



REPUBLIC OF ZAMBIA
OFFICE OF THE PRESIDENT

EMOLUMENTS COMMISSION

PRESENTATION ON THE IMPLICATIONS OF THE EMOLUMENT COMMISSION ACT NO:1 OF 2022 TO THE 25TH ANNUAL CONVENTION OF THE ZAMBIA INSTITUTE OF HUMAN RESOURCE MANAGEMENT

BY MWAMBA PENI-PERMANENT SECRETARY

27TH OCTOBER 2022.

Presentation outline

- Introduction;
- historical context of public pay
- Definition of Emoluments;
- Implications;
- Coverage of the Emoluments commission;
- Review Cycle and Special Review;
- Factors to consider when submitting Proposals;
- Emoluments Commission and unionised workers;
- Emoluments Commission and non-unionized workers; and
- Conclusion

INTRODUCTION

The essence of the Emoluments Commission Act is to improve the effectiveness and efficiency of service delivery and to reform service delivery institutions for the following reasons:

- Firstly, the quality and timely provision of basic public goods and services is essential to securing economic and social fundamentals of a sustained economic growth as well as the general well being of the people of Zambia.

- Secondly, the legitimacy of the state depends in part on how well service delivery institutions meet the demands of the citizens.
- Thirdly, and most importantly, effective delivery of social services is crucial to facilitating increased investment in human capital as well as improving the well being of households, particularly low income households.
- Be that as it may, low pay coupled with poorly structured internal grading systems that is based on self entitlement to automatic annual salary increment rather than performance stifles innovation and motivation.

- Of note also is the discrepancies that have crept into wages and allowances paid for comparable jobs within and across institutions with similar mandates.
- By addressing these issues, it is the hope of government that it will enhance the capacity of state organs and state institutions to attract, retain and motivate officers and staff with requisite qualifications, skills and experience in order to improve service delivery.

HISTORICAL CONTEXT OF PUBLIC PAY

- 24TH October, 1964, a new nation is born with all its hopes and aspirations.
- In an attempt to provide an engine to foster the vision of the nation, government decided to nationalized strategic sectors of the economy in 1972.
- Along the way, some more statutory bodies and state owned enterprises were created as part of the vision to improve public service delivery.

- At what point did the entity you work for join the vision of the nation called Zambia?
- Where does your career join the history?
- When you enter the vision, at what point are you part of this vision?
- Has your entity made a significant contribution to the national vision or it has only benefited you at the individual level?

- Between 1964 and 1975, there was a high level of remuneration coupled with an appropriate incentive regime.
- Between 1975-1983, real public service salaries had lost value between 30% and 40% .
- The period between 1983 and 1991 saw substantial decline in real pay across the three arms of Government.
- 1991 to 2000 worst period which saw the change of government premised on dealing with structural imbalances in the economy through the SAP and public service reforms.

- Real public service pay declined between 85% and 90% compared to the value of 1975.
- Suffice to say, from independence until the 1980s there no clear policy to guide remuneration management in state institutions and state organs;
- Grant aided Institutions and statutory bodies came up with their on internal mechanism to determine pay.
- For those in the mainstream civil service, they relied on the outcome of ad hoc salary commissions deliberations.

- These commissions while reviewing public service remuneration and conditions of service general offered piece-meal solutions to addressing the problems of the public service.
- Consequently, this created further distortions across the various groups of personnel employed by the public service and within groups themselves.

- There was some attempt through medium-term pay reform strategy (2002 to 2007) to systematically raising compensation for the core professional, technical and management personnel in public service as a prerequisite for improving civil service performance through Selective Accelerated Salary Enhancement (SASE) Scheme.

- In an attempt to have a comprehensive analysis of pay differentials, Government in 2010 set up a Salaries Review Commission across the general public service.
- The analysis revealed that while there were distortions in the basic salaries, these became more significant in relation to the Total Cost to Employer (TCE). For instance, in one governance institution, the difference between basic salaries and Total Cost to the Employer (TCE) was as high as 607 percent, while in another it was 485 percent.

These distortions and disparities highlighted above were perpetuated by among others:

- existence of multiple and uncoordinated negotiating points for salaries and conditions of service in the Public Service.
- There is no harmonised and unified framework for determining and approving salaries and conditions of service that takes into account the short, medium and long term socio-economic perspectives.

- existence of numerous and complex pieces of legislation governing emoluments in the Public Service;
- Job evaluation, a cornerstone of the principle of equal pay for equal work, not undertaken across the Public Service; and
- Lack of a system to link pay to performance.
- This resulted in Public Service Agencies/institutions determining their own salaries and conditions of service independently and based on provisions of their enabling legislation without recourse to any Central Agency, resulting in vertical and horizontal disparities, distortions and inequity.

Government's response to that

- Public Pay Policy in 2012 (no lifeline)
- Integrated competitive total remuneration strategy (2012-2021).

THE ESTABLISHMENT OF THE EMOLUMENTS COMMISSION

- The Republican Constitution defines Emoluments as follows:
- *“salaries, allowances, benefits, and rights that form an individual’s remuneration for services rendered, including pension benefits or other benefits on retirement.”*

- The establishment of the Emoluments Commission is a recognition of the reality that emoluments in state organs and state institutions are characterised by serious inconsistencies, variations, huge distortions and disparities in salaries, quality and conditions of service and job-grade structures.
- In a number of cases, pay does not reflect the level of responsibilities, productivity, performance, equity, fairness, capacity to pay and sustainability.

- Suffice to say, adequate and fair pay is a key component in improving and sustaining the motivation, performance and integrity of public servants.
- Therefore, the determination of adequate pay requires a more objective, systematic and consistent approach that takes into account the economic, political and social realities which ultimately ensures that there is a linkage between pay and productivity and performance.

- In the past, Government had endeavoured to address the issue of pay in the Public Service but all the efforts put in place did not yield the expected results due the piece meal approach undertaken.
- Recognising the importance of a more systematic and comprehensive approach to address the pay and incentive challenges, the New Dawn Government prioritised the operationalisation of the Emoluments Commission as soon as it was ushered into office.

- This move is aimed at enhancing the capacity of state organs and state institutions to attract, retain and adequately motivate human resource with the requisite skills and experience for improved service delivery for less time, less risk and less cost resulting in more policy impact, more citizen satisfaction and more citizen empowerment.
- The objective of the Emoluments Commission is to provide for a harmonised and unified framework for determining pay while eradicating wage discrepancies across and within state organs and state institutions.

- However, as pay and incentives problems that have characterised the public service have persisted for a long time, these challenges cannot be solved with a once-off salary adjustment.
- Therefore, the operationisation of the Emoluments Commission is a process of adjusting and rationalising pay in an affordable, transparent and sustainable manner.

- Article 232 of the Constitution of Zambia (amendment) act, 2016 establishes the emoluments commission with the mandate to determine, on the recommendation of the relevant authority or commission, the emoluments of public officers, chiefs and members of the house of chiefs.
- Further, article 264 (2) provides for the commission to determine emoluments of a state officer, councilor, constitution office holder and a judge.

IMPLICATIONS

- The coming into effect of the act implies that all public bodies, state organs and state institutions ceased to determine their own emoluments on 6th of July, 2022 as guided under section 36 of the emoluments commission act, 2022 which states that:
- ***“a state organ, state institution or any other authority concerned with the determination of emoluments of a chief or an officer in a state organ or state institution before the commencement of this act, shall cease to be responsible for the determination of emoluments after the commencement of this act.”***

- Further, the act has a supremacy clause under section 3 which states that:
- ***“subject to the constitution, where there is an inconsistency between the provisions of this act and the provisions of any other written law on the determination of emoluments, the provisions of this act shall prevail to the extent of the inconsistency.”***

WHO IS COVERED UNDER THE EMOLUMENTS COMMISSION

- A contextual approach to articles 232, 264, 265 and 200 of the Constitution shows that the Emoluments Commission has mandate to determine the emoluments of a State institution (including a statutory body) that receives public funds. The expenses of such State institution are either charged to the Consolidated Fund or a prescribed public fund created by an Act of Parliament for a specific purpose.

REVIEW CYCLE AND SPECIAL REVIEW

- The Commission shall every two (2) years undertake a concurrent review of emoluments for chiefs and officers in a state organ and state institution. These reviews shall not always lead to an increase in the emoluments of a chief and an officer in a state organ or institution.
- Despite the two (2) year concurrent reviews, the Commission shall also undertake special reviews whose results shall inform the (2) two-year review cycle.

- The purpose of the special reviews will be to attract and retain critical or scarce professional skills required for effective execution of functions of a State organ or State institution and to compensate for increased cost of living for a chief or an officer in a State organ or State institution.
- Prior to conducting the two-year review cycle, the Commission shall ensure that a study is conducted on labour market efficiency and dynamics, as well as a survey on the prevailing economic situation considering, but not limited to the following parameters:

- Performance and productivity of a state organ and state institution;
- Efficiency in service delivery;
- Global and domestic economic outlook;
- Cost of living;
- Wage bill sustainability; and
- Profitability.

FACTORS TO CONSIDER WHEN SUBMITTING SALARY PROPOSALS

- The relevant authority or Commission shall put into consideration the following factors when preparing and submitting proposals for emoluments adjustments in accordance with section 20 of the Emoluments Commission Act:
 - (a) Fixed and variable components of emoluments;
 - (b) Legal, social, economic and environmental issues;
 - (c) Results of job evaluations, performance and productivity;
 - (d) Results of comparative labour market surveys;

- e) Existing collective bargaining agreements;
- (f) Specific cost of employment in relation to the resource capacity of the relevant authority;
- (g) Affordability and sustainability of proposed emoluments, and available funds within the approved budget of a State organ and State institution;
- (h) Emoluments of similar regional or international organisations;

- (i) Equity and competitiveness;
- (j) Linkage to the national objectives, priorities and human resource management strategy;
- (k) Salary structures of a chief and an officer in a State organ and State institution; and
- (l) Any other matter relevant to the determination of emoluments.

- Further, a relevant authority or commission shall, in addition to the factors mentioned above, consider the relevant authority's nature of service, performance or financial turnover. Thereafter, the Emolument Commission shall, not later than the second quarter of the second year of the review, communicate to the relevant authority the approved emoluments by notice in the Gazette.
- Be that as it may, the emoluments in question shall be effected on a date not earlier than 1st of January of the subsequent financial year after being factored in the national budget or the entity's budget.

- Additionally, a relevant authority or commission is obliged to submit to the Emoluments Commission data of the prevailing emoluments of the relevant authority's officers and staff annually.

THE EMOLUMENTS COMMISSION AND UNIONISED WORKERS

- The Emoluments Commission Act, 2022 does recognize the right to collective bargaining consistent with Industrial and Labour Relations Act Cap 269 of the Laws of Zambia and Zambia's obligations under two of the International Labour Organisation's fundamental or Core Conventions: ILO Conventions 87 and 98.
- Section 5-The Commission shall not engage itself in negotiating a salary or condition of service for a chief or an officer in a state organ or state institution.
- Public officer's employer representative on the bargaining unit shall be designated as the relevant authority for purposes of recommending emoluments;

THE EMOLUMENTS FOR NON-UNIONISED STAFF IN STATE ORGANS AND STATE INSTITUTIONS

- For Statutory Bodies, Grant aided institutions and parastatals, the relevant authority shall be the respective board of directors.
- Institutions are required to submit to the Emoluments Commission Secretariat, the terms and conditions of service for new employees and contracts, for staff to be appointed on contract as well as renewal of contracts for clearance before they can be offered to the employees.

- No negotiations on salaries and conditions of service shall commence without engaging the Commission on the guidelines within which the negotiations should be conducted in line with section 20 of the Emoluments Commission Act, 2022.
- Remuneration Division which is transitioning into the Secretariat of the Commission shall perform the functions of the Secretariat which include the day to day administration of the commission. The determination of emoluments will be undertaken by the Emoluments Commission once the Commissioners are sworn in.

CONCLUSION

- Finally, the operationalization of the Emoluments Commission in Zambia will facilitate equitable and fair remuneration; reward performance and productivity; enable public institutions to attract and retain requisite skills and enable Government to pay equal pay to persons for work of equal value.