

1989, chapter 55

AN ACT TO AMEND THE CIVIL CODE OF QUÉBEC AND OTHER LEGISLATION IN ORDER TO FAVOUR ECONOMIC EQUALITY BETWEEN SPOUSES

Bill 146

Introduced by Madam Monique Gagnon-Tremblay, Minister for the Status of Women

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Assented to 22 June 1989

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– 1 July 1989: ss. 1 to 47
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Acts amended:

Civil Code of Québec

Civil Code of Lower Canada

Code of Civil Procedure (R.S.Q., chapter C-25)

Act respecting the Québec Pension Plan (R.S.Q., chapter R-9)





CHAPTER 55

An Act to amend the Civil Code of Québec and other legislation in order to favour economic equality between spouses

[Assented to 22 June 1989]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

PART I

AMENDMENTS TO THE CIVIL CODE OF QUÉBEC

C.C.Q.,
a. 444, am. **1.** A second paragraph is added to article 444 of the Civil Code of Québec, and reads as follows:

“In the absence of an express choice, the family residence is presumed to be the residence where the members of the family carry on their principal activities.”

C.C.Q.,
a. 449, am. **2.** A second paragraph is added at the end of article 449 of the Civil Code, and reads as follows:

“All furniture destined to furnish or decorate the principal family residence is household furniture used by the family.”

C.C.Q.,
a. 454, am. **3.** A second paragraph is added at the end of article 454 of the Civil Code, and reads as follows:

“Neither spouse may, without the consent of the other, dispose of rights which confer on him the use of the principal family residence.”

C.C.Q.,
a. 455, am. **4.** The second paragraph of article 455 of the Civil Code is replaced by the following paragraph:

“It may also result from a declaration to that effect contained in an act intended for registration.”

C.C.Q.,
a. 455.1,
added

5. Article 455.1 is added to the Civil Code, after article 455, and reads as follows:

“455.1 In the absence of a declaration of family residence, where one of the spouses has not consented to an act for which his consent was required, he may, without prejudice to his other rights, claim damages from the other spouse or from any other person if the other spouse or that person has, through his fault, caused him damage.”

C.C.Q.,
a. 458, am.

6. A second paragraph is added at the end of article 458 of the Civil Code, and reads as follows:

“It may also grant the right of use of the principal family residence to the spouse to whom it awards custody of a child.”

C.C.Q.,
a. 459,
repealed

7. Article 459 of the Civil Code is repealed.

C.C.Q.,
aa. 462.1-
462.17,
added

8. The following sections are added to the Civil Code, after article 462:

“SECTION III

“FAMILY PATRIMONY

“§ 1.—*Establishment of the patrimony*

“462.1 Marriage entails the establishment of a family patrimony consisting of certain property of the spouses regardless of which of them holds a right of ownership in such property.

“462.2 The family patrimony is composed of the following property owned by one or the other of the spouses: the principal residence and the secondary residence of the family or the rights which confer use of these residences, the household furniture used by the family to furnish or decorate them, the motor vehicles used for family travel and the benefits accrued during the marriage under a retirement plan.

This patrimony also includes the registered earnings, during the marriage, of each spouse pursuant to the Act respecting the Québec Pension Plan or to similar plans.

The earnings contemplated in the second paragraph and accrued benefits under a retirement plan governed by an Act which grants a right to death benefits to the surviving spouse where the marriage is dissolved as the result of death are, however, excluded from the family patrimony.

Property devolved to one of the spouses by succession, legacy or gift before or during the marriage is also excluded from the family patrimony.

For the purposes of the rules on family patrimony, a retirement plan is any of the following:

- a plan governed by the Supplemental Pension Plans Act or that would be governed thereby if it applied where the spouse works,
- a retirement plan governed by a similar Act of a legislative jurisdiction other than the Parliament of Québec,
- a retirement plan established by an Act of the Parliament of Québec or of another legislative jurisdiction,
- a registered retirement-savings plan,
- any other retirement-savings instrument, including an annuity contract, into which sums from any of such plans have been transferred.

“§ 2.—Partition of the patrimony

“462.3 In the event of separation from bed and board, or the dissolution or annulment of a marriage, the value of the family patrimony of the spouses, after deducting the debts contracted for the acquisition, improvement, upkeep or preservation of the property composing it, shall be equally divided between the spouses or between the surviving spouse and the heirs, as the case may be.

Where partition is effected upon separation from bed and board, no new partition shall be effected upon the subsequent dissolution or annulment of the marriage unless the spouses had voluntarily resumed living together.

“462.4 The net value of the family patrimony is determined according to the value of the property composing the patrimony and the debts contracted for the acquisition, improvement, upkeep or preservation of the property composing it on the date of death of the

spouse or on the date of the institution of the action in which separation from bed and board, divorce or annulment of the marriage, as the case may be, is decided; the property is valued at its market value.

The court may, however, upon the application of one or the other of the spouses or of their assigns, decide that the net value of the family patrimony will be established according to the value of such property and such debts on the date when the spouses ceased living together.

“462.5 Once the net value of the family patrimony has been established, the amounts paid by one of the spouses before the marriage for the acquisition of property included in the family patrimony are deducted from that value; amounts paid by one of the spouses during the marriage for the acquisition of property included in the family patrimony are similarly deducted where such amounts devolved to that spouse by succession, legacy or gift.

The increase in value acquired during the marriage by any such property is also deducted from the net value, proportionately to the ratio between the amount paid for the property and the value of the property as on the date of the marriage or, as the case may be, the date of acquisition of the property.

“462.6 Partition of the family patrimony shall be effected by giving in payment or by payment in currency.

If partition is effected by giving in payment, the spouses may agree to transfer other property than that composing the family patrimony.

“462.7 The court may, at partition, award certain property to one of the spouses, particularly ownership of the family residence or of part of the rights of the debtor spouse in the family enterprise, and may also, where it is necessary to avoid damage, order the debtor spouse to perform his obligation by way of instalments spread over a period of not over ten years.

It may also order any other measure it considers appropriate to ensure that the judgment is properly executed, and, in particular, order that another security be granted to one of the parties to guarantee performance of the obligations of the debtor spouse.

“462.8 Where a property included in the family patrimony was alienated within one year before the death of one of the spouses or the institution of proceedings for separation from bed and board, divorce or annulment of marriage and was not replaced, the court may

order that a compensatory payment be made to the spouse who would have benefited from the inclusion of that property in the family patrimony.

The same rule applies where the property was alienated over one year before the death of one of the spouses or the institution of proceedings for separation from bed and board, divorce or annulment of marriage and the alienation was made for the purpose of decreasing the share of the spouse who would have benefited from the inclusion of that property in the family patrimony.

“462.9 The court may, upon an application, make an exception to the rule of partition into equal shares, and decide that there shall be no partition of earnings registered pursuant to the Act respecting the Québec Pension Plan or to similar plans where it would result in an injustice considering, in particular, the brevity of the marriage, the waste of certain property by one of the spouses, or the bad faith of one of them.

“462.10 The spouses cannot, by way of their contract of marriage or otherwise, renounce their rights in the family patrimony.

A spouse may, however, from the death of his spouse or from the judgment of divorce, separation from bed and board or nullity of marriage, renounce such rights, in whole or in part, by notarial deed *en minute*; he may also renounce them by a judicial declaration recorded in writing in the course of proceedings for divorce, separation from bed and board or annulment of marriage.

Where the renunciation is made by notarial deed, it must be registered in the registry office of the domicile of the renouncing spouse. Failing registration within a period of one year from the time when the right to partition arose, the renouncing spouse is deemed to have accepted.

“462.11 Renunciation by one of the spouses, by notarial deed, of partition of the family patrimony may be annulled if it is vitiated by a cause of nullity in contracts or by lesion.

“462.12 The partition of the earnings registered in the name of each spouse pursuant to the Act respecting the Québec Pension Plan or to a similar plan is effected by the body responsible for administering the plan, in accordance with that Act or the Act applicable to that plan, unless the latter Act provides no rules for partition.

“462.13 The partition of the accrued benefits of one of the spouses under a supplemental pension plan governed by an Act is

effected according to the rules of valuation and devolution contained in that Act, where that is the case.

In no case, however, may the partition of such benefits deprive the original holder of such benefits of over one-half of the total value of the benefits accrued to him before or during the marriage, or confer more benefits on the beneficiary of the right of partition than the original holder of these benefits has under his plan.

Between the spouses or for their benefit, and notwithstanding any provision to the contrary, such benefits and benefits accrued under any other pension plan are transferable and seizable for partition of the family patrimony.

“SECTION IV

“COMPENSATORY ALLOWANCE

“462.14 The court, in declaring separation from bed and board, divorce or annulment of marriage, may order either spouse to pay to the other, as compensation for the latter’s contribution, in property or services, to the enrichment of the patrimony of the former, an allowance payable immediately or by instalments, taking into account, in particular, the advantages of the matrimonial regime and of the marriage contract. The same rule applies in case of death; in such case, the advantages of the succession to the surviving spouse are also taken into account.

Where the right to the compensatory allowance is founded on the regular cooperation of the spouse in an enterprise, whether the enterprise deals in property or in services and whether or not it is a commercial enterprise, it may be applied for from the time the cooperation ends, if this results from the alienation, dissolution or voluntary or forced liquidation of the enterprise.

“462.15 The cooperating spouse may adduce any evidence to prove his contribution to the enrichment of his spouse.

“462.16 Where a compensatory allowance becomes payable, the court, failing agreement between the parties, shall fix the amount thereof. It may also, where applicable, fix the terms and conditions of payment and order that the allowance be paid immediately or by instalments or that it be paid by the awarding of rights in certain property.

If the court awards a right in the family residence, a right in the household furniture or retirement benefits accrued under a

retirement plan to one of the spouses or to the surviving spouse, the provisions of Sections II and III are applicable.

“462.17 One of the spouses may, during the marriage, agree with the other spouse to make partial payment of the compensatory allowance. The payment received must be deducted when the time comes to fix the value of the compensatory allowance.”

C.C.Q.,
a. 482, am. **9.** Article 482 of the Civil Code is amended by adding the word “determined” after the word “beneficiary” in the second line of paragraph 4.

C.C.Q.,
a. 483, am. **10.** Article 483 of the Civil Code is amended by striking out the words “that a spouse may redeem in advance” in the second paragraph.

C.C.Q.,
a. 485, am. **11.** Article 485 of the Civil Code is amended by striking out the second paragraph.

C.C.Q.,
a. 489, am. **12.** A second paragraph is added to article 489 of the Civil Code, and reads as follows:

“No compensation is due, however, if the investment was necessary in order to maintain the income of the enterprise.”

C.C.Q.,
a. 495, am. **13.** Article 495 of the Civil Code is amended by adding, at the end of the first paragraph, the words “, subject to application of the rules respecting the family patrimony”.

C.C.Q.,
a. 500, am. **14.** Article 500 of the Civil Code is amended by replacing the words “renounce partition” at the end of the second paragraph by the words “receive the share of the acquests of the other spouse to which he is entitled unless the other spouse has accepted the partition of the acquests of the spouse who interfered”.

C.C.Q.,
a. 503,
replaced **15.** Article 503 of the Civil Code is replaced by the following article:

“503. A spouse who has abstracted or concealed acquests, wasted his acquests or administered them in bad faith forfeits his right to partition of the acquests of his spouse.”

C.C.Q.,
a. 504, am. **16.** Article 504 of the Civil Code is amended by adding the following words at the end: “Renunciation may be annulled, however, if it is vitiated by a cause of nullity of contracts or by lesion.”

C.C.Q.,
a. 505, am. **17.** Article 505 of the Civil Code is amended

(1) by inserting, after the word “death” at the opening of the first paragraph, the words “and the surviving spouse has accepted the partition of the acquests of the deceased spouse”;

(2) by adding a third paragraph, which reads as follows:

“The refusal of the surviving spouse may be set up against the creditors of the deceased spouse.”

C.C.Q.,
a. 514,
replaced

18. Article 514 of the Civil Code is replaced by the following article:

“**514.** Once the settlement of compensation has been effected, the net value of the mass of acquests is established and is evenly divided between the spouses. The spouse who holds the patrimony may pay the portion due to his spouse by paying him in currency or by giving in payment.”

C.C.Q.,
a. 517,
am.

19. The second paragraph of article 517 of the Civil Code is replaced by the following paragraphs:

“After the partition, former creditors can only pursue payment of their claims against the debtor spouse. However, if the claims were not taken into account when the partition was made, they may, after discussion of the property of their debtor, pursue the other spouse. Each spouse then preserves a remedy against the other for the amounts he would have been entitled to if the claims had been paid before the partition.

In no case can the spouse of the debtor spouse be called upon to pay a greater amount than the portion of the acquests he received from his spouse.”

C.C.Q.,
a. 524.1,
added

20. Section IV is added to the Civil Code, after article 524, and reads as follows:

“SECTION IV

“COMMUNITY REGIMES

“**524.1** Where the spouses elect for a community matrimonial regime and it is necessary to supplement the provisions of the agreement, reference shall be made to the rules respecting partnership of acquests, adapted as required.

Spouses married under the former regime of legal community may invoke the rules of dissolution and liquidation of the regime of

partnership of acquests where these are not inconsistent with their matrimonial regime.”

C.C.Q.,
a. 530, am.

21. Article 530 of the Civil Code is amended by replacing the words “to an earlier date in application of article 498” by the words “to the date on which the spouses ceased to live together”.

C.C.Q.,
a. 556, am.

22. Article 556 of the Civil Code is amended by replacing the words “to an earlier date in application of article 498” at the end of the second paragraph by the words “to the date on which the spouses ceased to live together”.

C.C.Q.,
aa. 533 and
559, repealed

23. Articles 533 and 559 of the Civil Code are repealed.

PART II

AMENDMENTS TO THE CIVIL CODE OF LOWER CANADA

C.C.L.C.,
aa. 607.1-
607.11,
added

24. A Section III is added to the Civil Code of Lower Canada, after article 607, and reads as follows:

“SECTION III

“OF THE SURVIVAL OF THE OBLIGATION TO PROVIDE SUPPORT

“607.1 Every creditor of support may within six months after the death claim a financial contribution from the succession, whether abintestate or testamentary, as support.

The right exists even where the creditor is an heir or legatee or where the right to support was not exercised before the date of the death, but does not exist in favour of a person unworthy of inheriting from the deceased.

“607.2 The contribution shall be made in the form of a lump sum payable in cash or by instalments.

The contribution made to the former spouse of the deceased who was actually receiving support at the time of the death shall be equivalent to six months of support. That made to other creditors of support shall be fixed with the concurrence of the person charged with liquidation of the succession acting with the consent of the heirs and legatees or, failing agreement, by the court.

“607.3 In fixing the contribution, the needs and means of the creditor of support, his circumstances and the time he needs to acquire sufficient autonomy or, if he was in fact receiving support from the deceased at the time of the death, the amount of the instalments that

had been fixed by the court for the payment of the alimentary support or of the lump sum awarded as support are taken into account.

Account is also taken of the assets of the succession, the benefits derived from the succession by the creditor of support, the needs and means of the heirs and legatees and, where such is the case, the right of other persons to support.

“607.4 Where the contribution is claimed by the spouse or a descendant, the value of the liberalities made by the deceased by act *inter vivos* during the three years preceding the death and those taking effect at the death are considered to be part of the succession for the fixing of the contribution.

“607.5 The contribution granted to the spouse or to a descendant shall not exceed the difference between one-half of the share he could have claimed had the entire succession, including the value of the liberalities, devolved by abintestate succession, and what he receives. In other cases, it is equal to the value of six months' support.

At no time, however, may the contribution awarded to a creditor of support who was in fact receiving support from the deceased at the time of the death exceed the lesser of the value of six months' support and ten per cent of the value of the succession including, where such is the case, the value of the liberalities.

“607.6 Where the assets of the succession are insufficient to make full payment of the contributions due to the spouse or to a descendant, as a result of the liberalities made by acts *inter vivos* during the three years preceding the death or taking effect at the death, the court may order the liberalities reduced.

Liberalities to which the spouse or descendant consented cannot be reduced, however, and those he has received shall be debited from his claim.

“607.7 Any alienation, security or charge granted by the deceased for a prestation of far smaller value than that of the property at the time it was made is presumed to be a liberality.

“607.8 Benefits under a retirement plan contemplated in article 462.2 of the Civil Code of Québec or under a contract of insurance of persons, where these benefits would have been part of the succession or would have been paid to the creditor had it not been for the designation of a subsidiary owner or a beneficiary, by the deceased, during the three years preceding the death, are ranked as liberalities.

Notwithstanding any provision to the contrary, rights conferred by benefits under a retirement savings plan or a contract of insurance of persons are transferable and seizable for the payment of support due under this section.

“607.9 The cost of education or maintenance and customary presents are not considered to be liberalities unless, considering the means of the deceased, they are manifestly exaggerated.

“607.10 Reduction of the liberalities may operate against only one of the beneficiaries or against several of them simultaneously.

If need be, the court shall fix the share that each of the beneficiaries sued or impleaded shall pay.

“607.11 Payment of the reduction shall be made, failing agreement between the parties, on the conditions fixed by the court and on the terms and conditions of warranty and payment it fixes.

Payment in kind shall not be ordered, but the debtor may relieve his debt at any time by handing over the property.”

C.C.L.C.,
a. 624c,
repealed
C.C.L.C.,
a. 735.1, am.

25. Article 624c of the Civil Code of Lower Canada is repealed.

26. Article 735.1 of the Civil Code of Lower Canada is amended by striking out the second and third paragraphs.

C.C.L.C.,
a. 2161a,
added

27. The following article is added after article 2161 of the Civil Code of Lower Canada:

“2161a. Where the declaration of residence is made by way of a declaration to that effect contained in an act intended for registration, the registrar shall make a special entry of it in the index of immovables.”

C.C.L.C.,
a. 2261.1,
am.

28. A second paragraph is added at the end of article 2261.1 of the Civil Code of Lower Canada, and reads as follows:

“The same rule applies in respect of an action for damages provided for in article 455.1 of the Civil Code of Québec.”

C.C.L.C.,
a. 2261.3,
added

29. An article 2261.3 is added after article 2261.2 of the said Code, and reads as follows:

“2261.3 An action for the annulment of renunciation of the partition of the acquests of the spouse or of the family patrimony is prescribed by two years from the act.”

PART III

AMENDMENTS TO THE CODE OF CIVIL PROCEDURE

c. C-25,
a. 553, am.

30. Article 553 of the Code of Civil Procedure is amended

(1) by replacing paragraph 7 of the first paragraph by the following paragraph:

“(7) Benefits payable under a supplemental pension plan to which an employer contributes on behalf of his employees, other amounts declared unseizable by an Act governing such plans and contributions paid or to be paid into such plans;”;

(2) by replacing the final paragraph by the following paragraph:

“However, notwithstanding any contrary provision of a general law or special Act, any income referred to in paragraph 4, 6, 8 or 11, as well as any amount mentioned in paragraph 7, is unseizable, in the case of effecting partition of a family patrimony or of a debt for support or a compensatory allowance, to the extent of fifty per cent.”

c. C-25,
a. 553.2, am.

31. Article 553.2 of the Code of Civil Procedure is amended by replacing the figure “5 000” in the third line by the figure “10 000”.

c. C-25,
a. 670, am.

32. Article 670 of the said Code is amended by inserting, after paragraph *e*, the following paragraph:

“(e.1) in the case of an immovable used as the family residence, the minimum price of adjudication pursuant to article 687.1;”.

c. C-25,
a. 687.1,
added

33. An article 687.1 is added to the said Code, after article 687, and reads as follows:

“**687.1** An immovable used as the family residence cannot be adjudicated at a price lower than fifty per cent of the assessment of that immovable as entered on the assessment roll of the municipality, multiplied by the factor established for that roll by the Minister of Municipal Affairs pursuant to the Act respecting municipal taxation (R.S.Q., chapter F-2.1), unless the court allows it to be sold at a lower price.”

c. C-25,
a. 734.0.1,
am.

34. Article 734.0.1 of the said Code is amended by inserting the words “, for payment of a compensatory allowance” after the words “as to property”.

c. C-25,
a. 817.2, am.

35. A third paragraph is added at the end of article 817.2 of the said Code, and reads as follows:

“He must also give notice forthwith of the judgment to the Régie des rentes du Québec.”

PART IV

AMENDMENTS TO THE ACT RESPECTING THE QUÉBEC PENSION PLAN

36. Section 96 of the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9) is amended by replacing the figure “102.6” in the second line of paragraph *e* by the figure “102.5”.

c. R-9,
s. 96, am.

37. Sections 102.1 to 102.8 of the said Act are replaced by the following sections:

c. R-9,
ss. 102.1-
102.8,
replaced
Partition
of pension-
able earnings

“102.1 The unadjusted pensionable earnings of two former spouses, rectified, where necessary, in the proportion indicated in section 180, may be partitioned between them to the extent and in the manner provided in sections 102.2 to 102.10.1.

Exceptions

There shall be no partition, however, where the tribunal mentions, in the judgment of separation from bed and board, divorce or annulment of marriage that the former spouses have transferred to each other any rights that they might derive from the partition of their earnings or that such earnings are not partitioned, or where the former spouse who would have benefited from such a partition has renounced it.

“former
spouses”

“102.2 For the purposes of partition of the unadjusted pensionable earnings, the expression “former spouses” means, as the case may be,

(a) two persons whose marriage has been dissolved by divorce or declared null;

(b) two married persons separated from bed and board.

Period to
which
partition
applies

“102.3 The partition provided for in section 102.1 consists in the division into equal portions between the former spouses of the sum of their unadjusted pensionable earnings for each month comprised in the period extending from the beginning of the year of their marriage to the end of the year preceding the date of taking effect of the divorce, annulment of the marriage or separation from bed and board or, where the tribunal mentions in the judgment of divorce, annulment or separation that the value of the family patrimony must be established as on the date on which the spouses ceased to live together, to the end of the year preceding the latter date.

Statement
of unad-
justed
pensionable
earnings

“102.3.1 Upon the introduction of an application for separation from bed and board, divorce or annulment of marriage, the spouse of a contributor may, upon application, obtain a statement of the unadjusted pensionable earnings shown to the account of such contributor in the Record of Earnings.

Excluded
months

“102.4 Partition shall not be effected in respect of the following months:

(a) months preceding the eighteenth birthday of one of the former spouses;

(b) the month of the seventieth birthday of one of the former spouses and months subsequent thereto;

(c) months for which a disability pension or retirement pension is payable to one of the former spouses pursuant to this Act or a similar plan;

(d) months included in the total period of indemnity of one of the former spouses;

(e) months included in a year during which the sum of the unadjusted pensionable earnings of the former spouses, for the year computed in accordance with this Act or a similar plan, does not exceed twice the basic exemption for the year.

Contribu-
tion to
a similar
plan

In addition, where, for a particular month, one of the spouses has paid a contribution to a similar plan, partition shall not be effected unless, in respect of that month, partition is effected pursuant to that similar plan.

Applica-
tion for
partition

“102.5 An application for partition is considered to be made on the day that the judgment of divorce, annulment of marriage or separation from bed and board and the prescribed information are received at an office of the Régie.

Judgment
pronounced
outside
Québec

Where the dissolution, annulment of marriage, or separation from bed and board results from a judgment pronounced outside Québec, the application is considered to be made on the day that the form required by the Régie, filled out and accompanied with the prescribed documents, is received at one of the offices of the Régie.

Judgment
must take
effect

Notwithstanding the foregoing, no application is considered to be made before the taking effect of such a judgment.

Legal
representa-
tives

“102.6 An application for partition resulting from a judgment pronounced outside Québec may be made by the legal representatives.

Assign or orphan The application may also be made by the assign or the orphan of a former spouse if this former spouse died without making such an application.

Supporting documents “**102.7** Every person who makes an application for partition as representative, assign or orphan of a former spouse must furnish the Régie with the document establishing his title.

Notice of partition “**102.7.1** Upon proceeding to effect the partition, the Régie shall give written notice thereof to each of the former spouses or applicants if their addresses are known, providing each with a statement, for the period of partition, of the unadjusted pensionable earnings shown to the account of the former spouses before and after partition.

Withdrawal “**102.8** In the case of a judgment pronounced outside Québec, a former spouse who applied for partition may withdraw the application within ninety days from receipt of the notice mentioned in section 102.7.1.

Subsequent partition prohibited “**102.8.1** There can be no second partition of the unadjusted pensionable earnings showing to the account of a contributor for a month to the benefit of a former spouse who has already benefited from an earlier partition of his earnings for that month.”

c. R-9, s. 102.10.1, added **38.** The said Act is amended by inserting, after section 102.10, the following section:

Applicable provisions “**102.10.1** Sections 102.1 to 102.8.1 apply only to a partition resulting from divorce, annulment of marriage or separation from bed and board pursuant to a judgment taking effect on a date subsequent to 30 June 1989.”

c. R-9, s. 186, am. **39.** Section 186 of the said Act is amended by inserting the words “or of a decision made as to the unadjusted pensionable earnings of a former spouse” after the word “thereof” in the third line.

c. R-9, s. 194, am. **40.** Section 194 of the said Act is amended by replacing the second paragraph by the following paragraph:

Adjustment of Record of Earnings “Nevertheless, if, from information furnished after such delay by or obtained from the records of an employer, a worker, or a former spouse within the meaning of section 102.2, it appears that the amount of the unadjusted pensionable earnings shown in the Record of

Earnings to the account of a contributor or former spouse is less than the amount that should be so shown therein, the Régie may cause the Record to be rectified accordingly.”

c. R-9,
s. 219, am. **41.** Section 219 of the said Act is amended by striking out paragraph *u*.

PART V

TRANSITIONAL PROVISIONS

Right to
renounce

42. Articles 462.1 to 462.13 of the Civil Code of Québec relating to the family patrimony of the spouses are applicable to spouses married before the coming into force of the said articles unless, within eighteen months from their coming into force, they express, by notarial deed, or by a joint judicial declaration made in the course of proceedings for divorce, separation from bed and board or nullity of marriage and recorded in writing, their wish not to be subject to them in whole or in part. The notarial deed must be registered in the central registry of matrimonial regimes at the behest of the attesting notary.

Separation
before
15 May 1989

Those articles are not applicable, unless the spouses resume living together, to spouses who, before 15 May 1989, had ceased living together and, by an agreement in writing or otherwise, had settled the consequences of their separation.

Applications
before
15 May 1989

Nor are they applicable to applications for separation from bed and board, divorce or annulment of marriage introduced before 15 May 1989.

Partition
of registered
earnings

The fact that the articles respecting the family patrimony do not apply to certain spouses does not deprive them, however, of the right to partition of their registered earnings pursuant to the Act respecting the Québec Pension Plan or similar plans, in accordance with the provisions of those articles, if such spouses subsequently are subject to a judgment of separation from bed and board, divorce or nullity of marriage which takes effect after 30 June 1989 and if, to that day, no partition of such earnings has ever been made between them.

Alienation
before
partition

43. Article 462.8 of the Civil Code of Québec relating to alienation, before partition, of a property that was included in the family patrimony does not apply in respect of acts of alienation performed before 1 July 1989, unless they were performed with the object of decreasing the share of the spouse who would have benefited from the inclusion of that property in the family patrimony.

Provisions
applicable
to some
judgments

44. Sections 102.1 to 102.10 of the Act respecting the Québec Pension Plan and the regulations under paragraph *u* of section 219 of that Act in force on 30 June 1989 continue to apply to partitions following divorce or annulment of marriage upon a judgment taking effect before 1 July 1989.

Sup-
plemental
Pension
Plans Act

45. The reference to the Supplemental Pension Plans Act in the last paragraph of article 462.2 of the Civil Code of Québec, enacted by section 8, shall read, until 31 December 1989, as a reference to the Act respecting supplemental pension plans (R.S.Q., chapter R-17), to the extent that the retirement plan in question will be governed by the Supplemental Pension Plans Act.

Evaluation
of benefits

46. The determination and evaluation of the benefits of the spouses under any of the retirement plans contemplated in the last paragraph of article 462.2 of the Civil Code of Québec, enacted by section 8, shall not be made before the date or dates fixed by the Government. The same applies to the payment of benefits awarded to the spouses.

Effective
dates

However, the determination and evaluation of the said benefits shall have effect, as the case may be, to the date of the death of the spouse, to the date of introduction of the action following which the separation from bed and board, the divorce or the nullity of the marriage is pronounced or the compensatory allowance is awarded, or to the date of cessation of cohabitation.

Coming into
force

47. This Act comes into force on the date or dates fixed by order of the Government.