

**CPP benefits: Are you entitled?**

# Separated? Divorced?

**Splitting CPP credits with  
your former spouse or  
common-law partner**



**CLEO**

Community Legal Education Ontario  
Éducation juridique communautaire Ontario

# 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 might count to help someone qualify for a CPP pension, but they will not affect the amount of the CPP pension.

# What is credit splitting?

If your relationship with your spouse or common-law partner ends, the CPP pension credits that both of you earned while you were together can be added up and split equally 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 a “Division of Unadjusted Pensionable Earnings” or “DUPE”. It is also called a credit split, credit division, or credit sharing.

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 spouse or partner, then you cannot get more through credit splitting.

## Who can get a credit split?

To get a credit split, you must be separated or divorced from your spouse or common-law partner.

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

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

### *Divorced or separated from your legal marriage partner*

If you were divorced before January 1, 1987, you cannot get a credit split unless you applied for it within 3 years after the divorce. But this time limit can be cancelled

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 apply for a credit split 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 apply 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 apply within 3 years after his or her death.

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. The CPP rules are the same for both opposite-sex and same-sex married couples.

### **Separated from your common-law partner**

If you are separated from your common-law partner, you can get a credit split 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 apply within 4 years after you separated, unless you and your former partner agree in writing to cancel this time limit.

On July 31, 2000, the CPP legislation and many other federal laws were changed to include same-sex common-law couples. So if you separated from your same-sex common-law partner on or after July 31, 2000, the rules about credit splitting for common-law partners apply to you.

If you separated from your same-sex common-law partner before July 31, 2000, try to get legal advice.

## How do I apply for a credit split?

You can get the CPP credit split application kit from your local Service Canada Centre, or you can have one sent to you by calling them 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 kit from the “Divorce or separation” section of the Canada Benefits web site at [www.canadabenefits.gc.ca](http://www.canadabenefits.gc.ca).

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

**Remember:** If you do not submit your application within your time limit, you may lose your right to a share of pension credits. These rules can be complicated. If you have questions, contact a lawyer, community legal clinic, or Service Canada Centre 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. CPP can refuse to divide pension credits if it would leave *both* people with less benefits, but not if only one of you would get less.

## 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](http://www.legalaid.on.ca)>, or call:

Toronto area:	<b>416-979-1446</b>
Toll-free:	<b>1-800-668-8258</b>
Toronto area TTY:	<b>416-598-8867</b>
Toll-free TTY:	<b>1-866-641-8867</b>

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

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