

## Amendments to the Rules of practice of the Superior Court of Québec in family matters

Notice is hereby given that the Rules to amend the Rules of practice of the Superior Court of Québec in family matters, the text of which appears below, were made by the judges of the Superior Court of Québec by way of a consultation by mail, on June 30, 2003, in accordance with article 47 of the Code of Civil Procedure (R.S.Q., c. C-25).

Montréal, 15 August 2003

LYSE LEMIEUX,  
Chief Justice

### Rules<sup>1</sup> to amend the Rules of Practice in Family Matters

**1.** The title in French “Règles de pratique en matière familiale” is replaced by the title, “Règlement de procédure en matière familiale”.\*

May be cited in French: “R.p.fam. (C.S)”, or if the context permits, “R.p. fam.”, and in English, “R.F.P. (S.C.)”, or if the context permits, “R.F.P.”.

**2.** In articles 21 and 22 and in the title of Sub-section 2 of Division 1 of Chapter III, the words “divorce declaration” and “declaration” are replaced by “application for divorce” and “application”.

**3.** In the title of Sub-section 3 of Division 1 of Chapter III, the words “by declaration” are replaced by “to institute proceedings”.

**4.** Form I is amended as follows:

(a) in the title of the Form, the words “divorce declaration” are replaced by “application for divorce”;

(b) in the title of the proceeding, the word “declaration” is replaced by “application for divorce”;

(c) in the ninth allegation of the proceeding, in the French text, the word “declaration” is replaced by “demande”;

(d) the tenth allegation is replaced by:

“Safeguard and provisional measures (if the application contains conclusions to that effect), corollary measures and other claims

(A) There is an agreement between the parties as to corollary relief, a copy of which is numbered Exhibit P-6;

or

(B) There is no agreement between the parties as to all safeguard and provisional measures and corollary relief, and

i. The grounds in support of the conclusions for provisional relief are (enumerate the facts): \_\_\_\_\_

ii. The grounds in support of corollary relief are (enumerate the facts): \_\_\_\_\_

(e) The conclusions of the proceeding are replaced by:

“ISSUE the following safeguard orders (if applicable):

ISSUE the following provisional orders, if applicable:

PRONOUNCES the divorce of the parties;

ISSUE the following orders of corollary relief (if applicable): \_\_\_\_\_

and GRANT the following additional conclusions (if applicable) \_\_\_\_\_

Or

RATIFY the agreement between the parties and ORDER the parties to conform therewith, \_\_\_\_\_ costs.”;

<sup>1</sup> Adopted pursuant to the Court’s inherent powers and Article 47 of the Code of Civil Procedure.

(f) the word “affidavit” is struck;

(g) the text following the words “notice to defendant as to contestation” are replaced by, “Insert here the prescribed text published in the *Gazette Officielle*, (2002) 134 G.O., Part II, 6492”.

(h) The following text is added after the preceding paragraph: “If necessary, add a notice of presentation of applications for safeguard orders or provisional measures.”.

**5.** Form III is amended in the “income” section by striking the words “family allowances/tax credits”.

**6.** The following article is added after Article 18:

“**18.1** Priority. The conclusions of a motion relating to An Act respecting the civil aspects of international and interprovincial child abduction (R.S.Q., c. A-23.01) must be treated in priority to any other conclusions of the motion.”.

**7.** Article 23 becomes Article 20.1 and the word “legitimacy” is replaced by the word “filiation”.

**8.** Articles 41 and 41.1 are amended by striking the second sentence in the first paragraph of Article 41 and by adding it as the second paragraph of Article 41.1.

**9.** Form IV, being the Statement of the Family Patrimony, is replaced by the attached Form.

**10.** The Table of Contents is amended to take account of Articles 1, 2, 3,6 and 7 above.

**11.** These Rules come into force ten days after their publication in the *Gazette Officielle de Québec*.

Form IV

(Identification of the record)

**STATEMENT OF THE FAMILY PATRIMONY**

<b>A</b>	APPLICANT	DEFENDANT	
PROPERTY EXCLUDED FROM THE PATRIMONY (Art. 415 C.C.Q.)	VALUE	VALUE	GROUNDS FOR EXCLUSION

VALUE OF THE PATRIMONY ESTABLISHED AS AT      /      /       date spouses ceased living together  
 DD / MM / YYYY  date of institution of the action

<b>B</b>	APPLICANT			DEFENDANT		
	VALUE	DEBT INCURRED	NET	VALUE	DEBT INCURRED	NET
NET VALUE OF PROPERTY IN THE PATRIMONY OWNED BY THE PARTIES (Art. 415 and 417 C.C.Q.)						
(1) Family residence	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
(2) Secondary residence(s)	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
(3) Movable property which furnishes or decorates the residences and serves for the use of the household:						
• Family residence	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
• Secondary residence(s)	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
(4) Motor vehicle(s) used for family travel	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
<b>TOTAL</b>	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
DEDUCTIONS (Art. 418 C.C.Q.)			less			less
(a) Property owned before the marriage	Net value \$ _____	increase in value +\$ _____	=\$ _____	Net value \$ _____	increase in value +\$ _____	=\$ _____
(b) Contribution during the marriage	Contribution \$ _____	increase in value +\$ _____	=\$ _____	Contribution \$ _____	increase in value +\$ _____	=\$ _____
VALUE WHICH MAY BE PARTITIONED			=\$ _____			=\$ _____

\* For greater detail, see the schedule

C	APPLICANT			DEFENDANT		
	VALUE	DEBT INCURRED	NET	VALUE	DEBT INCURRED	NET
NET VALUE OF PROPERTY IN THE PATRIMONY OWNED BY THE PARTIES (Arts. 415 and 417 C.C.Q.)						
(5) Benefits accrued during the marriage under a retirement plan (**See Section D if the plan does not confer the right to a capitalized amount)	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
(6) RRSPs accrued during the marriage	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
<b>TOTAL</b>	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
DEDUCTIONS (Art. 418 C.C.Q.)			less			less
Contribution during the marriage	Contribution	increase in value		Contribution	increase in value	
	\$ _____	+\$ _____	=\$ _____	\$ _____	+\$ _____	=\$ _____
VALUE WHICH MAY BE PARTITIONED			=\$ _____			=\$ _____

D Check the appropriate boxes	APPLICANT	DEFENDANT
Registered earnings during the marriage:		
• Québec Pension Plan (Q.P.P.)	<input type="checkbox"/>	<input type="checkbox"/>
• Canada Pension Plan (C.P.P.)	<input type="checkbox"/>	<input type="checkbox"/>
** The pension plan to which you contribute entitles your spouse to a pension instead of a capitalized amount	<input type="checkbox"/>	<input type="checkbox"/>
** The pension plan to which your spouse contributes entitles you to a pension instead of a capitalized amount	<input type="checkbox"/>	<input type="checkbox"/>

**SWORN STATEMENT**

I declare that the information given regarding the property owned by me is accurate and complete and that, to the best of my knowledge, it is accurate and complete as regards the property owned by the other party.

And I have signed in \_\_\_\_\_, on \_\_\_\_\_  
 Applicant  or Defendant

Solemnly affirmed before me in \_\_\_\_\_ this \_\_\_\_\_

Individual empowered to receive oaths: \_\_\_\_\_

**E** I BELIEVE THAT THE RULES REGARDING THE FAMILY PATRIMONY DO NOT APPLY IN THIS CASE, FOR THE FOLLOWING REASONS: (SPECIFY)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I AM NEVERTHELESS COMPLETING THE FOLLOWING STATEMENT IN THE EVENT THAT THE COURT DOES NOT ACCEPT THIS ARGUMENT.

**F** I AM CLAIMING UNEQUAL PARTITION FOR THE FOLLOWING REASONS (ART. 422 C.C.Q.) :

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**G** EFFECTING THE PARTITION

(Art. 419 and 420 C.C.Q.)

Proposed methods of payment:

- 1. Currency:
- in cash: \$ \_\_\_\_\_
- by instalments: \$ \_\_\_\_\_

- as follows:

(date)	(amount)
_____	_____
_____	_____
_____	_____

- security (if applicable):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. By giving in payment of the following property:

Applicant:

Defendant:

_____	_____
_____	_____
_____	_____

**H** RECOVERY OF DEDUCTIONS (IF APPLICABLE):

Applicant:

Defendant:

_____	_____
_____	_____
_____	_____

Signed in \_\_\_\_\_, on \_\_\_\_\_

PER : \_\_\_\_\_