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PROSPECTS

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UNDERSTANDING PARTITION AND HOW IT AFFECTS RETIREMENT

Québec
Pension
Plan

Québec 



PARTITION OF EMPLOYMENT EARNINGS RECORDED UNDER THE QUÉBEC PENSION PLAN

AN ELEMENT OF FAMILY PATRIMONY THAT MUST BE CONSIDERED IN RETIREMENT PLANNING

Since the notion of family patrimony was introduced into the Québec Civil Code, couples who receive a separation from bed and board, a divorce or an annulment of marriage are subject to legal provisions that are intended to result in an equitable division of the property accumulated during the time they lived together.

However, many couples do not know that family patrimony includes the employment earnings recorded under the Québec Pension Plan during their marriage. To avoid any unpleasant surprises upon retirement, it is important that each spouse be well informed of his or her rights in the patrimony and the effects that partition or renunciation of partition may have.

In general, the rules regarding family patrimony apply to all married persons, whether they were married before or after 1 July 1989 (the date on which the act that instituted family patrimony came into force), regardless of their matrimonial regime.

In the event of a separation from bed and board, a divorce or an annulment of marriage, the employment earnings recorded under the names of both former spouses in the Québec Pension Plan are partitioned between them.



How is partition carried out?

As a rule, it is the net value of the family patrimony that is subject to partition between former spouses. The Régie des rentes du Québec takes into consideration the employment earnings recorded under the Québec Pension Plan for each former spouse for every year that they lived together. The earnings are added together and then divided into 2 equal parts. Therefore, after partition has been carried out, the former spouses have identical earnings for the years of their marriage. The Régie always carries out partition when it receives a copy of the judgment of divorce, separation from bed and board or annulment of mar-

riage, except if the judgment mentions that there is to be no partition.

What effect does partition have?

Partition between former spouses of the employment earnings recorded under the Québec Pension Plan can change the amount of a pension that is already being paid. It can affect the calculation of the future benefits to which they may be entitled. Following partition, the Régie notifies each former spouse of the amounts of the employment earnings that were partitioned and provides them with an estimate of pension amounts before and after partition.

What about the Canada Pension Plan?

Partition of the earnings recorded under the Canada Pension Plan is also carried out for persons who have worked outside Québec and have contributed to the Canada Pension Plan in the event of divorce, separation or annulment of marriage, unless they have expressly renounced partition. If they also contributed to the Québec Pension Plan, the contributions made to both plans are taken into account in calculating benefits when the time comes.

The period covered by partition begins on 1 January of the year of marriage and ends on 31 December of the year preceding the separation from bed and board, divorce or annulment of marriage or, if the court so orders, the year preceding the date on which the spouses stopped living together.

The Québec Pension Plan offers protection:

In case of retirement

The Plan was set up in order to guarantee workers a basic retirement income. The retirement pension to which the Plan gives entitlement constitutes basic financial security for old age. A retirement pension is available to all workers who have contributed to the plan and are at least 60 years of age.

In case of disability

The Plan provides for protection in the event of disability. It can pay a disability pension to a disabled worker, and pensions for a disabled person's child to his or her dependent children under age 18.

In case of death

The Plan protects a participating worker's immediate family should he or she die. A death benefit of \$2,500 reimburses all or part of the funeral expenses. If those expenses are less than \$2,500, the difference is given to the heirs after a period of 60 days. In addition, the spouse is eligible for a surviving spouse's pension and any children under age 18 can receive financial assistance in the form of an orphan's pension until they reach 18 years of age.

All workers age 18 and over must contribute to the Québec Pension Plan if their employment earnings are greater than the amount of the basic exemption, which has been \$3,500 since 1 January 1998. Employers also contribute to the Plan. One year of participation in the Plan is credited for each year during which a worker made contributions on earnings over the amount of the basic exemption.

Interview with Ms. Sylvie Matteau, lawyer, president of the Comité des organismes accréditeurs en médiation familiale, and mediator since 1986.

By Geneviève Bastien

Mediation: a means to a fair end



"People who are in the process of divorcing or separating tend to neglect future sources of income because they are more concerned with the present moment and dealing with short-term issues."

Ensuring your future and your financial security upon retirement is important. So important, that almost 10 years ago, lawmakers decided to include in family patrimony the benefits or amounts of money accumulated in pension plans, including the employment earnings recorded under the Québec Pension Plan. Given the confusion that often accompanies a separation or divorce, using the services of a mediator can help spouses to assess their needs and find appropriate solutions together.

Prospects ❖ *What is mediation and what role does a mediator play in the partition of family patrimony?*

Ms. Matteau ❖ Mediation is a voluntary process. It helps spouses to assess the consequences of their separation or divorce with the help of an impartial third party, that is, a mediator. The mediator, who has no decision-making power, is there to inform the spouses and help them to communicate better so that they are able to arrive at a satisfactory agreement.

Prospects ❖ *Overall, what is the process leading up to partition of family patrimony?*

Ms. Matteau ❖ The mediator encourages the spouses to examine everything involved in the reorganization of their lives. In terms of family patrimony, it is the net value that is divided between spouses. Each portion can be allocated either in money or through the transfer of property. Therefore, the first step is to draw up a complete list of both the property and the debts that make up the family patrimony in order to determine the net value to be divided.

Another essential element in the process is a good understanding of the effects of partition. Certain possessions that may appear to have an equivalent value are in fact less advantageous for the spouse who takes them because of the expenses that they could lead to later on. For example, the person who keeps the house will have to pay the taxes and the maintenance costs, whereas the transfer of an RRSP does not involve such expenses. That is why it is important for both spouses to be well advised. Once we know all of the couple's assets and their financial consequences, we can explore various options that might not have been considered without all the information. That is the main advantage of mediation. Lastly, we carry out the physical division of property, if necessary, ensuring that each spouse receives a portion that he or she considers satisfactory and fair.

Prospects ❖ *How do you find out about partition of employment earnings recorded under the Québec Pension Plan?*

Ms. Matteau ❖ You can apply for a simulated partition from the Régie by filling out a simple form. It does not take very long to receive the documents simulating partition of earnings in the Plan. Not only do couples see the effects of partition, but the Régie also provides certain information that helps them to really understand it. The simulation is made on the basis of the date that they indicated, and the spouses see that their retirement income will continue to accumulate as they continue to contribute to the Plan following partition. This gives them a good idea of what to expect at age 65 as concerns the retirement pension they will receive from the Régie, given the earnings that have been recorded up to that time. This procedure in no way delays mediation and it helps couples to confirm or review their choices. But the main point is that it helps people to make informed decisions.

Prospects ❖ *Do you have any advice for couples who plan on renouncing partition before even looking into it?*

Ms. Matteau ❖ Getting a simulated partition is a simple formality, and understanding the effects of partition is very important because of the financial consequences. It is hard to understand why all those concerned do not systematically take advantage of the possibility. It gives them an idea of the amounts recorded under their names in the Plan and the amount of the pensions to which they could later be entitled. Why not use the tools offered to us?

Would you like to have the services of a mediator?

You can contact an agency that is accredited in family mediation to obtain a list of the mediators practising in your region.

- Barreau du Québec, 1 800 361-8495, extension 458
- Chambre des notaires du Québec, 1 800 263-1793
- Ordre professionnel des conseillers et conseillères d'orientation du Québec, 1 800 363-2643
- Ordre des psychologues du Québec, 1 800 561-1223
- Ordre professionnel des travailleurs sociaux du Québec, (514) 731-3925 (collect calls accepted)

GET THE FACTS BEFORE YOU RENOUNCE PARTITION!

For many, retirement is a source of anxiety. Often, people fear financial insecurity and a less attractive lifestyle. That is one good reason to think twice about renouncing partition of employment earnings recorded under the Québec Pension Plan if you divorce, separate or have your marriage annulled.

Before renouncing partition, you need information on the consequences of your decision. We strongly suggest that you apply for a simulated partition to get a detailed picture of your situation and to be in a position to make an informed decision regarding the financial aspects of your divorce, separation or annulment of marriage. (See “How to Reach the Régie des rentes du Québec”, on page 7).

Simulation of the effects of partition

To simulate the effects of partition, the Régie must obtain certain authorizations from the spouses. First, if only one of you applies for a simulated partition, you must indicate the Superior Court registration number of the divorce, separation from bed and board or annulment of marriage proceeding to obtain the information indicated on the simulation. You then receive a statement on which the employment earnings that are recorded for you under the Plan are indicated, before and after partition, as well as an estimate of the amount of your retirement pension before and after partition.

If you have not yet begun proceedings and are unable to provide a court registration number, you must obtain written authorization from your spouse so that the Régie can issue the simulation. Without written authorization or a court registration number, the Régie cannot issue the simulation. Likewise, if one of you does not want the other to be informed of the amount of his or her retirement pension before and after partition, under the *Act respecting Access to documents held by public bodies and the Protection of personal information*, the Régie cannot release such information.

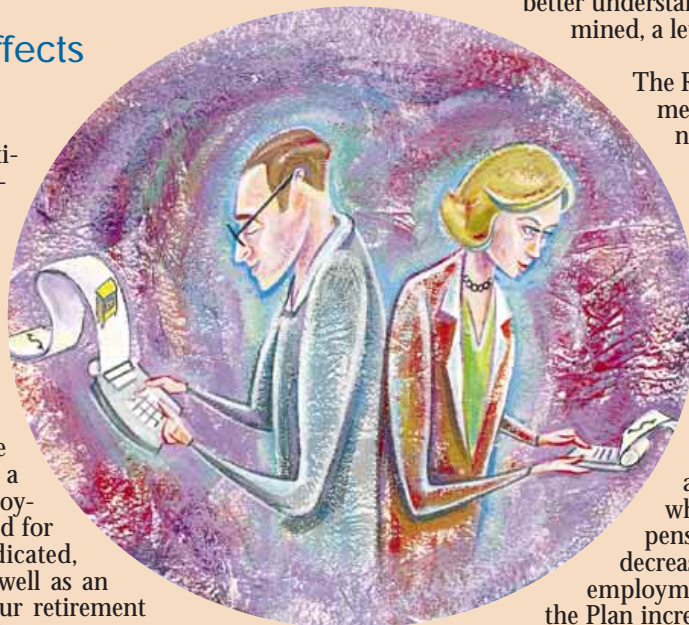
A simulated partition is carried out on the basis of the information in the files of each spouse and that provided on the *Application for Simulated Partition of Employment Earnings*. In order to estimate pensions before and after partition, the Régie's pension officers need information such as the spouses' social insurance numbers, the period

during which they lived together and the names and addresses of their lawyers. A mediator can help them to complete the application form or a lawyer or notary can fill it out for them. In that case, the Régie sends the documents regarding the simulation directly to the intermediary, who will then explain the simulation and the future partition to the spouses.

Statement of Partition

The clerk of the Superior Court sends the Régie a copy of each judgment of divorce, separation from bed and board or annulment of marriage pronounced in Québec. The Régie then goes over the judgment with a fine-tooth comb to see whether the spouses explicitly renounced partition of the earnings recorded under their names in the Plan. Since 1997, the Régie must carry out partition unless there is a clear and unequivocal renunciation in the judgment.

If there is no such renunciation, the Régie carries out partition and then notifies both former spouses. To help them better understand how the partition was determined, a letter of explanation is enclosed.



The Régie adds together the employment earnings recorded under the names of the former spouses and divides them in 2 equal parts for every year they lived together. The amounts are then recorded in each person's file. There is no immediate cash payment. The amounts that are credited to each person are used to determine the value of the pensions to which they could eventually be entitled. If one of the former spouses 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 Plan increased or decreased as a result of partition.

If you wish to obtain a simulation of the effects of partition, you can obtain the application form from the Régie des rentes du Québec, a lawyer, a notary or an agency that offers support services to couples thinking about a divorce, a separation from bed and board or an annulment of marriage.

You can also request folders on simulation and on the Statement of Partition by calling the Régie at one of the numbers shown on page 7.

Applications are processed promptly at the Régie

Simulated Partition

Date: 14 Avril 1999
 Reference number: 6
 Social Insurance Number: 220 003 123

Pension Estimates

Name:	Harry Jones	Sally Smith
Date of Birth:	12 September 1934	13 July 1946
Estimated pension:	Retirement	Retirement
Accumulated amount before partition:	\$ 732	\$ 267
Accumulated amount after partition:	\$ 606	\$ 362


The Régie usually issues statements of partition less than 30 days after it receives a copy of the judgment of separation from bed and board, divorce or annulment of marriage. Obtaining a simulated partition usually takes less than 2 weeks. The Régie has made considerable efforts to reduce the amount of time it takes to process applications in order to better serve its clients and to facilitate procedures.

The work of the pension officers who are assigned specifically to statements of partition has been greatly simplified. Automating the production of statements of partition was a first step. The Régie has also taken steps to ensure that persons who request a simulated partition or who are subject to partition have a good understanding of its impact and repercussions. For example, personalized messages adapted to individual situations now appear on simulation documents and statements of partition issued by the Régie.

An example of partition

Maria and Michael were married in May 1992. They stopped living together in September 1997 and were divorced in October 1998. 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 1997, that is, the year preceding their divorce.

THE TABLE BELOW SHOWS THE EARNINGS RECORDED BEFORE AND AFTER PARTITION FOR EACH YEAR IN THAT PERIOD:

	Before partition	After partition	Before partition	After partition
1992	\$ 3,000	\$ 6,500	\$ 10,000	\$ 6,500
1993	\$ 3,000	\$ 9,500	\$ 16,000	\$ 9,500
1994	\$ 17,000	\$ 16,500	\$ 16,000	\$ 16,500
1995	\$ 17,000	\$ 16,500	\$ 16,000	\$ 16,500
1996	\$ 18,000	\$ 19,000	\$ 20,000	\$ 19,000
1997	\$ 20,000	\$ 21,000	\$ 22,000	\$ 21,000

Renunciation of partition

Spouses who wish to renounce partition of the employment earnings recorded under the Plan must express their intention to do so before the divorce, separation from bed and board or annulment of marriage so that the renunciation is expressly stated in the judgment. Once the judgment has been rendered, only the former spouse whose pension increased as a result of partition can renounce his or her benefits. A renunciation under such circumstances must be made before a notary. The notary has 1 year from the effective date of the judgment to register the renunciation.

Couples married before 1 July 1989, who decided not to be subject to partition of family patrimony and who signed a notarized agreement to that effect no later than 31 December 1990, did not necessarily renounce partition of earnings recorded under the Québec Pension Plan. To renounce partition definitively, they must specifically express their wish during the proceedings for divorce, separation from bed and board or annulment of marriage.

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Éditeur:
Claude Grégoire
 (Régie des rentes du Québec)

Coordination:

Odette Dionne

Writer:

Geneviève Bastien

Translation:

Mary Richardson

Graphic Design:

Marie Caron

Illustration:

Roger Drapeau

Printing:

Imprimerie Canada

PROSPECTS
 Direction des communications
 Régie des rentes du Québec
 Case postale 5200
 Québec G1K 7S9

NEWS FOR DE FACTO SPOUSES OR THOSE WHO LIVED TOGETHER BEFORE MARRIAGE!

It used to be that, for a variety of social and religious reasons, marriage was the only way to live in a conjugal relationship. However, much has changed in recent years and many people now choose a de facto union instead of marriage. Legislation has had to adapt to this new social reality.

Thus, as of 1 July 1999, former de facto spouses will be entitled to partition of the employment earnings recorded under the Québec Pension Plan for the period during which they lived together. Moreover, former spouses who lived together before marrying can take advantage of this new provision for the period preceding their marriage, either by asking that the period of cohabitation be specified at the time of the judgment of divorce, separation or annulment of marriage, or else by filing a joint application after the judgment.

Partition, under certain conditions

It is important to remember that partition of employment earnings consists in adding together the earnings that were recorded under the Plan for the months during which the former spouses lived together, and then dividing those earnings in two equal parts.

Former spouses who were married but lived as de facto spouses for a certain period before their marriage, will be entitled to the advantages of the new provision only if their judgment of divorce, separation from bed and board or annulment of marriage takes effect on or after 1 July 1999. They have three years from the effective date of the judgment to file an application. De facto spouses must have separated after 30 June 1999 and then must wait for one year before filing an application for partition. That means that, in their case, the Régie cannot carry out partition before 1 July 2000. They have three years after the end of the one year waiting period to file an application.

Application forms for partition of earnings between former de facto spouses are available at the Régie's client services centres.

The length of the period subject to partition can be limited in certain cases. For example, the months during which the former de facto spouses lived together while one of them was married to another person can be excluded. A person is considered to be married until a judgment of divorce or annulment of marriage has legally ended the union.

Former spouses who wish to partition the earnings recorded for the period during which they lived together before being married can file an application if the judgment of divorce, separation from bed and board or annulment of marriage makes no mention of partition for that period. If the judgment already provides for partition of the earnings recorded for the period before marriage, it is not necessary to file an application because the Régie will automatically carry out partition.

TO BE RECOGNIZED DE FACTO SPOUSES:

A man and woman must have lived in a de facto union for at least three years. However, if a child was born or is to be born of their union, or if they adopted a child, only one year of cohabitation is necessary for them to be recognized as de facto spouses. Persons who live together for a period of time and later marry can be recognized as having been de facto spouses for that period, regardless of its duration.



A de facto spouse can be entitled to a surviving spouse's pension if the deceased was not married or was legally separated. If the deceased did not have a de facto spouse, but did have a former spouse from whom he or she was legally separated before 1 July 1989, the legally separated former spouse can receive the surviving spouse's pension.

The Régie des rentes du Québec can cancel or not carry out partition

Partition can be cancelled if the former spouse who would have benefited from it files an application within 90 days after the Statement of Partition was issued. Furthermore, the Régie can decide not to carry out partition in cases where one (or both) of the former spouses receives benefits, and partition would result in either a decrease in the amount of both former spouses' benefits or a decrease in one spouse's benefits without benefiting the other spouse. Former spouses can also agree to withdraw their application within 90 days after the Statement of Partition was issued.

The Régie must, however, have the consent of both former spouses before deciding not to carry out partition. The Régie informs former de facto spouses when it does not carry out partition or when it cancels partition.

Now de facto spouses can share their pensions

As of 1 July 1999, de facto spouses will be able to share their retirement pensions, provided they meet certain conditions. The same is true of married spouses who lived in a de facto union before being married. The advantage is that your income tax could be reduced. You can share pensions if you both contributed to the Plan and are already receiving your pensions. If one of you did not contribute, you can still share a pension providing you are both at least age 60. To share pensions, both de facto spouses' signatures are required.

What about private pension plans?

In addition to contributing to the Québec Pension Plan, which is a public plan, you may also participate in a supplemental pension plan (also called a “pension fund”) set up by your employer. Over the years you may also have accumulated some money in a registered retirement savings plan as part of your retirement planning.

Did you know that the benefits or amounts accumulated in private plans during your marriage are also part of your family patrimony? They too must be divided in the event of a divorce, separation from bed and board or annulment of marriage.

How do you assess the value of the benefits accumulated in supplemental pension plans?

Some couples mistakenly believe that if they have worked for equal wages in different companies, their pension funds will be equivalent. However, private plans often vary from one company to another and the value of the accumulated benefits depends on many factors, such as the amounts of employer and employee contributions. Also, the value indicated in the statement that pension plan members may receive can be very different from the amount that would be used for the purposes of partition.

Assessing the benefits recorded under a supplemental pension plan in the event of a marital breakdown must be carried out according to specific rules that former spouses cannot apply themselves. After you begin proceedings for divorce, separation from bed and board or annulment of marriage, you must ask the plan administrator to make the calculation. The administrator will have to assess the total value of the benefits accumulated in the plan and the portion of that value that was accumulated during your marriage.

How is partition of the benefits accumulated in supplemental pension plans carried out?

Contrary to the Québec Pension Plan, partition is not automatic. You must apply to the plan administrator. Most often, the amounts owing to the spouse as a result of partition, including interest, are transferred to another type of pension plan such as a locked-in retirement account (LIRA) or a life income fund (LIF). Thus, the amounts that the member could use only for retirement cannot be given directly to the spouse. They can only be used when the spouse retires. (See the booklet entitled *Are You Familiar With LIRAs and LIFs?*, available from the Régie.)

You can file an application for a transfer once the deadline for appealing the judgment has expired. A former spouse should not wait until the member retires before filing an application.

Pursuant to the Québec Civil Code, no more than 50% of the benefits accumulated before and during the marriage can be transferred.

If you are already receiving a retirement pension from your plan and you must give half of your benefits to your former spouse, your former spouse does not receive half of your


retirement pension, but rather an amount that represents half of the actuarial value of the pension, including interest. The amount of your remaining pension and the pension that your former spouse can purchase with the amount that he or she receives are calculated on the basis of several actuarial criteria. The total of the 2 pensions will probably not be the same as the pension that you received before partition. That is why it is very important to look into the implications of partition in the case of a pension that is already being paid so that you can make an informed decision when you settle the financial aspects of your divorce, separation or annulment of marriage.

Partition rules may be different in the case of plans under federal jurisdiction or members who work outside Québec. However, for the most part, the rules are the same in both the public and private sectors.

HOW TO REACH THE RÉGIE

For questions concerning the Québec Pension Plan, you can telephone the Régie des rentes du Québec at one of the following numbers:

Québec region: (418) 643-5185
Montréal region: (514) 873-2433
Elsewhere in the province: 1 800 463-5185

 Service for the hearing impaired
(TDD/TTY users): 1 800 603-3540

You can contact the Régie by Internet or by mail:

Internet address: <http://www.rrq.gouv.qc.ca>
Mailing address: Régie des rentes du Québec
Case postale 5200 Québec
(Québec) G1K 7S9

You can also go to one of our temporary offices in nearly 60 locations in Québec. The visits are announced in the local newspapers. You can also meet with a representative of the Régie at a client services centre in one of the following cities:

Chicoutimi
Drummondville
Hull
Montréal
Rimouski

Rouyn-Noranda
Sainte-Foy
Sherbrooke
Trois-Rivières


Régie des rentes
du Québec

Québec 

WHAT DOES *your future* HOLD?

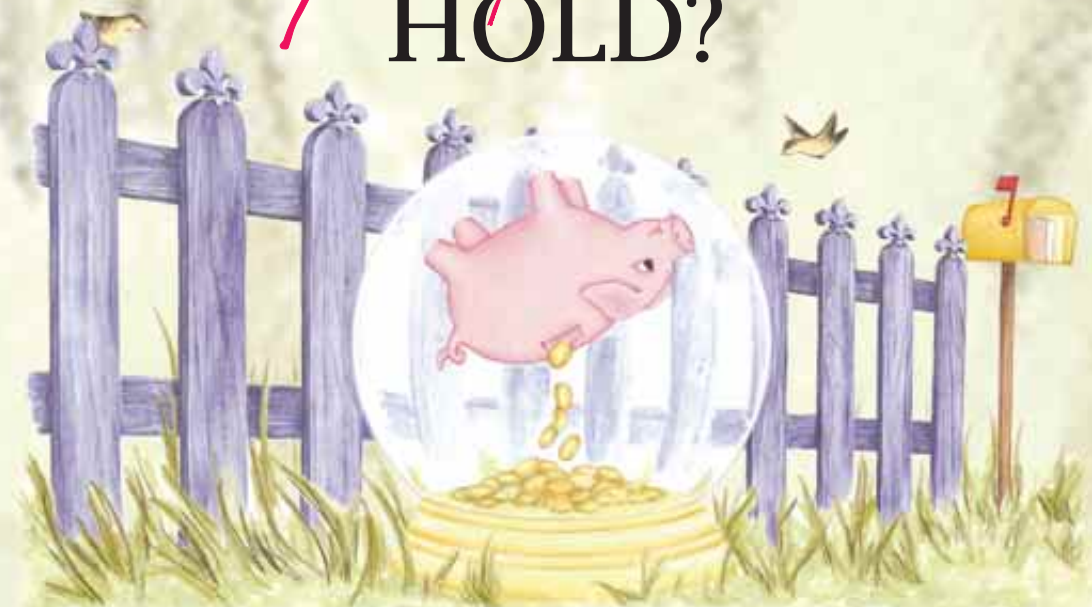
Ask for your
Statement
of Participation

Complete the form
below. Be sure to
sign it.

Send the form to:

Régie des rentes
du Québec

Service aux cotisants
Case postale 5200
Québec G1K 7S9



This form is not a pension application.
Please print.

Application for a Statement of Participation
in the Québec Pension plan

Family name

Sex

Male M
Female F

Given name

Social insurance number

Date of birth

year month day

Address (number, street, avenue, boulevard.)

Apartment number, post office box, etc.

City or town

Province

Postal code

Telephone number (at home)

Telephone number (at work)

Language of correspondence

English E
French F

Date

Signature

Have you received family allowances paid **directly**
to you for children born after 31 December 1958?
(Allowances are usually paid to the mother.)

If so, provide the given name and date of birth for each child.

Child's given name

Date of birth

year month

Were there periods during which the family allowances were not paid directly to you?
If so, give the months and years on another sheet.