

If You Separate

Find out how the breakdown of your union affects:

- your Québec Pension Plan benefits;
- your supplemental pension plan benefits;
- your child assistance payments.



It's all on-line

The information contained in this document is also available on our Web site. There you can find the **most up-to-date information** and amounts.

Use our on-line services:

- ▶ Statement of Participation in the Québec Pension Plan;
- ▶ SimulR, a simplified retirement income simulator tool;
- ▶ Application for a retirement pension;
- ▶ Application for survivors' benefits;
- ▶ Change of address;
- ▶ Consultation of the pension plans supervised by the Régie;
- ▶ Forms and publications.

*Sign up for our Liaison RRQ
e-notification service...*

It's free!



www.rrq.gouv.qc.ca

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

The Québec Pension Plan

Partition of employment earnings recorded under the Québec Pension Plan

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

Following a breakdown of 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 (see page 6 for information on the period subject to partition). The new amounts can change the amount of any pensions that will eventually be paid to you as well as any already being paid. They can also give entitlement to a retirement pension, a disability pension or survivors' benefits under the Plan. However, you should not expect to receive any money before you become entitled to a pension.

Take note!

The employment earnings recorded under the Québec Pension Plan are used to calculate the amount of pensions and other benefits.

If you were married

Following a divorce, legal separation or annulment, the earnings recorded under the Québec Pension Plan for the years of your marriage are **automatically** partitioned, unless you and your former spouse explicitly renounced partition. If you lived together before your marriage, you can file a joint application for partition of the period during which you lived in a de facto (common law) union. The same rules apply for people who were living in a civil union.

Take note!



- ▶ To avoid partition, your judgment or joint notarized declaration must specifically state that you both renounced partition of employment earnings recorded under the Québec Pension Plan, even if it states you renounced partition of family patrimony.
- ▶ The Ministère de la Justice sends a copy of your judgment to the Régie des rentes du Québec, and the Régie then carries out partition. If your judgment was rendered outside Québec, partition is not carried out automatically; you must file an application for partition with the Régie. You can obtain the Application for Partition of Employment Earnings Between Former Spouses form on our Web site or by contacting us.

If you were **de facto** (common law) spouses

If you have separated, partition of the earnings recorded under the Québec Pension Plan can be carried out for the years of your **de facto** union. However, you must file a **joint application** with your former spouse within the 4 years following your separation.

You must also meet the following 3 conditions:

- 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 together.
- You must have been separated for at least 12 months.
- At the time of separation, you and your former spouse must not have been married to, or in a civil union with, another person.

You can obtain an application for partition on our Web site or by contacting us.

For what period does the Régie carry out partition?

The period subject to partition is always determined in terms of full years.

For de facto spouses, it begins on 1 January of the year you began living together and ends on 31 December of the year preceding the end of the period of cohabitation.

For married or civil union spouses, it begins on 1 January of the year of your marriage or civil union. It ends on 31 December of the year preceding:

- ▶ the end of the conjugal relationship, if the judgment so provides;
- or**
- ▶ the filing with the Court of an application for divorce, legal separation, civil annulment of marriage or dissolution of civil union.

Take note!

For applications filed with the Court before 1 January 2009, the period of partition ends on 31 December of the year preceding the end of the period of cohabitation or the effective date of the judgment.

What are the effects of partition?

Apply for a simulation of the effects of partition of employment earnings. The Régie will rapidly send you 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 a de facto (common law) spouse.

This service is free of charge. You can download the application form on our Web site or call us to obtain a copy.

Example of partition

Date Michael and Maria were married

May 2006

Application for divorce filed with the Court

June 2010

Period subject to partition of earnings

1 January 2006 to 31 December 2009.

Recorded employment earnings

	Michael		Maria	
	Before partition	After partition	Before partition	After partition
2006	20 000 \$	26 000 \$	32 000 \$	26 000 \$
2007	10 000 \$	17 500 \$	25 000 \$	17 500 \$
2008	10 000 \$	22 500 \$	35 000 \$	22 500 \$
2009	25 000 \$	30 000 \$	35 000 \$	30 000 \$

How does the Régie inform you of partition?

The Régie sends a notice of partition 30 days (on average) after receiving a judgment or an application for partition of earnings between former de facto (common law) spouses. If partition has been renounced, the Régie notifies both spouses in writing that partition will not be carried out.

Supplemental pension plans

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.

This section concerns retirement plans that are subject to the *Supplemental Pension Plans Act*. They are pension plans of employers whose activities are under provincial jurisdiction and which are found in the private, municipal and university sectors, as well as certain plans from the parapublic sector.

This section does not deal with:

- ▶ Public and parapublic pension plans administered by the Commission administrative des régimes de retraite et d’assurances (CARRA);
- ▶ Private and public sector pension plans under federal jurisdiction (banks, interprovincial transport and telecommunications companies, the federal public service, etc.);
- ▶ Group and individual RRSPs.

Partition of benefits accrued under a supplemental pension plan

Supplemental pension plans are part of the family patrimony and can be one of the most important assets. Therefore, married or civil union spouses who separate must take such plans into account during partition of assets.

Former de facto (common law) spouses can also have partition carried out for the benefits accrued under their pension plans if they both give their consent.

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 benefits accrued under your pension plan.

1st step to partition

Application for a statement of benefits (valuation)

To make an informed decision, you or 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. However, the expense is well worth it, since the information on the statement can help you avoid costly mistakes.

Take note!

Do not rely on the annual statement from your pension plan to determine the value of your benefits. That statement does not specify the value as at the calculation date required in the event of partition. In addition, that value is not necessarily calculated according to the method required for partition.

2nd step to partition

Application for partition

The partition of benefits accrued under your supplemental pension plans is not carried out automatically; you or your former spouse must file an application with the plan administrator. 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. Except in exceptional circumstances, your former spouse cannot use the money until the time of his or her retirement. Any withdrawals will be taxable.

You should file for partition as soon as possible after the conjugal breakdown.

You can use the application forms for a statement of benefits and for partition provided on our Web site. Those forms can also be obtained by calling the Régie.

Payment

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). The statement of benefits from your plan's administrator will provide more information regarding the available options.

You can download the Régie's booklet *Are you familiar with LIRAs and LIFs?* from our Web site. You can also obtain a copy by calling the Régie.

Exceptions

Your former spouse can receive cash in the following cases:

- If the receivable amount does not exceed 20% of the maximum pensionable earnings (MPE) under the Québec Pension Plan, that is, 9 440 \$ in 2010;
- or**
- If your former spouse has not been living in Canada for at least 2 years;
- or**
- If you can receive a cash payment (for example, if you split a not locked-in account under a simplified pension plan).

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

Married, civil union or de facto spouses

Even though the steps for partition are the same, special conditions apply, depending on whether you were married, in a civil union or de facto spouses.

Take note!

Whether you were married or in a civil union and you partition of your family patrimony, or you were de facto spouses, the judgment or agreement cannot award your former spouse more than half of the total value of your benefits.

If you were married

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 legal separation or a civil annulment of marriage. Among other things, the statement will indicate the value of the benefits that are part of the family patrimony, that is, 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 after the date on which it was rendered.

If you were in a civil union

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 proceedings for the dissolution or annulment of civil union, whether in court or before a notary. Among other things, the statement will indicate the value of the benefits that are part of the family patrimony, that is, the portion accrued during your union.

2nd step: Application for partition

To partition your pension plan, you must obtain a judgment of dissolution or annulment of your civil union, or have signed, before a notary, a transaction contract (partition agreement) or a statement of dissolution. 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 or once your notarized documents have been signed.

If you were de facto (common law) spouses

Your former de facto spouse cannot unilaterally obtain partition of the benefits accrued under 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 to be recognized as such, you must have lived together for at least 3 years, or for 1 year if a child was or is to 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 former 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 the benefits accrued under your pension plan.

What to consider before making a decision about partition of your assets

Equal partition of the benefits accrued under your pension plan is not always the best way to share your assets. When you consider the partition of benefits accrued under 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.

Please note that 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 is generally the date on which your conjugal relationship ended or the date on which proceedings 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.

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. You can also find the address on our Web site, using our consultation service for supervised pension plans, or by calling the Régie.
- ▶ **about partition of benefits accrued under your pension plan**, consult your mediator or legal advisor.
- ▶ **about the *Supplemental Pension Plans Act***, in which you can find the rules for partitioning your benefits accrued under your pension plan, call the Régie.

*You will find
our publications
and forms on
our Web site.*



Child assistance payments

If you are separated and have a dependent child under the age of 18, you could be entitled to child assistance. In order to be eligible, the percentage of custody time for the child must be **at least 40%** on a monthly basis.

Currently, if the payments are in your name, you must notify the Régie of the change in your conjugal situation so that the new amount can be calculated. However, if you are not already the beneficiary, you must file an application for child assistance.

In order to be considered de facto separated, the breakdown of your union must have lasted for at least **90 days**. You must wait until that period has passed before notifying us of your new conjugal status.

Use our on-line services or call us to file an application or notify us of the change in your conjugal status.

Take note!

Under the *Taxation Act*, **you must notify us of shared custody. The Régie cannot take into consideration any financial agreement between the parents regarding the payment of child assistance** (agreement confirmed, or not, by the Court, mediation report, etc.).

Protection of personal information

The Régie des rentes du Québec obtains personal information from citizens, government departments and public agencies. We protect that information and make sure that it is used by duly authorized personnel in carrying out their duties.

However, the Régie can transmit the information it has to certain government departments and public agencies in accordance with written agreements, approved by the Commission d'accès à l'information du Québec.

The Régie's commitments

The Régie is committed to offering high-quality services which meet your expectations. To find out more about our commitments, consult the *Service Statement* on our Web site or call the Régie and ask for a copy.

Services Commissioner

The Services Commissioner handles complaints and comments with complete independence and confidentiality. The Services Commissioner can make recommendations to improve our programs and services. You can reach the Services Commissioner by telephone or by Internet.

How to reach us



By Internet

www.rrq.gouv.qc.ca



By telephone

Québec Pension Plan

Québec region: 418 643-5185

Montréal region: 514 873-2433

Toll free: 1 800 463-5185

Supplemental pension plans

Québec region: 418 643-8282

Toll free: 1 877 660-8282

Child assistance

Québec region: 418 643-3381

Montréal region: 514 864-3873

Toll free: 1 800 667-9625



TTY

(Québec Pension Plan and child assistance)

Service for the hearing impaired

Toll free: 1 800 603-3540

This publication does not have force of law. In cases of conflicting interpretation, the *Act respecting the Québec Pension Plan* or the *Supplemental Pension Plans Act* and their regulations prevail.

Adapted media versions are also available. To order a copy, call the Régie at 1 800 463-5185.

Version originale française disponible sur demande.