

NATIONAL ASSEMBLY

SECOND SESSION

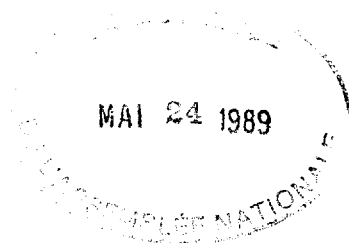
THIRTY-THIRD LEGISLATURE

Bill 146

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

Introduction

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



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EXPLANATORY NOTES

The object of this bill is to favour economic equality between spouses and to underline the character of marriage as a partnership. It deals with the following aspects of family law and the law of successions: the establishment of a family patrimony as one of the necessary effects of marriage, the protection of the family residence, the rules governing the award and payment of a compensatory allowance, adjustments to the rules respecting matrimonial regimes, and the introduction of the principle of the survival of the claim for support at the death of the debtor of support.

This bill provides, among the imperative provisions applicable to all spouses, for the establishment of a family patrimony. At the end of the marriage, or upon separation from bed and board, the family patrimony of the spouses, consisting of the mass of determined property owned by one or the other spouse, is divided equally between them, whatever their matrimonial regime may be. Such property includes, among others, the principal and secondary family residences, the furniture with which they are furnished or decorated, the earnings registered during the marriage for the account of each spouse pursuant to the Act respecting the Québec Pension Plan and benefits accrued during the marriage under a retirement plan.

As to the compensatory allowance, the bill places all the provisions relating to this question in a special section of the Civil Code of Québec. In particular, it makes it possible for a cooperating spouse to obtain a compensatory allowance during the marriage, as soon as the cooperation ends.

The bill adds to the Civil Code of Lower Canada, among the provisions concerning the law of successions, a special section dealing with the survival of the obligation of support, designed to allow the creditor of support and any person who was a dependant of the deceased at the time of death to claim a financial contribution from the succession as support.

Lastly, the bill provides concordance amendments, and transitional measures respecting spouses married before the coming into force of the Act.

ACTS AMENDED BY THIS BILL:

- The Civil Code of Québec;
- The Civil Code of Lower Canada;
- The Code of Civil Procedure;
- The Act respecting the Québec Pension Plan.

Bill 146

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

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

PART I

AMENDMENTS TO THE CIVIL CODE OF QUÉBEC

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.”

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.”

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.”

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 destined for registration.”

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.”

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.”

7. Article 459 of the Civil Code is repealed.

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 rights 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 are, however, excluded from the family patrimony.

For the purposes of the rules on family patrimony, a retirement plan includes 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 and any other retirement-savings instrument 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 affecting 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 Where a corporeal property included in the family patrimony was acquired by one of the spouses before the marriage or was acquired during the marriage by gift or inheritance, only the value acquired by the property since the marriage, gift or inheritance, as the case may be, may be partitioned.

“462.5 The net value of the family patrimony is determined according to the value of the property composing the patrimony and the debts charged against 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.

“462.6 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 the year preceding the time when the right to partition arose, 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 a property included in the family patrimony was alienated over one year before the time when the right to partition arose, 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 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, except the earnings registered in the name of each spouse pursuant to the Act respecting the Québec Pension Plan or to similar plans.

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

The surviving spouse may, however, following the death of his spouse, renounce them by notarial deed *en minute* or by a judicial declaration which is recorded. This renunciation must be registered in the registry office of the domicile of the renouncing spouse. A spouse failing to register his renunciation within one year from the day of dissolution is deemed to have accepted.

“462.11 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.

“462.12 The partition of the accrued benefits of one of the spouses under a supplemental pension plan governed by a special 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 are transferable and seizable for partition of the family patrimony.

“SECTION IV

“COMPENSATORY ALLOWANCE

“462.13 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 partition of the family patrimony, of the matrimonial regime and of the marriage contract. The same rule applies in case of death.

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 transfer, dissolution or voluntary or forced liquidation of the enterprise.

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

“462.15 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.

“462.16 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.”

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.

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.

11. Article 485 of the Civil Code is amended by striking out the second paragraph.

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.”

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”.

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”.

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.”

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.”

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.”

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.”

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.”

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.”

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”.

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”.

23. Article 559 of the Civil Code is repealed.

PART II

AMENDMENTS TO THE CIVIL CODE OF LOWER CANADA

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 or any person who at the time of the death was a dependant of the deceased 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.

It 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, a retirement-savings plan 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, the rights conferred by such benefits 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 The amount which the beneficiary of the liberality is bound to pay towards the claim bears interest, at the legal rate, from the application for reduction.

“607.12 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.”

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.

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.”

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.”

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 acquets 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

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

(1) by replacing paragraph 7 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.”

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”.

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;”.

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.”

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”.

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

“He must also serve the judgment forthwith, by registered or certified mail, on 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”.

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

“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.

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.

“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.

“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.

“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.

“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 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.

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.

“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 is received at an office of the Régie.

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.

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

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

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.

“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.

“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.

“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.

“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.”

38. The said Act is amended by inserting, after section 102.10, the following section:

“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 *(insert here the date preceding the date of coming into force of this article).*”

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.

40. Section 194 of the said Act is amended by replacing the second paragraph by the following paragraph:

“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.”

41. Section 219 of the said Act is amended by striking out paragraph *u*.

PART V

AMENDMENTS TO THE SUPPLEMENTAL PENSION PLANS ACT

42. Section 58 of the Supplemental Pension Plans Act (1989, chapter *(insert here the chapter number of the said Act in the annual volume of the statutes of Québec for 1989)* is amended by replacing the last three lines of paragraph 2 by the following: “variation in an index used in determining the pension, by reason of options authorized by subparagraphs 1 to 4 and 6 of the first paragraph of section 91 or by reason of partition of the rights of the member between himself and his spouse effected in accordance with Chapter VII.1;”.

43. The said Act is amended by inserting, after Chapter VII, the following chapter:

“CHAPTER VII.1

“PARTITION OF BENEFITS BETWEEN SPOUSES

“109.1 For the purposes of this chapter, “spouse” refers only to the person married to the member.

“109.2 In the event of separation from bed and board, divorce or annulment of marriage, the benefits acquired by the member under a pension plan shall, upon application to the administrator of the plan, be partitioned between the member and his spouse to the extent provided in the Civil Code of Québec. These benefits and the value thereof shall be determined according to the norms prescribed by regulation.

Except as provided by regulation, sums awarded to the spouse following partition of the benefits of the member can only be used to constitute a life annuity, whether or not these sums have been transferred to a pension plan contemplated in section 96.”

“109.3 Upon presentation of an application for separation from bed and board, divorce or annulment of marriage, the spouse of the member is entitled, upon application to the administrator of the plan, to obtain a copy of the latest annual statement of the benefits he furnished to the member under section 106 and a statement setting forth the value of the benefits of the member at the date of the institution of the action and containing any other information prescribed by regulation. In addition, he may thereupon examine the text of the plan and the documents referred to in section 108, in the conditions provided therein.”

44. Section 240 of the said Act is amended by inserting, after paragraph 6, the following paragraph:

“(6.1) prescribe the norms applicable to an application for partition of benefits between spouses contemplated in Chapter VII.1, to the determination of the benefits of the member before and after such a partition and to the payment of the benefits of the spouse, particularly those relating to the transfer of sums to which the spouse is entitled, and the information to be provided to the spouse and the obligations of the natural or legal person having the administration of the sums so transferred.”

45. Section 259 of the said Act is amended by replacing paragraph 3 by the following:

“(3) all amounts awarded to the spouse of the member following a partition effected pursuant to Chapter VII.1, with accrued interest, and the benefits deriving from such amounts.

Except so far as they derive from voluntary contributions, any of the abovementioned amounts that have been transferred to a pension plan contemplated in section 96, with accrued interest, and any refunds of such amounts and any benefits resulting therefrom are also unassignable and unseizable.”

PART VI

TRANSITIONAL PROVISIONS

46. Articles 462.1 to 462.12 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 *en minute*, their wish not to be subject to them; this deed must be registered in the central registry of matrimonial regime.

They cannot renounce in this manner, however, the earnings entered in the record of each spouse under the Act respecting the Québec Pension Plan or under any similar plan.

47. 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 the coming into force of this Act, 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.

48. 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 (*insert here the date of the day preceding the coming into force of section 38 of this Act*) continue to apply to partitions following divorce or annulment of marriage upon a judgment taking effect before (*insert here the date of the coming into force of section 38 of this Act.*)

49. This Act comes into force on the date fixed by order of the Government.