for Local Government. The Minister’s approval is required to be by way of a Statutory Order or notice in writing to the Principal Officer of a Council (section **119** of the Local Government Act). In terms of the Law, therefore, Councillors are entitled to be paid fees and allowances approved by the Minister in terms of the Local Government Act.

Mr. Speaker

The Attorney General in conclusion guided accordingly that in the premises, Councillors are entitled to be paid fees and allowances approved by the Minister in terms of the Local Government Act until such a time as the Emoluments Commission is operationalized.

Mr. Speaker,

I wish to inform the House that in view of the legal guidance provided by the Attorney General, I will through a Statutory Instrument revise upwards the Councilors allowances from **K700** to **K3000**. I have since submitted the Statutory Instrument to the Ministry of Justice for clearance. Therefore, the new allowances will be effected immediately the Statutory Instrument is published within the course of the this month.

Mr. Speaker,

In conclusion, through this House I urge all Councilors across the Country to remain calm and steadfast so that they are in a better position to discharge their responsibilities in their respective wards and discharge Councils functions efficiently and effectively at the local level.

I thank you