



Your guide to loving and leaving in Quebec covers the essential things you need to know about the legal side of relationships in Quebec, specifically how to legally end your relationship.

This publication provides meaningful and accurate information to help you resolve your own issues. It's free, and you may pass it on to friends. Your book is written without legal jargon so it is easier to understand.

Being separated or looking at divorce is difficult enough and you don't need any more complications. Take things one step at a time and try to learn as much as you can because the more you know, the better you will feel.

Colin Kennedy
Helping you with your separation and divorce.

Colin is a respected 'guru' who has written books about divorce and resolving legal issues without lawyers. He is the founder of YouCan-Divorce.com which helps people in other provinces with separation and divorce.

Colin is not a lawyer. Not being a lawyer means he can share closely guarded legal secrets, and won't ask for retainers just for the privilege of talking with him.

Chapter 1

Loving in Quebec

- relationship regimes and family patrimony,
- living together in a de facto union
- forming a civil union
- marriage in Quebec

Chapter 2

Leaving in Quebec

- Three ways to end your relationship
- The legal process and the need for agreements

Glossary

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Chapter 1

Things You Should Know About Loving and Leaving in Quebec

- Section 1 The Basics
- Section 2 Matrimonial Regimes
- Section 3 Family Patrimony
- Section 4 Living Together

Section 1 The Basics.

Living together in Quebec is governed by the Quebec Civil Code which gives you choices about what kind of legal arrangement and property arrangement you want.

When you are young and full of love the rules seem totally insignificant. But when it's time to separate or divorce, the rules take on more importance. The rules deal with property and money. Divorce and separation is often about money.

- You can select to live together in a de facto union.
- You can form a civil union.
- You may marry.
- You can remain single.





When you form a civil union or you marry, you also select your matrimonial regime by completing a marriage contract. This establishes the money relationship between you and your spouse; it mostly deals with property during your marriage and how it is divided when the marriage ends.

If you enter a marriage with property, the rules have great significance.

You can also not select a regime. Without a written contract you automatically have a “partnership of acquests”, and the arrangement is really somewhat fair to both of you. As your relationship and assets grow, you can create or amend your regime agreement.

When you enter a civil union or marriage, you are covered by the rules of family patrimony, which are reasonable rules dealing with property and possessions. The legal rules governing family patrimony confirm that two individuals who are married or joined by civil union enjoy an equal legal and economic partnership and are entitled to an equal share in the family patrimony when their partnership ends.

Section 2

The Three Matrimonial Regimes

When you form a civil union or you marry, you also select your matrimonial regime. This establishes the money relationship between you and your spouse; it mostly deals with property during your marriage and how it is divided when the marriage ends.

Regimes are established by marriage contract and the contract determines who owns the property and who administers it during the marriage. Regimes determine how the property that is not included in the family patrimony is divided when a marriage is dissolved.

Couples planning to marry may choose a matrimonial regime, and it is up to the couple to make the choice which is best for them.

Couples who do not make a marriage contract will automatically be governed by the legal regime of partnership of acquests. Later, the couple may create a marriage contract and change the regime.

1. Partnership of Acquests

Generally, property acquired during the marriage is considered to be community property and is divided equally when the marriage ends.

The property acquired (acquests) include wages, investments and work income, and property gained with that income. Unless property can be clearly shown as private property, the property is considered to be held jointly.

Under this regime each spouse administers his or her own property and is solely responsible for debts, except the debts contracted for the day-to-day needs of the family.

Private property includes:

- The property owned by each spouse before the marriage.
- Property acquired during the marriage by inheritance or gift.
- Property acquired to replace private property.
- The rights and benefits from certain insurance plans.
- Clothing, personal papers, wedding rings, and tools/instruments required for work.
- The right to support payments or disability pensions.

**2. The regime of Separation as to Property**

This regime requires a notarized marriage contract or agreement. Under this regime each spouse remains the exclusive ownership of his or her property, administers the property alone and assumes responsibility for his or her debts subject to the legal provisions of the family patrimony.

Couples selecting this regime should purchase durable goods, buildings and land in undivided co-ownership by having joint title.

3. The Regime of Community of Property

This regime has not been legal since 1970 but couples can still select this regime by notarized contract. Couples who married prior to 1970 and do not have a marriage contract are governed by this regime.

Property of the spouses is divided into three categories: community property, private property and the wife's reserved property (which is her income and property acquired with that income).

The husband administers his private property and the community property while the wife controls her own reserved property. Community property is all the movable property owned by the spouses at the time of marriage, joint assets acquired and paid for by the spouses during the marriage, and the husband's income.

Private property of a spouse is immovables acquired before the marriage contract, gifts, and legacies.

Changes to Regimes?

A matrimonial regime or marriage contract can be changed or modified any time when the new agreement is signed and notarized.



Section 3

Family Patrimony

These provisions were meant to encourage economic equality between spouses in the event of a break-up or death. Since June 24, 2002, this protection has also been offered to couples who enter into civil union. Family patrimony is a direct effect of a civil union and a marriage; it applies to all married or civil union couples regardless of their civil union or matrimonial regime.

Family patrimony includes the following property:

- The family's primary residence.
- The family's secondary residence or residences.
- The furniture in these residences.
- Motor vehicles used for family purposes.
- Accrued benefits under a pension plan during the civil union or marriage, including RRSPs.
- Registered earnings of each spouse during the marriage or civil union under the Act respecting the Quebec Pension Plan or similar plans.

This property forms part of the family patrimony regardless of which spouse is the owner. The family residence forms part of the family patrimony regardless of whether it is registered at the Registry Office in the name of one spouse or both.

Property owned by a third party is not included in the family patrimony because the property must belong to one or both of the spouses.

These provisions do not mean that both spouses own the property. Therefore, a family residence registered in the name of one spouse belongs solely to that spouse, but the other spouse will be entitled to a share of the building's net value when dividing up the family patrimony.

The following is excluded from the family patrimony

- Gifts, before or during the marriage, and any increase in value.
- Property used exclusively by one spouse.
- Businesses and farms except the residential portion. and bank accounts.
- Savings bonds, shares, investments, except RRSP's. Profit sharing plans.
- Annuity plans that are non-registered.

When you end your relationship

If you are married, your matrimonial regime defines various aspects of your relationship with your spouse, such as who owns and administers certain items of property. The matrimonial regime also determines how your property is divided following a divorce, separation, or the death of one of the spouses.



Section 4

Three Ways For Living Together

In the Province of Quebec the legal term for living together is de facto union. Québec lawmakers, respecting the freedom of choice of you living together, have deliberately chosen not to extend the same rights and responsibilities that married or civil union couples have under the Quebec Civil Code.

No matter how long you live together, you do not have any legal obligation to each other. The law simply treats you as total strangers.

- You do not have any legal obligation to support your spouse during your relationship or afterwards. There is no right to receive spousal support money.
- Without something in writing any property or goods which you have or acquire during your relationship is yours, and hers is hers.
- As a de facto spouse who is the sole owner of your home, you can sell or rent it without telling your spouse.
- Ending your de facto union is as simple as locking the doors. You may have an ethical obligation to allow your spouse to collect personal things, but you do not have any legal obligation.
- Family Patrimony does not apply to de facto unions, and you do not have the same rights as married couples.
- Although Quebec law treats you both as

strangers, there are other laws which establish obligations and do indeed treat you as a couple.

Renting or Buying Property

When you rent an apartment or a house, the only protection living in a de facto union is the right for the spouse left behind to continue occupying the home in which the couple lived before the breakup, even though he or she did not sign the lease.

To be entitled to that protection, the spouse must have lived in the dwelling with the legal tenant for at least six months and still be living in it, and must notify the landlord within two months of the departure of the spouse who signed the lease.

Buying a home jointly is the best protection for de facto couples. The same holds true for the purchase of other land or property, and joint ownership is usually established by contract. Yes, you can own property and things together, so make sure there is an agreement in writing.

If a loan must be taken out to purchase a house, your ability to repay the loan, and not your marital status, serves as the lending institution's main concern for deciding to grant the loan. If you end your relationship, the lender will still expect you both to honour the agreement.



Cars, Trucks and Toys

In your de facto union when you buy things together, his is his and hers is hers. When you buy major items, both names may be on title which means that you both are now co-owners and have joint responsibilities.

It is a good idea to avoid disagreements over ownership by keeping records and receipts.

Children

In a de facto union, you have the same rights and obligations as married couples when it comes to your children.

You must provide for your children's basic needs for education, shelter, food and clothing. All children are equal in the eyes of the law, regardless of their parent's marital status.

At the time of birth, both the mother and father must complete and sign a Declaration of Birth form before a witness, who will also sign it. The declaration constitutes legal recognition of the child.

The Declaration of Birth states the child's last name(s) and given name(s), sex, place, date and time of birth, the parents' marital status and relationship with the child and the domicile.

De facto union partners are not recognised as heirs by Quebec law. It does not matter how long you lived together or how many children you produced. If you do not have a will or written agreement, your estate is divided amongst your legal heirs and your spouse is left out in the cold.

Joint bank accounts and joint safety deposit boxes are frozen until the final settlement. Therefore, you should have separate accounts

and boxes.

How to Establish Your Rights

Putting something in writing will protect your rights and obligations.

A cohabitation contract is a great tool to show what you bring into the union, how you spend your money, who owes what, who is responsible for debts, and what happens to all the stuff when you break up. But, certain things related to your de facto union cannot be stipulated because upon breakup there are laws which will override your agreement.

A free fill-in-the-blanks cohabitation contract is available for instant download at LawQuebecDivorce.com

If the cohabitation contract is not respected, a party may apply to the court to have it enforced. Remember, if there are children involved you both have a duty to comply with the Quebec Civil Code and the Federal Child Support Guidelines.

Your breakup or what happens when one of you dies may also be settled by a dissolution agreement, with or without the assistance of a mediator, notary or lawyer, whether or not you have a cohabitation contract.

A dissolution agreement sets out the terms and conditions relating to division of property, custody of the children and child support. The access rights of the parent who does not have custody of the children may also be determined in the agreement. A separation agreement is available for instant download.

Civil Union

You can step up from a de facto union to a civil union. It may make you or your family feel better or more secure.

- You both must be at least 18.
- You cannot be a close relative.
- You must be free of any matrimonial bond or other civil union.
- You both must consent to the union in public in front of two witnesses.

The Benefits to a Civil Union

It's like being married, but easier to dissolve if things don't work out as planned. The civil union takes effect as soon as the ceremony ends. You live together as spouses and enjoy the rights and benefits as if married.

- You owe each other respect, to be faithful and to give assistance.
- You select and protect the family residence.
- You share the family patrimony if your union ends.
- You may establish an allowance for what your spouse contributes to the family patrimony.
- Upon death, the surviving spouse has a right to inherit.
- You share direction of the family and exercise parental authority.

- You share expenses.
- You may select one of the matrimonial regimes.
- You may complete a marriage contract, but when your union ends the legal provision governing family patrimony will take precedence.

Ending a Civil Union

Your civil union ends when you marry your spouse, or when one of you dies, or when one of you decides enough is enough.

Marriage in Quebec

Marriage is still a good method to be together. It has similar benefits to a civil union but with the advantage of having a firmer commitment and being valid beyond the borders of Quebec. And, you can marry in just about any country and your marriage will be legal in Quebec.

When you marry and live in Quebec

- You may select a matrimonial regime by a marriage contract to establish the money relationship between you and your spouse. Your contract defines how you deal with property during your marriage and how things are divided when the marriage ends.
- You can decide to forget about a marriage contract and simply go with the default rules about property in Quebec.

Chapter 2

The Need For Agreements

In Chapter 1 you discovered that there are three styles of living together in Quebec.

You read that there are three matrimonial regimes. You read about family patrimony, and you touched on how to legally end your relationship.

Cohabitation Contract

When you move in with someone to begin living together as spouses, you have what is called a de facto union, and your rights are limited. Basically, as discussed in the last chapter, Quebec law treats you as total strangers. To establish your rights and obligations you may complete a contract.



A free fill-in-the-blanks cohabitation agreement is available for instant download. When signed and witnessed by an adult who is not related to you this agreement is legal and binding. You do not need a lawyer or notary to sign this agreement. However, sometimes it may be a good idea to consult legal counsel if you feel that your agreement is too complicated or you are unsure.

The agreement typically covers:

- Family residence and other immovables.
- Who pays for household expenses.
- Partition of property.
- An inventory of property.

- Support and education of children.
- Debts.
- Gifts.
- Power of attorney.

Marriage Contract

As you saw in Chapter 1 and 2, when you enter into a civil union or are married you may agree to complete a marriage contract. Failing to make a contract means that your marriage regime is the default of partnership of acquests. A marriage contract is similar to the Cohabitation Agreement and the sample can be modified, but your civil union contract will need to be notarized.

Separation From Bed and Board

We accept that some relationships will end, and this separation agreement is used to resolve and settle your affairs.

To end a civil union you make a declaration before a notary, but first the law says that you settle your affairs with a notarized document, and that's where the separation agreement is essential.

When you separate from your marriage, you can make it a legal separation by completing the agreement and having the agreement approved by a judge.

This separation from bed and board will cover:

- Child custody, child support, and access
- Exercise of parental control
- Settlement of the marriage contract
- Dividing of the family patrimony
- Ownership of immovables
- Settlement of the matrimonial regime
- Payment of any compensatory allowance
- Ministère du Revenu

Three ways to end it

Separation

You can just leave. This type of separation is not considered legal in Quebec, but really, you can just walk away.

Legal Separation

A legal separation allows you to stop living together and will settle child custody and support obligations, property obligations, spousal support issues, and you can inherit your spouse's property if he/she dies without a will.

To be legally separated you may submit an application for a legal separation alone or with your spouse. To have your union dissolved you are required to have a written agreement **approved by a court**. If you cannot agree on the child, property or other issues then you may ask the court to make an order without your ex's co-operation.

The court process for either a joint or sole application is somewhat complicated and there is a ton of paperwork involved, but it can be much easier and less stressful with Colin's assistance.

If you do not have children you may make an agreement to settle all your money and property issues and have your agreement sworn by a notary.



What if my spouse won't sign?

Without a signature your separation agreement has no legal weight. Your spouse may have reasons for not signing. The issue could be control, avoidance, denial, guilt, fear, greed, power, no trust, no hurry, no need, or just plain bad advice from a third party, or maybe he/she wants to change things first. Maybe it is a hint that you need to negotiate. Maybe your ex is sending an "I don't care" message.

If he or she won't agree to the cohab or marriage agreement, then perhaps you need to find out why, and start negotiating, or find a mediator. Without an agreement you can still live together or get married, but to end your relationship Quebec law wants everything resolved so it is a good idea to make a serious attempt to comply.

Before You Sign Your Agreement!

You can appreciate that your cohab agreement, marriage contract, or separation from bed and board agreement are important pieces of paper which affect your rights and obligations. Therefore, it is a very good idea to have an authority review the contents.

You can pay a lawyer to review your agreement, but too often the lawyer will tell you that he/she cannot represent both of you, and you both will need independent legal counsel. OK, your agreement is now in the hands of two adversarial lawyers, and you can guess what may happen next.

Alternatively, you can have Colin Kennedy review your agreement to make sure you have not missed something important, your agreement complies with the law, and it makes sense.

You don't need to make an appointment or attend meetings, and your comprehensive review is usually completed in a day. Please see this page.

<http://www.lawquebecdivorce.com/review.html>

Ending your marriage

Three legal reasons for divorce in Canada and Quebec.

1. Separation for more than one year.
2. Mental or physical cruelty of such a kind as to make continued cohabitation intolerable.
3. Your spouse committed adultery.



Sole Divorce

To divorce in Quebec you do not need his/her permission or approval; you do not need him/her to sign anything.

If you have lived in Quebec for more than one year and you have a legal reason to divorce, then you don't need to negotiate or get a written agreement you can go ahead and file for divorce all on your own.

Joint Divorce

A joint application for divorce requires that you have been living separate and apart for one year. One of you is a resident of Quebec, and you both sign things and prepare a draft agreement to show that you have resolved all your issues and property according to the rules about family patrimony.

You also show that you are complying with the rules dealing with children, and back up everything you say with tons of documents and evidence.

To dissolve your marriage is a task which is almost impossible to do alone because there are several complicated forms, and the forms with the information must be totally complete or the court clerk will quickly send you away. The clerk has enormous power and will not give you legal advice or help you with the forms - it is purely accept or reject, so to avoid frustration you really need to get your paper work right.



Do I need a lawyer?

Quebec divorce is not easy; there is a ton of paperwork, and it must be done correctly.

Doing it yourself is not recommended.



Do you need these lawyers to broker your divorce?

Colin Kennedy
www.LawQuebecDivorce.com
has a better option for you.

Glossary

Adjourn

Postpone to a later date.

Allegation

I know it sounds like a threat but it means to affirmation, or a claim.

Approve Also homologate, also ratify
To approve or validate an agreement and give it legal value equivalent to the value of a court judgment.

Collusion

A secret agreement between two or more persons, who seem to be in a conflict of interest, for the purpose of circumventing the law or legal system, misleading the court or harming another party. For example: two married persons agree to lie about how long they have been separated so that they can file a joint application for divorce.

Compensatory allowance

If one spouse contributes to the family patrimony or family business, then there may be a money allowance to fairly compensate for the contribution.

Corollary relief

Measures set out in the judgment which settles various matters that do not pertain to the basic issue. Also referred to as accessory measures. In a judgment granting divorce, separation or dissolution of a civil union, accessory measures may concern such matters as support, custody, visiting rights, etc.

De facto union

Living together as husband and wife but not married or in a civil union, something everybody does sooner or later.

Family patrimony

The legal rules governing that two individuals who are married enjoy an equal legal and economic partnership, and are entitled to an equal share in the family patrimony when their partnership ends.

Immovables

Real property that cannot be moved; land and buildings. It's not the rusted truck shell.

Order

A decision of the court.

Proceeding

A written document required by law to be drawn up by the parties, namely the petitioner and the respondent. The purpose of the document is to commence a suit before the court, govern the proper conduct of the proceedings or hearing, suspend or terminate the proceedings or have a judicial decision enforced.

Proceedings (also Hearing)

The term means both the dispute before a court and every proceeding from the introductory application to the rendering of the judgment.

Ratify

To render an instrument final or valid through court approval.

Regime

A system of rule. In this case it refers to the three matrimonial regimes in Quebec. De facto Union, civil union, and marriage.

Support

In general, "support" is the term used to describe all the elements enabling the ordinary needs of a person to be provided for, or in other words, all that is needed to feed and care for a person.

Support obligation

A reciprocal obligation arising in law between certain persons (an ascendant and a descendant, two married spouses or two persons in a civil union) which, when one of those persons is in need, allows that person to claim support from the other person in the form of money necessary to procure food, shelter, clothing and care.

Support payments made to the Minister of Revenue

The amounts payable as support by a former spouse (support debtor) must be remitted to the Minister of Revenue for the benefit of the other former spouse (support creditor). The court may, however, under certain conditions, exempt a support debtor from that requirement or suspend it temporarily.

Children and your marriage

Child

Means a child of the marriage or a child who

- (a) is under the age of majority; or
- (b) is the age of majority or over but is unable, by reason of illness, disability or other cause to obtain the necessities of life.



Custody time

Means the time during which a parent has the custody of a child or exercises visiting or outing rights in respect of a child, whether or not the child is in care of a third person during that time". A key factor is where the child lives and at what residence the child sleeps. When you determine time the province looks at how many days per year, so you may need to count extended holiday time.

Sole Custody

A parent who assumes more than 60% of the custody time shall be considered to have sole custody of a child for the purposes of these rules about determining child support.

Shared custody

Both parents have care and control of a child more than 40% of the time. It is when a child lives with one parent for a time then lives with the other parent for a similar amount of time.

Split custody

One child lives with one parent and another child lives with the other parent.

Joint custody

The term does not apply to Quebec.

Visiting rights.

The non-custodial parent has care and control of a child for up to 20% of the time.

Visiting and prolonged outing rights

The non-custodial parent has care and control of a child between 20 and 40% of the time. Weekends and time in the summer does add up.



Yes, you can legally divorce in Quebec without lawyers.

With Colin Kennedy's on-line help, you save thousands in legal fees.

You divorce quickly and smoothly.
Your completed divorce package is properly prepared and complies with the Quebec Civil Code.

Child custody and support, property, spousal support, and family patrimony are included with your divorce.