

General Terms and Conditions

Introduction

Welcome to *LSS Tariffs*, the guide to how the Legal Services Society compensates lawyers for their work on legal aid referrals. This chapter outlines the framework for the contract between the Legal Services Society and referral lawyers. It is important that you familiarize yourself with this chapter before you accept a referral from LSS. In addition to the general terms and conditions of your contract, this chapter provides a list of definitions and a quick reference chart for tariff rates.

All other documents and resources for working with LSS are available on the LSS website (www.lss.bc.ca) in the Lawyers section. For example, there you'll find [e-services](#), all necessary [forms](#), an up-to-date “Contacts for lawyers” list, information about our [mentoring program](#), [practice resources](#), and a record of all our communication with referral lawyers. The LSS website also provides general information about the [Legal Services Society](#) and our current client [coverage](#) and [eligibility](#).

Using the LSS Tariffs guide

All chapters of the *LSS Tariffs* guide are posted on the LSS website under [Lawyers — LSS Tariffs](#). Most of the time, you will only need to refer to the chapter for your area of law and the chapter on disbursements.

To get a copy of the guide, you may print the chapters you need directly from the LSS website. The website version is the official version of *LSS Tariffs* and is updated as Notices to Counsel are issued.

Notices to Counsel

All changes to *LSS Tariffs* are announced in Notices to Counsel, which are faxed to referral lawyers and posted on the LSS website under [Lawyers — Notices to Counsel](#).

Legal Aid Fax (LAF)

The Legal Aid Fax, a newsletter containing billing tips and general LSS news, is faxed to referral lawyers throughout the year. Issues of the LAF are posted on the LSS website under [Lawyers — Legal Aid Fax](#).

Processing Accounts

LSS provides lawyer e-services (online billing, direct deposit, My profile, My payments) for all referral lawyers. You'll find all the information you need on the LSS website under Lawyers — [Lawyer e-services](#), including an e-services user guide. You can register for an account by simply selecting “Register now” on the e-services web page.

LSS still accepts paper billing forms from lawyers who were taking legal aid referrals prior to June 29, 2010. The forms are available on the LSS website, for [printing](#) or filling out [online](#). For detailed instructions, you may refer to the [Guide for Paper Billing](#), available on the LSS website under Lawyers — LSS Tariffs.

LSS staff are available to answer inquiries about billing and the status of your account. Contact them at:

Tariff Helpdesk
Phone: 604-601-6155
Fax: 604-681-5796
E-mail: helpdesk.tariff@lss.bc.ca

If tariff staff contact you with a question, you must confirm your response in writing. Written responses to questions are required by the society's auditors and speed up the processing of accounts.

If you have questions about a specific tariff item or have any general comments or suggestions about our tariffs, please contact:

Manager, Tariff Services
Legal Advice and Representation
Legal Services Society
400 – 510 Burrard Street
Vancouver, BC V6C 3A8

Audit and Investigation

The Audit and Investigation Department monitors billings to ensure that lawyers acting for legal aid clients bill LSS appropriately for their services and disbursements. The Audit and Investigation Department is also responsible for ensuring that the quality of service that lawyers provide to our clients is comparable to that provided to clients who pay privately.



Client confidentiality

All information an applicant or client gives to LSS is subject to solicitor-client privilege. LSS cannot disclose information to any third party without the applicant's or client's explicit approval. Solicitor-client privilege is protected under section 14 of the *Freedom of Information and Protection of Privacy Act* and section 23 of the *Legal Services Society Act*, which state that:

1. Information disclosed by a client or an applicant for legal aid to a director, employee or agent of the society or funded agency is privileged and must be kept confidential in the same manner and to the same extent as if it had been disclosed to a solicitor under a solicitor and client relationship.
2. If a civil or criminal proceeding is or may be brought against a person respecting the person's eligibility for legal aid, subsection (1) does not apply to information respecting eligibility.

Clients agree at the beginning of a legal aid referral to instruct their lawyers to provide LSS with information about their cases and financial circumstances.

Definitions

Additional preparation: the legal fees in excess of the tariff allowance that referral lawyers may request at the outset or during the course of a referral.

Applicant: a person who applies to LSS for legal services.

Articled student: a person enrolled in the Law Society of British Columbia's admission program for articling students administered by the Law Society or its agents, including the period that the student is articled to a principal or registered in the training course. Where the tariff references lawyers, the terms also apply to articled students, except where expressly indicated otherwise.

Attendance: the time spent at a court or tribunal hearing, or a mediation session, from the scheduled start time to its conclusion, including waiting time (if counsel is not handling other matters), but excluding meal breaks.

Billing forms: the LSS e-billing or paper forms provided to referral lawyers for billing LSS for legal fees and disbursements.

Block fees: the flat legal fees LSS pays for certain legal services regardless of the time spent providing the service (see page 17).

Case: one or more related legal problems arising for a client.

Case cost caps: a limit on the total legal costs LSS will pay for a case, calculated by combining, for all referral lawyers who have acted in that case, the aggregate legal fees paid or billable, *or* the aggregate disbursements paid or billable, not including applicable taxes.

Case type: the categories of legal problems for which LSS has created separate tariffs (e.g., criminal, family, immigration).

Client: an applicant LSS considers eligible to receive legal services after determining he or she meets LSS coverage and eligibility criteria.

Counsel agent: a lawyer who performs legal services on the referral lawyer's behalf.

Coverage: the range of legal problems for which LSS makes legal services available, or the range of legal services LSS may fund, as determined by LSS.

Date of interview/assignment: the date a client applies to LSS for legal services as specified on the referral form.

Disbursements: the expenses referral lawyers incur on behalf of clients while providing legal services.

E-billing: the secure LSS website application that allows referral lawyers to bill LSS electronically for legal fees and disbursements.

Eligibility: the LSS decision that an applicant is financially qualified for legal aid.



Enhanced fees: the higher legal fees LSS pays to senior counsel in enhanced fee cases. See the [enhanced fees policy](#) on the LSS website under Lawyers — LSS Policies.

Enhanced fee case: an enhanced fee case as defined in the Memorandum of Understanding (MOU) between LSS and the Attorney General. The [MOU](#) is available on the LSS website under About us — How we're funded.

Exceptional matter: an exceptional matter as defined in the Memorandum of Understanding between LSS and the Attorney General. The [MOU](#) is available on the LSS website under About us — How we're funded.

Extra legal fees: the legal fees in excess of the tariff rate that referral lawyers request from LSS at the conclusion of the case.

Final account: the completed billing form(s) a referral lawyer submits to LSS, when he or she ceases acting in a case, as a full and final statement of all legal fees and disbursements he or she is entitled to recover from LSS.

General preparation: the preparation for a referral that is not specifically covered by another tariff item. It includes such things as taking instructions, preparing correspondence and court documents, negotiating with an opposing party, and the time spent waiting to see a client at a detention facility. It does not include time spent travelling to and from court or a detention facility.

Half day: a court sitting either before or after the lunch adjournment.

Hourly rate: the hourly rate set by LSS, to be billed in 10ths of hours (see page 17).

Interim accounts: the accounts referral lawyers submit to LSS before the final account.

Last service date: the date a referral lawyer last performed a legal service billable according to the tariff contract.

Legal aid: the services and information provided under the *Legal Services Society Act*, S.B.C. 2002, c.30.

Legal fees: the fees referral lawyers bill LSS for legal services provided to clients.

Legal services: the services ordinarily provided by a lawyer that are billable according to the tariff contract and provided to clients by referral lawyers pursuant to a referral.

LSS: the Legal Services Society, continued under the *Legal Services Society Act*, S.B.C. 2002, c.30.

Negative account: an account representing a portion, or the full amount, of a repayment amount. The negative account is deducted from any money payable by LSS to the referral lawyer.

Notice to Counsel: a notice LSS issues periodically to inform referral lawyers about changes to the tariff contract.

Post-payment review: the process of reviewing a referral lawyer's paid account(s).

Reduction: a permanent reduction to legal fees payable to referral lawyers, as determined by LSS.

Referral: the LSS authorization for a lawyer to provide legal services to a client and to bill LSS for legal fees and disbursements for the case according to the tariff contract.

Referral lawyer: a lawyer who is a member in good standing of the Law Society of British Columbia, holds a Law Society of British Columbia practising certificate, and who LSS deems eligible to accept referrals.

Referral form: the form(s) issued by LSS to a referral lawyer confirming LSS authorization to provide legal services to a client in a specified case according to the tariff contract.

Referring office: the LSS office that issues a referral to the referral lawyer.

Repayment amount: the amount of money LSS determines a referral lawyer must reimburse LSS for money paid by LSS to the referral lawyer which was not properly payable according to the tariff.

Service start date: the date from which LSS authorizes referral lawyers to bill LSS for legal services provided to a client.

Service stop date: the date LSS specifies for automatic termination of a referral.

Society, the: another name for LSS.

Strategic Case Assessment Program (SCAP): the case management program LSS uses to manage the allocation of funds to lengthy criminal matters. For information on [SCAP](#), see the LSS website under Lawyers — Case management information.

Submittal: the LSS term for an account submitted to LSS by a referral lawyer.

Tariffs: the schedules of legal fees and disbursements payable by LSS for legal services provided or expenses incurred on a client's behalf.

Tariff items: the individual provisions within each tariff describing the nature of a legal service or disbursement and its specific billing rules, including the amount payable or the maximum billable hours allotted.

Tariff contract: the retainer agreement between LSS and referral lawyers, as modified from time to time by LSS, including the contents of *LSS Tariffs* (General Terms and Conditions and applicable Tariffs) and Notices to Counsel and other written instructions that LSS may provide to referral lawyers directly or through the LSS website.

Tariff rate: the rate LSS pays for legal services, in the form of block fees or an hourly rate, as set out in the tariff contract. See the Tariff Rates Quick Reference on page 17.

Tiered rates: the LSS system of differential tariff rates for lawyers based on their years of call to the bar. Years of call is the period beginning on the first day of the month and year in which the lawyer was called to the bar in Canada, and ending on the service start date of the particular referral.

There are three tiers:

- Tier 1** Less than 4 years call
- Tier 2** 4 or more years and less than 10 years call
- Tier 3** 10 or more years call

See the Tariff Rates Quick Reference on page 17.

Timekeeping record: A record (identified per client) of legal services performed, with a detailed description of the services, in chronological order, including the date and time spent on services.

Vendor number: LSS provides this permanent identification number to lawyers and other service providers, enabling them to do business with LSS.



General Terms and Conditions

General

1. LSS may modify the terms and conditions of the tariff contract at any time, and such modifications take effect upon reasonable notice.
2. A referral lawyer's acceptance of a referral is considered his or her conclusive agreement to represent a client in the case specified on the referral form and bill LSS according to the tariff contract.
3. LSS has sole authority to determine all matters related to legal aid, including clients' coverage and eligibility and appropriate compensation of lawyers.
4. Referral lawyers may ask LSS to review a decision regarding eligibility, coverage, or any other matter related to the interpretation and administration of the tariff contract.
5. LSS may refuse to pay all or part of a referral lawyer's account if the referral lawyer fails to comply with the terms and conditions of the tariff contract.
6. LSS may refuse to pay referral lawyers for legal fees and disbursements related to legal or other services that were:
 - (1) not reasonable and necessary to advance the client's best interests;
 - (2) performed inadequately;
 - (3) performed by a lawyer who was not then a member in good standing of the Law Society of British Columbia and who did not hold a Law Society of British Columbia practising certificate; or
 - (4) performed by a lawyer contrary to the terms of an LSS decision under the [Referral Eligibility Policy](#) (available on the LSS website under Lawyers — LSS Policies).
7. Referral lawyers must, within 30 days:
 - (1) respond to LSS inquiries about a referral;
 - (2) respond to an LSS inquiry regarding a client complaint;
 - (3) provide information requested by LSS regarding a complaint; and



- (4) inform LSS of any changes to their business or e-mail addresses and telephone or fax numbers.
8. LSS may release correspondence between a referral lawyer and LSS about an applicant's or client's case, including billing information, upon the applicant's or client's request.
9. LSS is not responsible for any disputes relating to a referral that may arise between referral lawyers and third parties.
10. It is the responsibility of the referral lawyer to be registered with WorkSafeBC pursuant to legislation.
11. LSS may, at its discretion, and upon reasonable notice to lawyers, impose reductions at rates set by LSS.
12. LSS may, at its discretion, impose conditions on, or temporarily or permanently suspend, a lawyer's eligibility to receive referrals in accordance with its [Referral Eligibility Policy](#).

Client coverage and eligibility

13. Referral lawyers must immediately notify the referring office if they learn that a client has:
 - (1) improved his or her financial situation;
 - (2) failed to disclose assets or income to LSS;
 - (3) unreasonably prolonged a case; or
 - (4) refused to give the referral lawyer reasonable instructions.
14. LSS may terminate a referral at any time if a client no longer meets LSS criteria for coverage and eligibility.
15. LSS may add to an existing referral any new matter of the same case type arising for a client within 90 days of the existing referral's date of interview/assignment.
16. According to the LSS [Settlements and Judgments](#) policy, a referral lawyer must immediately notify LSS if they learn that a client will be receiving a settlement or awarded a judgment, and must:
 - (1) provide the Audit and Investigation Department with the client's current contact information and the amount of the expected settlement or judgment; and
 - (2) confirm with LSS the repayment funds owed and obtain LSS authorization before releasing any portion of the settlement or judgment from his or her trust account.

17. If a referral lawyer believes that a client referred by LSS will receive a settlement that will not be processed through the referral lawyer's trust account, the lawyer must immediately notify the Collections Audit Clerk at helpdesk.sj@lss.bc.ca.

Authorization for services

18. LSS will not pay referral lawyers for legal fees and disbursements arising *before* the service start date, unless the legal fees and disbursements:
 - (1) relate to a bail hearing occurring within 20 days before the service start date; or
 - (2) were authorized in advance by LSS.
19. LSS may determine the service stop date for any referral.
20. LSS may refuse to pay legal fees and disbursements arising after the service stop date.

Billing for services

21. LSS contracts with the referral lawyer and not the referral lawyer's law firm. When a referral lawyer submits an electronic or paper billing form to LSS, the referral lawyer represents and warrants that he or she:
 - (1) reviewed the billing form before submitting it to LSS;
 - (2) performed, or supervised a counsel agent or articulated student to perform, the legal services billed for on the dates recorded on the billing form;
 - (3) made reasonable efforts to ensure legal fees and disbursements were reasonable and necessary; and
 - (4) is entitled to receive payment according to the tariff contract.
22. Referral lawyers must complete billing forms fully and accurately according to the terms of the tariff contract.
23. LSS may refuse to process payment for all or part of a referral lawyer's account if the referral lawyer submits a billing form that is inaccurate or incomplete. If all or part of a referral lawyer's account is not paid, a referral lawyer may seek to have the account reviewed by:
 - (1) requesting in writing a review by the Manager, Tariff Services or his or her designate; and

- (2) providing LSS with further detailed account information.

There will be no further reviews after the final decision of the manager.

24. Referral lawyers may submit interim accounts if:

- (1) the legal fees total \$500 or more;
- (2) the disbursements total \$300 or more;
- (3) the referral lawyer has changed firms; or
- (4) the preliminary inquiry in a criminal case has ended and the trial will not begin for three months or more.

25. LSS may refuse to pay any legal fees and disbursements not included on a referral lawyer's final account.

26. Referral lawyers must submit accounts to LSS:

- (1) upon request by LSS;
- (2) for duty counsel or circuit counsel, within two months of each service date;
- (3) for all other referrals, not more than six months after the last service date, or when the referral lawyer ceased representing the client on that particular referral.

27. [deleted]

28. Referral lawyers must not include the Harmonized Sales Tax (HST) when recording legal fees and disbursements on a billing form. Although HST does apply to the services provided, LSS will automatically calculate the amount of HST payable (if applicable) when processing an account.

29. Referral lawyers are not permitted to bill for two legal services provided at the same time or on the same half day unless the applicable tariff explicitly permits this. If a lawyer is attending the same court on the same half day for more than one client or legal service, the time may be billed only once, notwithstanding that there are two or more separate referrals issued to the lawyer for different clients or legal services.

30. After paying an account, to ensure the account is valid and properly billed in accordance with the tariff contract, LSS may conduct a post-payment review of an account within two years from the date of payment, or beyond two years if there is a delay with LSS accessing necessary court records.

Counsel agents and articulated students

31. A referral lawyer may, without prior LSS authorization, bill LSS for legal services performed by a counsel agent if:
- (1) the counsel agent provided the legal services in British Columbia;
 - (2) the counsel agent provided the legal services in accordance with the tariff contract but did not assume conduct of the case; and
 - (3) the referral lawyer billed the legal services in accordance with the tariff contract and indicated on the billing form which legal services the counsel agent performed.
32. Referral lawyers may not, without prior LSS authorization, retain counsel agents to provide legal services:
- (1) outside British Columbia, or
 - (2) where the counsel agent wishes to bill for travel fees.

Please contact the Case Management Section for authorization.

33. Referral lawyers must ensure that the counsel agent:
- (1) is a member in good standing of the Law Society of British Columbia and holds a Law Society of British Columbia practising certificate;
 - (2) has a valid LSS vendor number; and
 - (3) is not subject to an LSS decision under the [Referral Eligibility Policy](#) that affects his or her eligibility to receive referrals.
34. Referral lawyers may, without prior LSS authorization, bill LSS for legal services performed by an articulated student if:
- (1) the articulated student acts according to Law Society rules and does not act in the following:
 - (a) the role of duty counsel,
 - (b) indictable offence trials,
 - (c) final separation agreements,
 - (d) any hearing, conference, mediation, or negotiation which would result in a final FRA order,
 - (e) committal hearings,
 - (f) any application for continuing custody, or

- (g) refugee hearings;
- (2) the client consents to the articulated student providing the legal services;
- (3) the referral lawyer bills the legal services performed by the articulated student at the Tier 1 rate (LSS will adjust the amount to 75% of the applicable tariff rate — see page 17);
- (4) the referral lawyer indicates on the billing form which legal services the articulated student performed; and
- (5) the referral lawyer does not bill both the articulated student's time and the lawyer's time for the same services or appearances.

Junior and co-counsel

35. LSS may authorize the appointment of junior or co-counsel, on terms LSS may determine, if the referral lawyer submits a written request in advance to the Manager, Legal Services, indicating:
- (1) the exceptional circumstances of the case, including complex legal and factual issues, that make junior or co-counsel necessary;
 - (2) the specific tasks junior or co-counsel will perform; and
 - (3) the name and LSS vendor number of the proposed junior or co-counsel.
36. Subject to any specific instructions LSS may provide, a lawyer authorized by LSS to act as junior counsel may bill LSS:
- (1) in enhanced fee cases, at the regular junior counsel Tier 1 hourly rate (LSS may pay an enhanced fee junior counsel rate based on qualifications/tasks);
 - (2) in all other cases,
 - (a) at 75% of the applicable tariff rate; or
 - (b) at 100% of the applicable tariff rate for legal services junior counsel provided in court when the senior counsel was not in attendance.

See page 17 for more information.

37. A lawyer authorized by LSS to act as co-counsel may bill LSS for legal services at the applicable tariff rate. See page 17.

38. [deleted]

Change of lawyer

39. If a client changes lawyers or the referral lawyer initiates a change of lawyers, the newly appointed lawyer must:
- (1) verify that LSS has authorized a change of lawyers;
 - (2) ask LSS to issue a new referral in his or her name and LSS vendor number; and
 - (3) advise the previous lawyer that he or she is representing the client.
40. If a client changes lawyers or the referral lawyer initiates a change of lawyers, LSS may refuse to pay the newly retained lawyer for legal fees and disbursements if:
- (1) LSS did not authorize a change of lawyers; or
 - (2) the legal fees and disbursements arose before the service start date of the new referral.

Extra legal fees and additional preparation

41. LSS may, at its discretion, pay further legal fees to referral lawyers. In reviewing requests for extra fees and additional preparation hours, LSS will consider factors such as the actual time expended, legal complexity, nature of legal services rendered, importance of the matter to a reasonable client of modest means, length of proceeding, amount of court time and/or LSS funding saved by the efforts of counsel, skill and efficiency of counsel, results achieved, and available tariff budget.
- (1) **Extra fees** may be requested at the conclusion of the case and require counsel to submit a final bill.
 - (2) **Additional preparation** may be requested if it is recognized at the outset of the case, or during the course of the referral, that substantially more hours than permitted under the applicable tariff will be required to complete the case. To request additional preparation, counsel must submit an up-to-date account.
42. For extra fees and additional preparation requests, submit your request in writing to the Case Management Section and include timesheets, documents, and additional information to facilitate the request. For appeal or judicial review cases, the request should be sent to the Appeals Section.

Case cost caps

43. LSS may, at its discretion and after reasonable notice to referral lawyers, impose case cost caps.
44. LSS may not pay any legal fees or disbursements arising after the total legal fees, or the total disbursements, paid or billable in a case exceed the applicable case cost cap.

Private billing

45. According to the LSS [Settlements and Judgments](#) policy, a referral lawyer must not bill a client privately or accept funds from any source on behalf of a client on any matter related to the case specified in a referral without prior written authorization from the manager of the Audit and Investigation Department.
46. Referral lawyers cannot privately bill clients retroactively for services provided under a legal aid referral.
47. With the client's consent, a referral lawyer may enter into a private retainer with the client to continue any further services if the client is deemed by LSS to be no longer eligible for legal aid.
48. [deleted]

Record keeping

49. Referral lawyers must maintain adequate accounting and **timekeeping records** for each referral and retain such records for at least five years from the date of payment. (There is a blank [timesheet form](#) provided for optional use and an example of a [filled-in timesheet](#) on the LSS website under Lawyers — Forms and questionnaires.) When billing for services using the criminal block fee tariff, lawyers are not required to keep track of time. However, should extra fees be requested, LSS will consider factors such as the actual time expended on the case. Accordingly, it is recommended that referral lawyers keep track of their time when billing on the block tariff. Referral lawyers must maintain timekeeping records for all hourly tariffs (including SCAP) accurate to the nearest 10th of an hour.
50. LSS may refuse to pay a referral lawyer's accounts if, upon request, the referral lawyer fails to provide, within 30 days, adequate documentation supporting the legal fees and disbursements claimed.



51. LSS may require repayment of any amounts paid to a referral lawyer if, upon request, the referral lawyer fails to provide, within 30 days, adequate documentation or explanation of the legal fees or disbursements that LSS paid. If the referral lawyer fails to provide reimbursement to LSS representing the repayment amount within 30 days from the date that payment is requested, LSS may process one or more negative accounts (i.e., a deduction from a future payment).

Costs

52. Referral lawyers must claim costs in cases where the time spent to obtain the costs is justified by the amount recovered. This does not apply to cases where costs are waived to get a settlement. When claiming costs, referral lawyers should ensure that they include disbursements paid by LSS. Pursuant to section 24 of the *Legal Services Society Act*, all costs awarded are assigned to LSS and must be paid to LSS upon receipt. Time spent obtaining costs may be billed as general preparation. If additional time is required, referral lawyers must apply for authorization. Please contact the Collections Audit Clerk in the Audit and Investigation Department. LSS will approve additional hours if they are justified by the amount of costs recoverable.
53. LSS does not pay costs awarded against legal aid clients.

Tariff Rates Quick Reference

Tiered Rates

Important: Amounts shown below are for your reference only. When billing, claim the regular Tier 1 rate, and LSS will adjust as necessary when processing your account.

Note: Tier 2 and 3 rates do not apply to enhanced fee cases (see below) or to legal fees related to criminal summary offences. As well, when providing criminal legal services to co-accused on the same half day, you are entitled to one additional half-fee per service provided, regardless of the number of additional clients.

This chart also applies for co-counsel and counsel agents.

Tier	Years of call	Block fees	Hourly rate
1	Less than 4 years	Amount specified in tariff item (Junior counsel: 75% of amount*)	\$83.90 (Junior counsel \$62.93)
2	4 or more years and less than 10 years	Applicable Tier 1 rate plus 5 percent	\$88.10 (Junior counsel \$66.07)
3	10 or more years	Applicable Tier 1 rate plus 10 percent	\$92.29 (Junior counsel \$69.22)

* Exception: Junior counsel receives 100% of the amount for legal services provided in court when the senior counsel was not in attendance.

Enhanced Fee Cases

The hourly rates below are for attendance and preparation.

Enhanced fees	Hourly rate
Senior counsel	\$125.00
Junior counsel	\$62.93 — \$83.90**

** LSS will determine the rate after considering the junior counsel's experience, qualifications, and the tasks assigned to junior counsel in the case.

Articled students

Important: When billing the hourly rate, claim the regular Tier 1 rate shown above (\$83.90), and LSS will adjust as necessary when processing your account.

	Block fees	Hourly rate
Articled students	Amount specified in tariff item	\$62.93