

2005

# *If You Separate*

Partition for Married,  
Civil Union and  
De Facto Spouses



This publication does not have force of law.

In cases of conflicting interpretation, the *Act respecting the Québec Pension Plan*, the *Supplemental Pensions Plans Act* and their respective regulations prevail over the contents of this publication.

A large print version and a Braille version are also available. To order a copy, call the Régie at 1 800 463-5185.

To obtain an audiocassette, contact the Magnétothèque at 1 800 361-0635.

All the Régie's services are free of charge.

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The Québec Pension Plan and supplemental pension plans are considered to be part of the family patrimony. Thus, to avoid unpleasant surprises in the event of a separation, both of the former spouses must be sure to be well-informed regarding his or her rights and the effects of partition or renunciation.

# The Québec Pension Plan

*in brief*

The Québec Pension Plan is a compulsory public insurance plan. Its purpose is to provide workers and their families with basic financial protection in the event of retirement, death or disability.

The Plan is financed by contributions from workers and employers. These contributions are managed by the Caisse de dépôt et placement du Québec. The Québec Pension Plan is administered by the Régie des rentes du Québec.

If you have worked in Québec at some time since 1 January 1966, when the Québec Pension Plan began, you have probably contributed to it. If you contributed for the number of years required, you could be entitled to one or more of the following benefits, if an application is made:

## **Retirement pension benefits;**

### **Survivors' benefits**

(death benefit, surviving spouse's pension, orphan's pension following the death of a contributor to the Québec Pension Plan);

### **Disability benefits**

(disability pension, pension for a disabled person's child).

There are booklets for each of those benefits. You can download them from the Régie's Internet site ([www.rrq.gouv.qc.ca](http://www.rrq.gouv.qc.ca)) or call one of the numbers shown on the back of this booklet.



# Partition of earnings under the Québec Pension Plan

## **Why do you need to consider the Québec Pension Plan if you separate?**

The benefits under the Québec Pension Plan are an important element in financial planning for retirement. For workers who have contributed to it, the Plan provides for a retirement pension and a disability pension, as well as benefits for the family of a disabled or deceased contributor.

When there is a breakdown in a couple's union, the employment earnings recorded under the Québec Pension Plan under the names of both former spouses are added together and divided equally for each year subject to partition. The new amounts can give entitlement to a retirement pension, a disability pension or survivors' benefits and can also affect the amount of any pensions already being paid.

## **Who is subject to partition?**

- **Married spouses**
- **Spouses in a civil union**
- **De facto spouses** (living together)



## If you were married

Following a divorce, separation from bed and board or civil annulment of marriage, the earnings recorded under the Québec Pension Plan for both spouses, for the years of your marriage, are partitioned, unless you and your former spouse renounced partition. If your judgment took effect after 30 June 1999, you can also apply for partition of the earnings recorded during the period of your de facto union, if you lived together before marriage.



## If you were in a civil union

The earnings recorded under the Québec Pension Plan for the years of your civil union are partitioned, unless you and your former spouse renounced partition by way of:

- a judgment of dissolution of civil union, or
- a judgment of annulment of civil union, or
- a joint declaration of dissolution of civil union made before a notary.

If you lived together as de facto spouses before the civil union, you can also apply for partition of the earnings recorded during the period of your de facto union.



## If you were de facto spouses

If you separated after 30 June 1999, partition can be carried out for the years of your de facto union. However, you must make an agreement with your former spouse.

You must also meet the following three conditions:

1. You must have lived in a conjugal relationship for at least 3 years, or for at least 1 year if a child was born or is to be born of your union, or if you adopted a child.
2. You must have been separated for at least 12 months.
3. At the time of separation, you and your former spouse must not have been married to, or in a civil union with, another person.

*Important!*

If you want to find out whether partition is to your advantage, you can apply for a simulation of the effects of partition. The Régie offers the service free of charge. You can obtain the application form on our Internet site or by contacting the Régie (see the back of this booklet).



## What are the effects of partition?

Following partition, the employment earnings recorded under the Québec Pension Plan under your name and that of your former spouse are used to determine the value of the pensions to which you could eventually be entitled. Therefore, you should not expect to receive any money before you become entitled to a pension.

Partition can also change the amount of a pension that is already being paid. If one of you is already receiving a pension when partition is carried out, the pension amount could increase or decrease depending on whether the employment earnings recorded under the beneficiary's name increased or decreased as a result of partition.



## Example

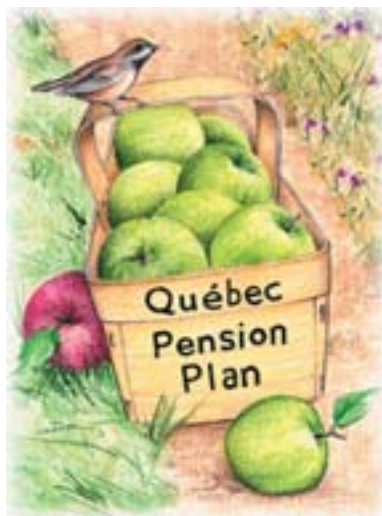
Maria and Michael were married in May 1996. They stopped living together in September 2001 and were divorced in October 2002. The period subject to partition of earnings recorded under the Québec Pension Plan begins on 1 January of the year of marriage and includes all of the years that they lived together until 31 December 2001, that is, the year preceding their divorce.

### Earnings recorded before and after partition



	Before partition	After partition	Before partition	After partition
1996	10 000 \$	6 500 \$	3 000 \$	6 500 \$
1997	16 000 \$	9 500 \$	3 000 \$	9 500 \$
1998	16 000 \$	16 500 \$	17 000 \$	16 500 \$
1999	16 000 \$	16 500 \$	17 000 \$	16 500 \$
2000	20 000 \$	19 000 \$	18 000 \$	19 000 \$
2001	22 000 \$	21 000 \$	20 000 \$	21 000 \$





## Can you find out in advance what the effects of partition will be?

### Yes.

By applying for a simulation of the effects of partition. The Régie will rapidly send you a table of the earnings recorded under your name and that of your spouse, and an estimate of your retirement pension before and after partition. However, you will need your spouse's consent if:

- legal proceedings have not yet begun; or
- you are in the process of having your civil union dissolved through a notarized declaration; or
- you are a de facto spouse.

Before renouncing partition, you and your spouse should be sure that you understand how partition will affect your pensions.



## How do you file an application for partition?

### If you were married

If you have obtained a divorce, separation from bed and board or civil annulment of marriage in Québec, **you do not need to apply for partition** for the years of your marriage. It is carried out automatically. The Québec Ministère de la Justice sends a copy of your judgment to the Régie and the Régie then carries out partition.

However, if you want the earnings for the period during which you lived in a de facto union before marriage to be subject to partition, you must file a joint application, unless your judgment already provides for partition for that period. You have 3 years from the date on which your judgment takes effect to file an application.

### If you were in a civil union

If you have obtained a judgment of dissolution of civil union or a judgment of annulment of civil union, **you do not need to apply for partition** for the years of your civil union. It is carried out automatically. The Québec Ministère de la Justice sends a copy of your judgment to the Régie and the Régie then carries out partition.

If your civil union was dissolved by a joint declaration before a notary, partition is also carried out automatically. The notary will send a copy of the notarized joint declaration to the Régie, which will then carry out partition.



However, if you want the earnings for the period during which you lived in a de facto union before your civil union to be subject to partition, you must file a joint application, unless your judgment or notarized joint declaration already provides for partition for that period. You have 3 years from the date on which your judgment or notarized declaration takes effect to file an application.

### **If you were de facto spouses**

You must agree on partition and you both must sign the application form. However, the application can be filed by only one of the former spouses if that possibility was provided for in a written agreement on partition of earnings signed by both of you.

You must file the application within 4 years following your separation.

### **What happens if the judgment was rendered outside Québec or if the notarized declaration was reached outside Québec?**

The application for partition for the period of the union must be filed with the Régie des rentes du Québec by you or your former spouse, or by a legal representative. However, if you and your former spouse want the earnings for the period during which you lived in a de facto union before your marriage or civil union to be subject to partition, you must file a joint application within 3 years from the date on which the final judgment or the notarized declaration took effect. You can obtain the application form on our Internet



site, by contacting the Régie or from your legal representative.



## **For what periods does the Régie carry out partition?**

The Régie carries out partition for the years of marriage or civil union and, if applicable, for the years of your de facto union.

### **Period of marriage or civil union**

The period of marriage or civil union begins in the year of the union and ends in the year preceding:

- the effective date of the judgment or notarized declaration; or
- the end of the period of cohabitation, as indicated in the judgment or notarized declaration.

### **Period of de facto union**

In most cases, the period of de facto union begins in the year that you started living together and ends in the year preceding your separation. In the case of spouses who lived together before their marriage or civil union, the period ends in the year preceding the marriage or civil union.



## Can you renounce partition?

**Yes.**

If you were married or in a civil union, you can renounce partition provided you and your former spouse both agree to do so. Your judgment or notarized joint declaration must specifically state that you and your former spouse have renounced partition of the employment earnings recorded under the Québec Pension Plan.

Likewise, if you or your former spouse worked elsewhere in Canada and contributed to the Canada Pension Plan and you wish to renounce partition of the employment earnings recorded under that plan, your judgment must also indicate that such is the case.

If your judgment does not provide for renunciation of partition, only the former spouse who would benefit from partition can renounce partition, in the year following the effective date of the judgment. Renunciation must be made by means of a notarial deed registered in Québec.

Since partition can only be carried out for periods of a de facto union if both former spouses give their consent, renunciation does not apply. Former spouses can, however, jointly withdraw their application for partition within 90 days following the date on which the notice of partition was issued.



## **If you renounced partition of family patrimony, have you also renounced partition of employment earnings recorded under the Québec Pension Plan?**

**No.**

If you signed a deed before 1 January 1991 exempting you from family patrimony, you have not renounced partition of employment earnings recorded under the Québec Pension Plan. At the time of your divorce, legal separation, civil annulment of marriage or the dissolution or annulment of civil union, you and your former spouse can specifically renounce partition of employment earnings under the Plan, if you do not want partition to be carried out.

## **How are you informed of partition?**

The Régie sends you a notice of partition, on average 30 days after receiving your judgment, notarized joint declaration or application for partition of earnings between de facto spouses. If you renounced partition, the Régie notifies both spouses in writing that it will not be carried out.



## Table of pensionable earnings under the Québec Pension Plan

Year	Minimum employment earnings	Maximum employment earnings
1966	600 \$	5 000 \$
1967	600 \$	5 000 \$
1968	600 \$	5 100 \$
1969	600 \$	5 200 \$
1970	600 \$	5 300 \$
1971	600 \$	5 400 \$
1972	600 \$	5 500 \$
1973	700 \$	5 900 \$
1974	700 \$	6 600 \$
1975	700 \$	7 400 \$
1976	800 \$	8 300 \$
1977	900 \$	9 300 \$
1978	1 000 \$	10 400 \$
1979	1 100 \$	11 700 \$
1980	1 300 \$	13 100 \$
1981	1 400 \$	14 700 \$
1982	1 600 \$	16 500 \$
1983	1 800 \$	18 500 \$
1984	2 000 \$	20 800 \$
1985	2 300 \$	23 400 \$
1986	2 500 \$	25 800 \$
1987	2 500 \$	25 900 \$
1988	2 600 \$	26 500 \$
1989	2 700 \$	27 700 \$
1990	2 800 \$	28 900 \$
1991	3 000 \$	30 500 \$
1992	3 200 \$	32 200 \$
1993	3 300 \$	33 400 \$
1994	3 400 \$	34 400 \$
1995	3 400 \$	34 900 \$
1996	3 500 \$	35 400 \$
1997	3 500 \$	35 800 \$
1998	3 500 \$	36 900 \$
1999	3 500 \$	37 400 \$
2000	3 500 \$	37 600 \$
2001	3 500 \$	38 300 \$
2002	3 500 \$	39 100 \$
2003	3 500 \$	39 900 \$
2004	3 500 \$	40 500 \$
2005	3 500 \$	41 100 \$

## *Important !*

### **Separation and family allowances**

If you have a dependent child under age 18, your separation may result in a change in the amount of the family allowance paid to you by the Québec government and the federal government. Whether you were married or in a de facto union, it is important that you inform the Canada Revenue Agency of your separation. It will then forward the necessary information to the Régie. However, you must have been separated for at least 90 days before informing that agency, or the information will not be taken into consideration. To contact the Canada Revenue Agency, call 1 800 387-1193 (toll-free).

# Supplemental pension plans

*in brief*

Supplemental pension plans are also called “pension funds”, “private retirement plans”, “registered pension plans”, or “retirement plans”. A supplemental pension plan is a contract under which either an employer alone or an employer and member employees make contributions to fund retirement pensions.

If you participate in a supplemental pension plan, the pension under the plan, which supplements the basic benefits from public plans (a retirement pension from the Québec Pension Plan, the Old Age Security pension, etc.), will help you maintain your pre-retirement standard of living after you retire.

This section of the booklet concerns retirement plans that are subject to the *Supplemental Pension Plans Act*. They are employer pension plans from the private and municipal sector, as well as certain plans from the parapublic sector, whose activities are under provincial jurisdiction. The booklet does not deal with:

- Public and parapublic pension plans administered by the CARRA;
- Private and public sector pension plans under federal jurisdiction (banks, interprovincial transport and telecommunications, the federal public service, etc.);
- Group and individual RRSPs.





# Partition of your supplemental pension plan

If you separate, did you know that former spouses who were married<sup>1</sup> or were de facto (common law) spouses can partition their supplemental pension plan?

What follows explains how it's done.

## What can you partition?

You can partition money accumulated under your pension plan but not the actual pension that will be paid to you upon retirement. Your former spouse will receive a sum of money that he or she can use upon retirement. The money paid in this manner will be deducted from your accrued benefits in your pension plan.

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<sup>1</sup> The *Supplemental Pension Plan Act* entitles spouses in a civil union to partition their pension plan if their union is annulled or dissolved. However, the way in which this right will be exercised has not yet been prescribed.



## The steps in partition

### 1st step: Application for a statement of benefits (the evaluation)

To make an informed decision, you and your spouse can ask the plan administrator for a statement indicating the value of your benefits. You will both receive a statement of benefits within 60 days of filing your application.

Many administrators will provide a statement free of charge. However, they may charge a fee that you and your spouse must pay jointly.

To apply for a statement of benefits from your plan administrator, you can use the forms provided for that purpose on our Internet site ([www.rrq.gouv.qc.ca](http://www.rrq.gouv.qc.ca)). Instructions are provided.



## Take note!

Do not rely on the annual statement from your pension plan to determine the value of your benefits. This statement does not specify the value as at the calculation date required in the event of partition.

In addition, if you partition a defined benefit plan (which guarantees you a pension whose amount is pre-determined), the amount of contributions shown on your annual statement does not correspond to the value of your benefits. Even if the statement indicates the value of your benefits, this value is not necessarily calculated according to the method required for partition.

### 2nd step: Application for partition

The partition of supplemental pension plans is not carried out automatically as in the case of the Québec Pension Plan; you or your former spouse must file an application with the plan administrator. The application should be filed as soon as possible. It will be processed more rapidly if both former spouses sign the application.

The administrator can charge a fee that you and your former spouse must pay jointly.

Upon receipt of your application, the plan administrator will carry out partition. Your former spouse will be paid the amount indicated in your agreement or judgment,



with interest. Unless there are exceptional circumstances, your former spouse cannot use the money until the time of his or her retirement. Any withdrawals will be taxable. To apply for partition, you can use the forms provided on our Internet site ([www.rrq.gouv.qc.ca](http://www.rrq.gouv.qc.ca)). Instructions are provided.

## *Important*

### **Your former spouse will not receive cash**

In most cases, your former spouse will have to transfer the amount received from partition to a locked-in retirement account (LIRA) or a life income fund (LIF). When you apply for a statement of benefits from your plan's administrator, you will receive more information regarding the available choices.

Consult the Régie's booklet *Are you familiar with LIRAs and LIFs?* for more information.





### There are exceptions

Your former spouse can receive cash in the following cases:

- If you or your former spouse has not been living in Canada for at least two years; or
- If the receivable amount does not exceed the Maximum Pensionable Earnings (MPE) by 20% for the year in which the payment is received. The MPE is set as prescribed in the *Act respecting the Québec Pension Plan*. To know what the current MPE is, contact the Régie or see the table on page 16.

For example: In 2005, the MPE is 41 100 \$. Your former spouse can therefore receive a cash payment if he or she is entitled to an amount less than 8 220 \$.

*Take note!*

Any cash received will be taxable unless it is transferred directly into an RRSP, in which case taxes will be deferred.



## Are you married spouses or de facto spouses?

Special conditions apply, according to whether you are married or de facto spouses.

### If you are married<sup>2</sup>...

#### 1st step: Application for a statement of benefits

You or your spouse can ask for a statement of benefits if you are in family mediation or if you have started divorce proceedings or applied for a separation from bed and board or a civil annulment of marriage. The statement will indicate the total value of your benefits and the portion accrued during your marriage.

#### 2nd step: Application for partition

To partition your pension plan, you must obtain a judgment of divorce, legal separation or civil annulment of marriage. If you separate without obtaining a judgment (de facto separation), you are not entitled to partition, even if there is an agreement between you and your former spouse. You can apply for partition as soon as the delay for an appeal against your judgment has expired, that is, 30 days from the date on which it was rendered.

*Take note!*

If your family patrimony is partitioned, the judgment or agreement cannot award your former spouse more than half of the total value of the benefits accumulated in your supplemental pension plans.

<sup>2</sup> If you are in a civil union, see note 1 on page 19.



## If you are de facto spouses...

Your de facto spouse cannot unilaterally obtain partition of your pension plan. He or she is entitled to partition provided you agree in writing to this effect **within 12 months** following the breakdown of your union. The agreement must be signed by you and your former spouse, and it must indicate the amount that you wish to transfer to your former spouse.

For your de facto spouse (whether of the same sex or the opposite sex) to be recognized as such, you must have lived together for at least three years if you have no children, or one year if a child was or will be born of your union, or was adopted by you. In addition, the spouse to whom the pension plan belongs must not have a spouse by marriage or civil union.

### **1st step: Application for a statement of benefits**

You and your spouse can apply for a statement of benefits as soon as you stop living together. The statement will indicate the total value of your benefits as at the date of the end of your union.

### **2nd step: Application for partition**

Once you have your agreement in hand, you or your former spouse can apply to the plan administrator for partition of your pension plan.

*Important!*

Your former spouse cannot receive more than half of the total value of the benefits accumulated in your pension plan as at the date on which your conjugal relationship ended.



## What should you take into account in making a decision about partition of your property?

Equal partition of your pension plan is not always the best way to share your property. When you consider the partition of your pension plan, you must also take into account such factors as taxation, income that will be generated by the retirement capital received and the moment when you or your former spouse can begin using it. You should also take into account the interest that will be paid to your former spouse.

*Take note!*

Interest will be added to the amount paid to your former spouse, even if the judgment or agreement does not specify it. Interest is calculated for the period starting on the date of the valuation of your benefits (which can be the date on which your conjugal relationship ended or the date on which procedures began), and ending on the date on which the amount is paid to your former spouse. As a result of partition, your benefits will decrease by the amount of the capital and interest paid to your former spouse.

Among other considerations, as a result of this interest, if you are retired and you give half of the value of your pension to your former spouse, your pension will decrease by more than half following partition.



## An example

### Partition of Michael's pension plan

Maria and Michael are in the process of getting a divorce. Michael has participated in a pension plan for 20 years. In order to evaluate this asset of their family patrimony, Michael asked the plan administrator for a statement of benefits for the purposes of partition.

The statement, which was sent to both Maria and Michael, indicates, among other things, the following:

Total value of benefits	80 098 \$
Value of the benefits accumulated during your marriage	44 048 \$

The value of Michael's pension plan that must be taken into account in determining the family patrimony is therefore 44 048 \$ (see Take Note on the following page).

In accordance with their judgment of divorce, Maria will receive half of what Michael accumulated in his pension plan during their marriage. Maria asked the plan administrator to carry out the partition. Both parties signed the application in order to be sure that Maria receives her money more rapidly.

At the time of partition, Maria was entitled to a sum of 23 579 \$, that is, half of 44 048 \$, plus 1 555 \$ in interest for the 14-month period between the date on which the divorce proceedings were instituted and the date on which the plan administrator carried out the partition.



Since Maria is not retired, she chose to have that sum transferred to a locked-in retirement account (LIRA). To do so, she opened an LIRA in a financial institution and completed the first part of the federal tax form (T-2151), which she submitted to the plan administrator. The administrator then sent a cheque to the financial institution specified by Maria.

Maria cannot use this money until her retirement, except under certain exceptional circumstances (for example, if she becomes disabled or if her income is very low).

*Take note!*

If Maria and Michael had relied solely on the last annual statement provided by the plan in doing their own calculation, they would have arrived at a completely different result!

Michael's last annual statement indicated the following:

Employee contributions with interest	55 675 \$
Annual amount of the accumulated pension	15 297 \$
Value of transferable benefits as at December 31	78 778 \$





## For more information

- about your supplemental pension plan and your benefits, contact the administrator of your pension plan. You will find the administrator's address on the statement that is periodically sent to you or by contacting your employer;
- about partition of your pension plan, you can also consult your mediator or legal advisor;
- about the *Supplemental Pension Plans Act*, in which you can find the rules for partitioning your pension plan, contact the Régie des rentes du Québec (see the following page).



# How to reach us

For more information on the *Supplemental Pension Plans Act*, contact the Régie des rentes du Québec:

## By Internet

[www.rrq.gouv.qc.ca](http://www.rrq.gouv.qc.ca)

## By telephone or fax

Telephone: (418) 643-8282

Fax: (418) 643-7421

## By mail

Information Officer  
Direction des régimes de retraite  
Régie des rentes du Québec  
Case postale 5200  
Québec (Québec) G1K 7S9





# Your satisfaction is our priority!

To find out more about our commitments to you:

## ***Service Statement***

The Régie des rentes du Québec has made commitments to provide the public with: reliable service, simple procedures, courteous and personalized service, adequate information about your rights and responsibilities, efficient management, competent employees and accessible and rapid services.

You can obtain a copy of the *Service Statement* on our Internet site, at our client services centres or at the office of your member of the National Assembly.

## ***Services Commissioner***

If you believe your situation has not received all the attention it deserves, you can contact the Services Commissioner, who will treat your complaints and comments completely independently. The Commissioner has the power to make recommendations to facilitate the resolution of disputes and improve client service. Complaints are kept strictly confidential and there is no need to fear personal repercussions.

You can contact the Services Commissioner by mail or through the Internet. You can also call the Régie (see the back of this booklet).

# How to reach us

For more information about the Québec Pension Plan and the system for financial security after retirement, contact the Régie:

## By Internet

[www.rrq.gouv.qc.ca](http://www.rrq.gouv.qc.ca)

 **Régienet**

On-line services

## By telephone

Québec region: (418) 643-5185

Montréal region: (514) 873-2433

Toll-free: 1 800 463-5185



Service for the hearing impaired  
(TDD or TTY required): 1 800 603-3540

## By mail

Régie des rentes du Québec

Case postale 5200

Québec (Québec) G1K 7S9

## In person

At one of our client service centres. We suggest that you call us before coming to the office. In most cases, you can obtain the information you need by telephone.

