

RETRAITE QUÉBEC

Public-Sector Pension Plans

In the Event of the Breakdown of Your Union



This booklet addresses the partition of the value of benefits accrued under a public-sector pension plan for married, civilly united or de facto spouses.

Consult the publication *If You Separate*, available on Retraite Québec's website, to learn how employment earnings recorded under the Québec Pension Plan are partitioned in the event of a break-up.

Table of contents

Partition of the value of benefits accrued under a public-sector pension plan	4
If you were married or in a civil union	4
If you were de facto spouses	6
How to partition the value of benefits accrued under a pension plan	9
To find out the value of benefits accrued under a pension plan	9
Payment of the value of benefits accrued under a pension plan	11
Transfer of amounts granted in the partition of the value of accrued benefits	15
Impact of the partition of the value of benefits accrued under a pension plan	16
In the event of death	18
To serve you better	19
Protection of personal information	19
Contact us	20

Partition of the value of benefits accrued under a public-sector pension plan

The benefits accrued under a pension plan correspond to the benefits a member or a non-active member accrued under the pension plan he or she is participating in or has participated in. If you are an active or non-active member of a public-sector pension plan or if you are a retiree, the breakdown of your union can have an impact on your pension plan depending on your conjugal status.

If you were married or in a civil union

The benefits accrued under a pension plan during your marriage or civil union are part of the family patrimony. The value of the benefits can therefore be partitioned in the event of a legal separation, divorce, annulment of marriage, payment of compensatory allowance, or dissolution or annulment of your civil union, **unless the spouses waive their rights or are not subject to the provisions of the family patrimony.**¹

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1. **The rules of partition of the family patrimony do not apply to the following persons:** spouses married before 1 July 1989 who, before 1 January 1991, gave notice by way of a notarial deed of their intention not to be subject to the provisions regarding family patrimony; married spouses who stopped living together before 15 May 1989 and settled the economic consequences of their separation in writing or otherwise, except if they resumed living together; married spouses who applied for divorce, legal separation, annulment of marriage or payment of a compensatory allowance before 15 May 1989; married spouses and spouses in a civil union who waived their right to partition pursuant to the *Civil Code of Québec*.

Worth knowing about...

A **religious or civil marriage** is a legitimate union between two persons provided for by law for the purpose of living together. The vast majority of marriages celebrated in Québec are **recognized everywhere**.

A **civil union** is a legitimate union between two persons who decide to officially live together without getting married or entering into a civil or religious marriage. Once the civil union has been celebrated, the Directeur de l'état civil issues an act of civil union, which is the official document attesting to the union.

Since civil unions were introduced in Québec on 24 June 2002 and since the **federal government does not recognize them**, persons must qualify as de facto spouses within the meaning of the federal *Income Tax Act* in order to benefit from the right to partition the family patrimony and their survivors' benefits. They must meet one of the following conditions. They must:

- have been living together in a conjugal relationship for at least 12 months;
- be parents of a child by birth or adoption;
- have custody and control of their spouse's child (or had custody and control immediately before the child turned 19 years of age).

If you were de facto spouses

The partition of benefits accrued under certain public-sector pension plans² can be requested once the de facto spouses stop living together. Note that partition is carried out on a voluntary basis and that the law provides for the spouse to receive up to 50% of the value of the benefits accrued over the total period of plan membership.

Former de facto spouses must, within **12 months** following the date they stop living together, **agree in writing** to partition the value of benefits accrued under the pension plan.

The agreement must be signed by both spouses before a notary or lawyer or be made by joint declaration under oath.

2. The partition of accrued benefits is possible in the following pension plans: Government and Public Employees Retirement Plan (RREGOP), Retirement Plan for Senior Officials (RPSO), Pension Plan of Management Personnel (PPMP), Civil Service Superannuation Plan (CSSP), Teachers Pension Plan (TPP), Pension Plan of Certain Teachers (PPCT), Superannuation Plan for the Members of the Sûreté du Québec (SPMSQ), Pension Plan of Peace Officers in Correctional Services (PPPOCS), Pension Plan of Elected Municipal Officers (PPEMO), Retirement Plan for Active Members of the Centre hospitalier Côte-des-Neiges (RPCHCN).

De facto spouses who stopped living together after 31 August 1990, but before 1 January 2019, and who voluntarily agreed in writing to the partition of the benefits accrued under their public-sector pension plan, can still file an Application for a Statement of Benefits. Thereafter, Retraite Québec will carry out partition if the written agreement was made within the prescribed time limit. Note that the time limit for written agreements regarding the partition of the value of benefits accrued under one of the public-sector pension plans listed in the footnote was 12 months as of 1 January 2019, except for the Superannuation Plan for the Members of the Sûreté du Québec (SPMSQ), in which case the deadline was 12 months as of 10 January 2019.

Worth knowing about...

With respect to public-sector pension plans administered by Retraite Québec, **de facto spouses** are persons who, when they stopped living together, were not married or in a civil union, provided they represented themselves in public as de facto spouses and lived in a conjugal relationship for at least:

- three years prior to the date they stopped living together;

or

- one year prior to the date they stopped living together if:
 - a child was born or will be born of the union;
 - one of the spouses adopted the other's child;
 - they adopted a child together.

Specific characteristics of certain pension plans:

SPMSQ

To be recognized as **de facto spouses** by the Superannuation Plan for the Members of the Sûreté du Québec (**SPMSQ**), you must have represented yourselves in public as de facto spouses and have lived in a conjugal relationship for:

- at least one year prior to the date you stopped living together;

or

- less than one year prior to the date you stopped living together if you meet one of the three above-mentioned conditions concerning the birth or adoption of a child.

PPEMO

To be recognized as **de facto spouses** by the Pension Plan of Elected Municipal Officers (**PPEMO**), you must have represented yourselves in public as de facto spouses and have lived in a conjugal relationship for:

- at least three years prior to the date you stopped living together;

or

- for at least one year prior to the date you stopped living together if a child was born or will be born of the union.

How to partition the value of benefits accrued under a pension plan

If you wish to partition the value of benefits accrued under a public-sector pension plan, you and your spouse must:

- apply for a statement of benefits accrued under a pension plan;
- apply for the payment of the value of benefits accrued under the pension plan.

To find out the value of benefits accrued under a pension plan

The statement of benefits accrued is the only document that indicates the total value of the benefits accrued by a person in one or more pension plans administered by Retraite Québec and the value of the benefits accrued during a marriage or civil union. It also indicates the **reduction applicable to your pension** if the benefits were partitioned.

If you were married or in a civil union

You can request a statement of accrued benefits from Retraite Québec as soon as you file proceedings for a legal separation, divorce or annulment of marriage, payment of compensatory allowance or dissolution or annulment of your civil union. You can also request a statement if you have not filed proceedings but are in family mediation or if you have filed a joint procedure for the dissolution or annulment of your civil union with a notary.

In all cases, to obtain the statement of accrued benefits, you, your spouse or your authorized representative (lawyer, notary or accredited mediator), must:



Complete and submit the Application for a Statement of Benefits – Married or Civilly United Spouses (form RSP 388A), available on Retraite Québec’s website. Retraite Québec will send you the statement of accrued benefits within 90 days of receiving the form and all the necessary documents.

Even if you are a member or non-active member of more than one public-sector pension plan, you only need to file one application. However, if both you and your spouse are members or non-active members of one or more plans, you must file two separate applications.

The value of the benefits indicated on the statement may differ depending on your situation on the date the benefits are valued and whether you were eligible for a retirement pension at the time.

- If the benefits consist in a refund of contributions, the value corresponds to all of the contributions you made to the plan up until the date the benefits were valued, plus interest if applicable.
- If the benefits consist in a deferred pension, an immediate pension or a pension in payment, the value corresponds to the actuarial value of the entire pension accrued up until the date the benefits were valued.

If you were de facto spouses

Before partitioning the benefits accrued under a public-sector pension plan, members, non-active members and retirees must apply to Retraite Québec for a statement of accrued benefits. This application will also attest to your marital status. To do so:



Complete and file the Application for a Statement of Benefits – De Facto Spouses (form RSP 387A), available on Retraite Québec’s website. Once Retraite Québec has received the form and all the necessary documents, it has 90 days to send you the statement of accrued benefits.

Each pension plan for which you wish to obtain a statement of accrued benefits must be specified on the application form.

Payment of the value of benefits accrued under a pension plan

If you partition the value of the benefits accrued under the pension plan, you must apply to Retraite Québec for payment of the amounts allocated to your spouse under partition.

If you were married or in a civil union

Members, non-active members, retirees or their spouses, or authorized representatives (notary, lawyer or accredited mediator) can apply for payment of the value of benefits accrued.

To apply for payment of the value of benefits accrued:



Complete the Application for Payment of the Value of Accrued Benefits Under a Public Sector Pension Plan – Married, Civilly United and De Facto Spouses (form RSP 389A), available on Retraite Québec's website;

_____ **and** _____

send it to us with all the necessary documents as soon as the judgment is rendered or as soon as the civil union is dissolved by way of a notarial deed.

You do not have to wait to retire.

The court generally grants 50% of the value of benefits accrued under the pension plan **during** the marriage or civil union. However, by law, it can up to 50% of the total value of benefits accrued **during the entire time of participation** in the plan. If the value of benefits accrued under your pension plan is partitioned with your spouse, this will reduce the amount of the retirement pension you will receive later on.

If both spouses have benefits accrued under a public-sector pension plan and the value must be partitioned, you can ask for the partition of only 50% of the difference between the value of the benefits accrued in each plan. To do so, you must enclose a letter of authorization bearing the signatures of both spouses with your application.



If you were de facto spouses

De facto spouses who wish to partition the benefits accrued under a public-sector pension plan must send Retraite Québec an application for payment accompanied by the written agreement to partition. This agreement must be signed by both spouses before a notary or lawyer or be made by joint declaration under oath.

Members, non-active members, retirees or their spouses can apply for payment of the value of benefits accrued. To do so:



Complete the Application for Payment of the Value of Accrued Benefits Under a Public Sector Pension Plan – Married, Civilly United and De Facto Spouses (RSP 389A), available on Retraite Québec's website;

_____ **and** _____

send it to us with all the necessary documents, including the **written agreement to partition**. **You do not have to wait to retire.**

For de facto spouses, the partition cannot exceed 50% of the value of the benefits accrued **during the entire time of participation** in the plan.

Transfer of amounts granted in the partition of the value of accrued benefits

Only the amounts for benefits accrued under a registered pension plan (RPP) can be transferred to one of the financial vehicles listed below. Some pension plans are made up of an RPP and a supplementary benefits plan (SBP). The value that can be partitioned under an SBP cannot be transferred to a locked-in financial vehicle, but is payable by cheque with the applicable tax deductions.

Whether you were married, in a civil union or de facto spouses, the amounts granted in the partition of the value of benefits accrued under a pension plan must be transferred to one of the following financial vehicles:

- Annuity contract
- Locked-in retirement account (LIRA)
- Life income fund (LIF)
- Registered retirement savings account (RRSP) or registered retirement income fund (RRIF). The benefits can be transferred to an RRSP or RRIF only if you are eligible for a refund of contributions on the date of valuation of the benefits.



In order for us to transfer the amounts granted in the partition of accrued benefits, the person who benefits from partition must send us the duly completed Canada Revenue Agency's Direct Transfer of a Single Amount form (T2151).

The form must be sent to Retraite Québec within 60 days following the date on which the letter confirming the amounts granted is mailed. Retraite Québec then has 120 days to complete the transfer.

Impact of the partition of the value of benefits accrued under a pension plan

Once the benefits accrued under a public-sector pension plan have been partitioned, a reduction due to partition will be calculated and indicated in the file of the member, non-active member or retiree. This is a **permanent** reduction of the benefits you will receive or are already receiving if you are retired.

If you have not yet begun receiving your retirement pension:

- the reduction will apply as of the date it comes into effect;
- the amount of the reduction will be adjusted upward or downward based on your age at the time you retire and the date the benefits are paid.

If you are retired:

- your pension will be reduced as of the date the benefits are paid.

Important

If you are retired on the **date of valuation of the benefits**, the amount of the reduction indicated on the statement of benefits will be adjusted upward by 0.5% for each month between the valuation date and **the date the benefits are paid** (the date on which the amounts are transferred). Therefore, you must apply for payment of the benefits as soon as possible.

The date of valuation of the benefits corresponds to one of the following three dates:

- the date on which one of the above-mentioned proceedings is introduced in the Superior Court of Québec;
- the date you stop living together;
- the date indicated on the notarized joint declaration settling the dissolution of the civil union in the case of civil union spouses who dissolve their union before a notary.

In the case of a refund of contributions that occurs once the benefits accrued under a pension plan have already been partitioned, the portion granted to your former spouse will be subtracted from the refund.

In the event of death

If the event of your death, if your divorce was granted, if your marriage was annulled, if your civil union was dissolved or annulled, or if you ended your de facto union, your former spouse is not entitled to any benefits. However, in some cases, if you did not have a new spouse, a death benefit may be paid to your former spouse as an heir to your estate.

If all or some of the value of the benefits accrued under your pension plan was included in the value to be partitioned following a legal separation, your former spouse is not entitled to any surviving spouse's benefits unless you resumed living together.

Important

Spouses who are legally separated are still married within the meaning of the law. If you are legally separated at the time of death and you have a new de facto spouse, your de facto spouse will not be entitled to survivors' benefits. However, he or she may receive a death benefit as an heir to your estate.

If the value of the benefits accrued under your pension plan was not included in the value to be partitioned after the legal separation, your former spouse retains his or her status and is entitled to survivors' benefits, even if you had a new de facto spouse.

To serve you better

Retraite Québec is committed to:

- offering high-quality services that meet your needs and expectations. Consult our Service Statement online.
- handling complaints and comments with complete independence and confidentiality. The Commissaire aux plaintes et à l'amélioration des services can make recommendations to improve our services and programs. You can phone us to leave a comment or file a complaint with the Commissaire. For more information, refer to our website.

Protection of personal information

We obtain personal information from citizens, government departments and public agencies. We protect that information and make sure that it is used only by duly authorized personnel in carrying out their duties.

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

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Partenaire de votre
sécurité financière