

CPP benefits: Are you entitled?

Separated? Divorced?

You may be entitled to a share of your spouse's or partner's pension contributions.

If you are separated or divorced, the pension credits that both of you earned while you were together can be split between you.

What is the Canada Pension Plan?

The Canada Pension Plan (CPP) is a benefits plan for workers. Workers pay into the plan and may get a retirement pension when they retire, or a disability pension if they can no longer work because of a disability. There are also benefits for the children of those who are receiving CPP disability pensions and for survivors of CPP contributors who died. The amount of the pension depends on how many pension credits they earned while working. Pension credits are based on contributions.

Most workers make regular contributions. Their employers deduct money from their wages and send it to the CPP. Employers then contribute a matching amount. Most self-employed workers make CPP contributions with their income tax returns. The government records all contributions. They get the information from employers or from workers' income tax returns.

Contributions to the Quebec Pension Plan count toward the Canada Pension Plan. Contributions to the pension plans of some other countries also count.

Someone who is separated or divorced may be entitled to a share of their former partner's pension credits.

What is “DUPE”?

When your relationship with your partner ends, the pension credits that both of you earned while you were together can be added up and split evenly between you. If your spouse or partner had more credits than you, this might help you qualify for a pension or increase the amount of your pension.

The official term for this is “Division of Unadjusted Pensionable Earnings”, sometimes called “DUPE”. It is also called “sharing”, “splitting”, or “division” of pension credits.

There is a limit to the amount of CPP credits a person can get each year. If you earned the maximum while you were with your partner, then you cannot get more through credit splitting.

Who can get a division of pension credits?

To make a claim, you must be separated or divorced from your marriage partner or common-law partner.

Your right to make a claim could be affected if you have a domestic contract. This includes marriage contracts, cohabitation agreements, and separation agreements. However, a domestic contract made in Ontario on or after June 4, 1986, cannot affect your right to make a claim.

If you become unable to manage your affairs, or if you die, another person may be able to make the claim for you or your estate.

The following rules apply, depending on whether you and your partner were legally married or in a common-law relationship:

Separated or divorced from your legal marriage partner

If you were divorced before January 1, 1987, you cannot get a division of pension credits unless you claimed it within 3 years after the divorce. But, this time limit can be waived if your former spouse agrees in writing. You must also have lived together while married for at least 3 years in a row and the divorce must have taken effect on or after January 1, 1978.

If you were divorced on or after January 1, 1987, you can claim a division of pension credits if you lived together for at least one year. There is no time limit to apply if you are in this situation.

If you separated on or after January 1, 1987, but have not divorced, you can claim a division of pension credits if you lived together for at least one year, and you have been separated for at least one year. Again, there is no time limit to apply, unless your spouse died after you separated. In that case, you must make your claim within 3 years after his or her death.

Separated from your common-law partner

If you are separated from your common-law partner, you can claim a division of pension credits only if all of the following 3 things are true:

- you lived with your partner for at least one year,
- you separated on or after January 1, 1987, and
- you have been separated for at least one year, or your partner died less than one year after you separated.

You must make your claim within 4 years after you separated, unless you and your former partner agree in writing to waive this time limit.

What if I had a same-sex partner?

On July 31, 2000, the CPP legislation and many other federal laws were changed to include gay and lesbian couples. All couples who have lived together in a marriage-like relationship for at least a year are now referred to as “common-law partners”. So if you separated from your same-sex partner on or after July 31, 2000, the rules about credit sharing for common-law partners apply to you.

Before this change came into effect, only opposite-sex couples could share pension credits. But some recent court decisions might give you a way to challenge that law. Get legal advice if you separated from a same-sex common-law partner before July 31, 2000.

In July 2005, federal law was changed to allow same-sex couples to marry anywhere in Canada. Before that, court decisions had already established this right in some provinces and territories.

How do I claim a division of pension credits?

You can get the CPP credit split application package from your local Human Resource Centre, or you can have a package sent to you by contacting Social Development Canada (SDC) free of charge at **1-800-277-9914**. If you use a TTY device, call **1-800-255-4786**. You can also download the application package from the Canada Benefits web site at <www.canadabenefits.gc.ca> or the Social Development Canada web site at <www.sdc.gc.ca>.

Remember: If you do not submit a claim within your time limit, you may lose your right to a share of pension credits. Make your claim as soon as possible. These rules can be complicated. If you have questions, contact a lawyer, community legal clinic, or Income Security Programs office.

Important: If you have more credits than your former spouse or partner, a division of pension credits might leave you worse off. It is important to think about this before you apply. Once a division of pension credits is done, it usually cannot be undone.

Can I appeal if I am refused?

Most decisions about CPP pensions and benefits can be appealed. Usually, there is a 90-day time limit. If you have been refused or you do not agree with the amount, get legal advice right away. Your community legal clinic may be able to give you free legal help.

The community legal clinic nearest you should be listed under “Legal Aid” or “Lawyers” in your phone book. You can also check the Legal Aid Ontario web site at <www.legalaid.on.ca>. Or call Legal Aid Ontario at **1-800-668-8258** or **416-979-1446**.

This booklet contains general information.
It is not a substitute for getting legal advice
for your particular situation.

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