



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-FIFTH LEGISLATURE

Bill 428
(1998, chapter 11)

An Act to amend the Act respecting the National Assembly

Introduced 12 May 1998
Passage in principle 26 May 1998
Passage 9 June 1998
Assented to 11 June 1998

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EXPLANATORY NOTES

This bill provides that a Member or a former Member is entitled to the payment, by the National Assembly, of defence costs and judicial costs arising out of proceedings brought against the Member or former Member for any act or omission in the performance of the Member's or former Member's duties of office. The expenses incurred for counsel are also to be paid where the Member or former Member is summoned to appear at an inquiry, a preliminary inquiry or judicial or quasi-judicial proceedings in connection with the Member's or former Member's duties of office.

The bill specifies the conditions on which the costs or expenses will be paid and the cases in which no costs or expenses will be paid.

The bill also determines the cases in which the National Assembly is authorized to assume the payment of any pecuniary penalty arising from a judgment against a Member or a former Member.

Bill 428

AN ACT TO AMEND THE ACT RESPECTING THE NATIONAL ASSEMBLY

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

1. The Act respecting the National Assembly (R.S.Q., chapter A-23.1) is amended by inserting, after section 85, the following :

“DIVISION VI

“DEFENCE COSTS, JUDICIAL COSTS, EXPENSES FOR COUNSEL AND INDEMNIFICATION

“85.1. A Member or a former Member is entitled, subject to sections 85.2 to 85.4, to the payment of the defence costs and judicial costs arising out of proceedings brought against the Member or former Member by a third person for any act or omission in the performance of the Member’s or former Member’s duties of office.

The Member or former Member is also entitled to the payment of expenses incurred for counsel where the Member or former Member is summoned to appear at an inquiry, a preliminary inquiry or judicial or quasi-judicial proceedings in connection with the Member’s or former Member’s duties of office.

In each case submitted to it, the Office of the National Assembly may, after obtaining the advice of the juriconsult of the National Assembly, fix the maximum amount to be paid under the first and second paragraphs.

“85.2. In the case of criminal proceedings, the defence costs and judicial costs shall be paid only if the case was withdrawn or dismissed or if the Member or former Member was acquitted by a judgment that has become *res judicata*, or was discharged.

“85.3. Where a Member or former Member is found guilty of a penal offence in a judgment that has become *res judicata*, no costs or expenses may be paid and the Assembly shall recover any costs or expenses paid except where the Office, after obtaining the advice of the juriconsult, is of the opinion that the Member or former Member had reasonable grounds for believing that the conduct in question was in conformity with the law. In the latter case, the Assembly shall assume the payment of any pecuniary penalty.

“85.4. Where, in a judgment in a civil suit that has become *res judicata*, a Member or former Member is held liable for damage by reason of an act or omission in the performance of the Member’s or former Member’s duties of office, no costs or expenses may be paid and the Assembly shall recover any costs or expenses paid if the Office, after obtaining the advice of the jurisconsult, is of the opinion that the Member or former Member acted in bad faith.

The Assembly shall, however, assume the payment of any pecuniary penalty arising out of a judgment in a civil suit, except where the Office, after obtaining the advice of the jurisconsult, is of the opinion that a gross fault was committed by the Member or former Member or that the judgment should be appealed by the Member or former Member.”

2. The said Act is amended by inserting, after section 104.2, the following :

“104.3. The Office shall fix, by regulation, the conditions, rates and terms governing the payment of any amount pursuant to sections 85.1 to 85.4.”

3. The sums necessary for the carrying out of this Act shall be taken out of the consolidated revenue fund.

4. Sections 85.1 to 85.4 of the Act respecting the National Assembly, enacted by section 1, apply only to proceedings instituted after 11 June 1998 and to expenses incurred for counsel relating to an appearance taking place after that date.

5. Any regulation made within 6 months after 11 June 1998 under section 104.3 of the Act respecting the National Assembly, enacted by section 2, may have effect from any date not prior to 11 June 1998.

6. This Act comes into force on 11 June 1998.