

PARTITION OF PENSION PLAN BENEFITS IN THE EVENT OF MARITAL BREAKDOWN



**COMMISSION
DE LA CONSTRUCTION
DU QUÉBEC**

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PREFACE

Since July 1, 1989, Québec laws have made provisions for the partition of the family patrimony in the event of legal separation, divorce, or marriage annulment. The family patrimony includes assets such as family residences, the family's furniture and cars, and the benefits accrued in the Québec Pension Plan. Pension plans such as the construction industry plan are also included in the family assets.

In the event of **legal separation, divorce, or marriage annulment**, the benefits accrued by a participant in the construction industry pension plan are therefore partitioned, upon request, with the ex-spouse. The partition is always executed in accordance with the provisions of the Québec Civil Code, the Supplemental Pension Plans Act (The Law), the Règlement sur les régimes complémentaires d'avantages sociaux dans l'industrie de la construction, or a court judgment.

Since July 1, 2004, the rules for family assets have also applied in cases of **dissolution or annulment of a civil union** between spouses of same or opposite sex.

Common-law spouses are not subject to the rules regarding family patrimony. Nevertheless, during the 12 months following a breakdown, ex-spouses may establish a written agreement respecting partition of the pension plan.

THE STEPS IN PARTITION OF THE PENSION PLAN

Application for a statement of benefits

A statement of benefits may be requested in order to know the value of the benefits accrued in the pension plan **before the agreement on the partition is concluded**. This statement presents the total value of benefits and the value of benefits accrued during the period covered by the partition.

It should be noted that the Annual Pension Statement sent to the participant each year must not be used for the purposes of partition.

An application for a statement must contain the required information and be accompanied by all the necessary complete documents. For more details, please consult, as applicable, the sections **“Application for a statement of benefits – Spouses in a marriage or civil union”** or **“Application for a statement of benefits – Ex-common-law spouses.”**

Application for a statement of benefits

Spouses in a marriage or civil union

The application for a statement may be filed when an **application** for legal separation, divorce, or marriage annulment or for dissolution or annulment of civil union has been **made to the court**. An application may also be filed if the spouses have engaged in **mediation** prior to this procedure or when a mutually agreed dissolution of a civil union before a notary is being sought.

WHO CAN APPLY FOR THE STATEMENT?

The participant, his or her spouse, or their legal representatives (lawyer, notary) may file an application for a statement.

HOW TO APPLY FOR THE STATEMENT?

The application must be filed **in writing** by filling out the form available for this purpose (see the section **“Where to apply?”**). Depending on the situation, the following information and documents must be included with the application:

Statement of benefits when an application has been made to the court:

- Name, address, date of birth, and the Commission de la construction du Québec (CCQ) client number (or social insurance number) of the plan participant
- Name, address, and date of birth of the spouse
- Copy of marriage or civil union certificate¹
- Copy of the application for legal separation, divorce, or annulment of marriage or for dissolution (declaration) or annulment of civil union
- Date(s) of valuation of benefits: the value of benefits is calculated as of the **date of institution of action** and/or the **date when the parties ceased living together**.

¹Only a marriage certificate issued by a parish or by the Directeur de l'état civil is recognized as proof of marriage. A marriage contract established before a notary is not accepted. A civil union certificate must be issued by the Directeur de l'état civil.

Statement of benefits for family mediation:

- Name, address, date of birth, and CCQ client number (or social insurance number) of the plan participant
- Name, address, and date of birth of the spouse
- Copy of marriage or civil union certificate¹
- Joint attestation of the date when the parties ceased living together (the value of the benefits will be calculated on that date)
- Written confirmation from an accredited mediator stipulating that he or she has obtained a mandate for family mediation

Statement of benefits for a mutually agreed dissolution of civil union:

- Name, address, date of birth, and CCQ client number (or social insurance number) of the plan participant
- Name, address, and date of birth of the spouse
- Copy of civil union certificate¹
- Joint attestation of the date set for establishing the net value of the family patrimony (the value of the benefits will be calculated on that date)
- Written confirmation from a notary stating that he or she has obtained a mandate to execute a mutually agreed dissolution of civil union

DEADLINE FOR PRODUCTION OF THE STATEMENT

The law requires that the statement be sent to the participant and to his or her spouse or to their legal representatives within **60 days** after receipt of the **duly completed** application.

¹ Only a marriage certificate issued by a parish or by the Directeur de l'état civil is recognized as proof of marriage. A marriage contract established before a notary is not accepted. A civil union certificate must be issued by the Directeur de l'état civil.

Application for a statement of benefits

Ex-common-law spouses

Although common-law spouses are not subject to the rules respecting family patrimony, they may establish, **within 12 months following the breakdown**, a written agreement respecting partition of the pension plan.

The law specifies that such an agreement cannot allocate to the ex-spouse more than 50% of the total value of the benefits accrued by the participant as of the date of the breakdown.

Before concluding the agreement respecting partition, the ex-spouses may file an **application for a statement** in order to know the value of the benefits accrued in the pension plan. The value is calculated as of the date of the breakdown.

WHO CAN APPLY FOR A STATEMENT?

The participant, his or her ex-spouse, and their legal representatives (lawyer, notary) may apply for a statement. The participant must consent to having a copy of the statement sent to his or her ex-spouse unless an agreement respecting partition of benefits made within 12 months of the breakdown is attached to the application.

HOW TO APPLY FOR A STATEMENT?

The application for a statement must be made **in writing** by completing the form available for this purpose (see the section “**Where to apply?**”).

It must include the following information and documents:

- Name, address, date of birth, and CCQ client number (or social insurance number) of the plan participant
- Name, address, and date of birth of the ex-spouse
- Joint attestation of the period the parties lived together
- Participant’s attestation of celibacy
- Participant’s consent to the disclosure of information concerning his or her pension plan to his or her ex-spouse if no agreement respecting partition is attached to the application
- If applicable, the agreement concluded between the ex-common-law spouses respecting partition of the participant’s benefits

The value of the benefits is established as of the **date of the breakdown**.

The CCQ may ask for additional documentation when it processes your application.

DEADLINE FOR PRODUCTION OF THE STATEMENT

The law requires that the statement be sent to the participant and to his or her spouse within **60 days** after receipt of the **duly completed** application.

The application for partition of benefits

Partition of the pension plan **does not take place automatically.**

An application for partition must be sent to the CCQ. It should be noted that the participant's ex-spouse does not have to wait for the participant to retire to receive the money due to him or her. The partition may be applied for **as soon as the judgment ordering it comes into effect.**

In the event of a dissolution or annulment of civil union by notarial act or of breakdown of common-law partnership, the partition may be applied for as soon as an agreement is concluded between the parties to that effect.

The partition may be applied for without an application for a statement having been filed beforehand.

An application for partition must contain the required information and be accompanied by all the necessary complete documents. For more details, please consult, as applicable, the sections **“Application for partition of benefits – Ex-spouses of a marriage or a civil union”** or **“Application for partition of benefits – Ex-common-law spouses.”**

Application for partition of benefits Ex-spouses of a marriage or civil union

WHO CAN APPLY FOR PARTITION?

The participant, his or her ex-spouse, or their legal representatives (lawyer, notary) may apply for partition as soon as the **judgment** ordering the partition **is in effect** or, in the case of a civil union, as soon as it is dissolved or annulled.

HOW TO APPLY FOR PARTITION?

The application for a statement must be made **in writing** by completing the form available for this purpose (see the section **“Where to apply?”**). It must include the following information and documents:

- Name, address, date of birth, and CCQ client number (or social insurance number) of the plan participant
- Name, address, and date of birth of the ex-spouse
- Copy of marriage or civil union certificate¹
- Copy of the judgment ordering the separation, divorce, or annulment of marriage or the dissolution or annulment of civil union (a certified copy may be obtained at the courthouse where the judgment was rendered)
- If there is one, a copy of the agreement concluded between the ex-spouses respecting partition of the participant's benefits (this agreement is normally an integral part of the judgment)
- If applicable, the notarial acts recording the joint declaration and agreement of the parties, in the case of a dissolution of civil union
- Any other judgment relating to partition of the participant's benefits
- Copy of divorce certificate
- Copy of the certificate of no appeal proving that the decision is final

¹ Only a marriage certificate issued by a parish or by the Directeur de l'état civil is recognized as proof of marriage. A marriage contract established before a notary is not accepted. The civil union certificate must be issued by the Directeur de l'état civil.

Application for partition of benefits

Ex-common-law spouses

WHO MAY APPLY FOR PARTITION?

The participant, his or her ex-spouse, or their legal representatives (lawyer, notary) may apply for partition as soon as an agreement is established to this effect.²

HOW TO APPLY FOR PARTITION?

The application for partition must be made **in writing** by completing the form available for this purpose (see the section “**Where to apply?**”). It must include the following information and documents:

- Name, address, date of birth, and CCQ client number (or social insurance number) of the plan participant
- Name, address, and date of birth of the ex-spouse
- Participant’s attestation of celibacy
- If applicable, the **agreement** concluded between the ex-common-law spouses respecting partition of the participant’s benefits. An **original document** is required
- If applicable, the notarial act respecting partition of benefits
- If applicable, all judgments respecting partition of participant’s benefits

² The law specifies that the agreement must be concluded between the ex-spouses **within 12 months following the breakdown** and cannot have the effect of allocating to the ex-spouse more than 50% of the total value of the benefits accrued by the participant as of the date of the breakdown.

The CCQ may ask for additional documentation when it processes the application.

It should be noted that an **agreement** must contain at least the following information:

- Mention of the dates that marital life began and ended
- Name of the pension plan concerned
- Mention of the partitionable amount or acknowledgment of having had the opportunity to know the partitionable amount
- Details of the partition: amount transferred or percentage assigned to participant's ex-spouse
- Period covered by the partition
- Mention that the partition is voluntary and that there is no legal obligation to proceed with it
- Mention that the agreement was freely and willingly signed, in full knowledge of the facts
- Parties' signatures
- Signature dates
- Addresses of the parties

Unless otherwise indicated in the agreement, the amount allocated to the ex-spouse is adjusted higher or lower to take account of interest and returns applicable between the benefit valuation date and the date of execution of the partition.

Execution of the partition

Applicable deadlines

When the CCQ receives an application for partition, it sends a written notice to both parties to inform them of the value of the benefits to be allocated to the participant's ex-spouse. The CCQ cannot execute the partition until the **60-day** notice given to the applicant's ex-spouse **starting on the date the notice was sent**, has expired.

If the application is **signed by both ex-spouses**, there is **no waiting period** before execution of the partition. However, a letter is sent to both parties informing them of the amount that will be paid to the participant's ex-spouse.

To execute the partition, the CCQ advises the participant's ex-spouse of the forms to fill out for the payment to be made or the funds to be transferred to the financial institution of his or her choice. The transfer or payment, depending on the case, must be made within 60 days after the 60-day notice given to the applicant's ex-spouse has expired, if applicable.

It should be noted that the partition cannot be executed if the participant's ex-spouse renounces his or her rights or if the participant has undertaken legal proceedings to oppose the partition.

Terms of payment to the ex-spouse

The CCQ does not manage the **ex-spouse's share**. It must be **transferred** or paid out, even if the participant is already receiving a pension from the pension plan.

The amount allocated to the participant's ex-spouse must be transferred to an investment instrument used to create a life annuity: locked-in retirement account (LIRA), life income fund (LIF), eligible annuity contract, or registered pension plan (RPP).

If, however, on the date of the application, the value of the benefits allocated through the partition is below the standard set under the Règlement sur les régimes complémentaires d'avantages sociaux dans l'industrie de la construction, the ex-spouse may choose to receive a personal cheque, with income taxes deducted, or to transfer this value into a registered retirement savings plan (RRSP), with no income-tax deductions.

Applicable interest

Unless otherwise indicated, the amount allocated to the ex-spouse is adjusted upward or downward to take account of interest and returns applicable between the benefit valuation date and the date of execution of the partition.

However, if the ex-spouse fails to indicate the mode of payment to the CCQ within the required time, no interest or returns are credited between the expiry of the period and the date on which the ex-spouse made his or her choice known.

Reduction in participant's benefits

Execution of the partition reduces the participant's benefits in the following way:

A

If the participant **is not receiving a pension** at the time the partition is executed, an amount reflecting the value of the benefits paid to his or her ex-spouse is recorded in the participant's file. This amount will reduce any benefit that may be payable to the participant from the pension plan. Note that the execution of the partition **does not affect the number of hours worked** in the participant's file.

B

If the participant is **retired** at the time the partition is executed, his or her pension is reduced to take into account the share allocated to the ex-spouse and the pension amounts overpaid since the date of valuation of the partition. Therefore, **the longer the period between the date chosen for the partition and the date of payment to the ex-spouse, the greater the reduction in the participant's pension.** This may result in a reduction of the monthly pension that may exceed 50%.

If the employee is in partial retirement – receiving a pension from the general account but not yet receiving a pension from the complementary account – his or her file is treated as follows:

- The benefits accrued in the complementary account are treated as if they were those of a non-retired participant (see point A)
- The benefits accrued in the general account are treated as if they were those of a retired participant (see point B)

Reinstatement of the retiree's pension

IF THE DATE OF RETIREMENT IS BEFORE DECEMBER 1, 2013

If, at the time of retirement, a retiree chose a pension with a 60% survivor benefit at his or her death and the spouse has lost the right to this benefit following the separation, divorce, or annulment of marriage, the dissolution or annulment of a civil union, or the breakdown of common-law partnership, the retiree's pension **may be reinstated with the option of a pension with a 50% survivor benefit**, which may slightly increase the amount of his or her pension.

The CCQ automatically performs this reinstatement when the benefits are partitioned provided that the event giving rise to the loss of the spouse's right to the death benefit took place after June 30, 2005. If this is not the case, the reinstatement is made upon request.

IF THE DATE OF RETIREMENT IS DECEMBER 1, 2013 OR AFTER

If, at the time of retirement, a retiree chose a pension with a 60% survivor benefit at his or her death and the spouse has lost the right to this benefit following the separation, divorce, or annulment of marriage, the dissolution or annulment of a civil union, or the breakdown of common-law partnership, the retiree's pension **may be converted into a pension without survivor benefit**, which may increase the amount of his or her pension.

The CCQ automatically performs this conversion when the benefits are partitioned unless the retiree asks to retain a pension with a 60% survivor benefit. If there is no partition of benefits and the retiree wishes to convert the pension with a 60% survivor benefit to a pension without a survivor benefit, the retiree must ask the CCQ to make this change.

WHERE TO APPLY?

You can use the form **Application for Statement or Partition of Accrued Benefits in the Supplemental Pension Plan for Employees in the Québec Construction Industry** to file your different applications with the CCQ.

If it is an application respecting a **common-law partnership**, please use the **form for this purpose**.

You can obtain the appropriate form by calling the CCQ's Customer Services at **1 888 842-8282**, or by consulting the **“Forms”** section of the website, **ccq.org**.

In all cases, applications must be made in writing and be mailed to the address below, accompanied by the required documents and information:

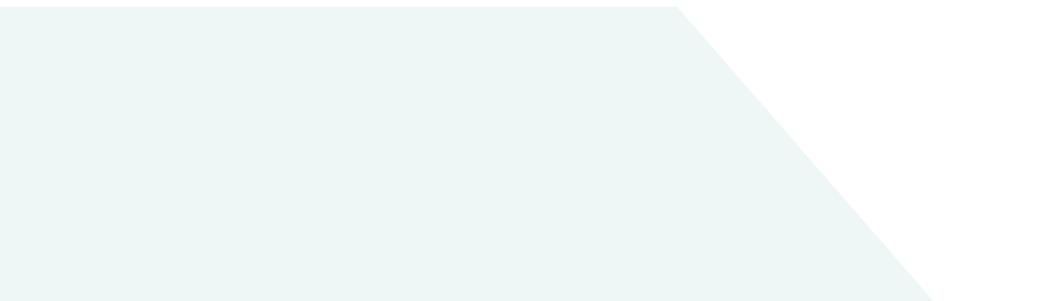
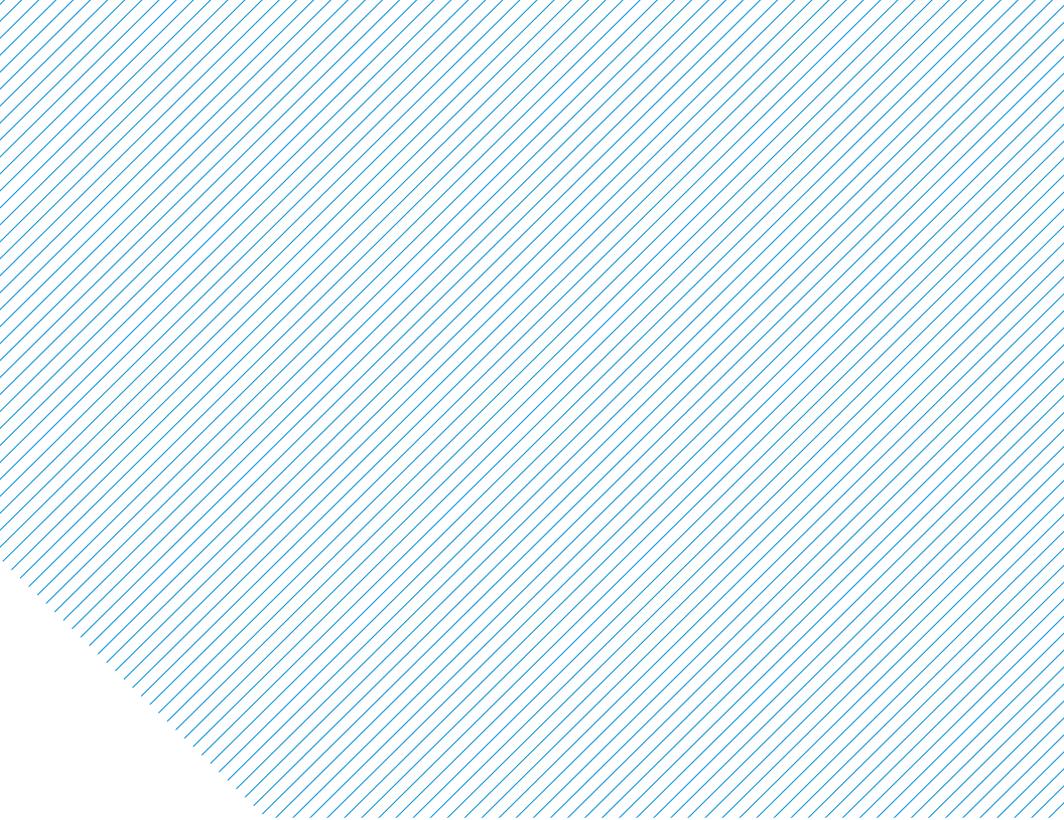
**Commission de la construction du Québec
Section Retraite et assurance vie
C.P. 2500, succursale Chabanel
Montréal (Québec) H2N 0A9**

The documents and information may also be sent by fax, to the attention of the Section Retraite et assurance vie, at **514 736-6708**.

Unless otherwise indicated, copies of documents are accepted as long as they include all pages.

The present document has been produced for information purposes.
Only the applicable statutes and regulations have legal value.

To obtain more information on partition, please consult with a
mediator or legal counsel.



INFORMATION

For more information,
contact our Customer
Services at
1 888 842-8282
or visit our website,
ccq.org.



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