

## Changes to Criminal Tariff

As further steps in its tariff renewal process, effective November 1, 2007, the Legal Services Society will:

- introduce a modified version of the Early Preparation fee;
- increase tariff rates for Early Termination – Failure to appear, change of lawyer, or unrepresented diversions; and
- expand the existing Strategic Case Assessment Program to include all cases, regardless of offence category, where the preliminary hearing or trial is expected to exceed a total of ten half days.

### Early preparation fee

The new Early Preparation fee will compensate lawyers for taking steps that reflect best practices and promote early and effective resolution in cases where the existing Arraignment Court Process fee does not apply. In implementing this new fee, the society has taken into account the considered feedback it received from tariff lawyers in response to [Notice to Counsel #57](#) (at [www.lss.bc.ca](http://www.lss.bc.ca) under For lawyers > Notices to Counsel).

The Early Preparation fee will be billable on accounts received on or after November 1, 2007, and is billable *once per information* if:

- (a) you resolve the charges on an information by way of a guilty plea or a stay;
- (b) no trial fees are billed on the information; *and*
- (c) you have taken the following preparation steps *prior to setting a trial date*:
  - obtained and reviewed Crown particulars,
  - interviewed and received instructions from the client, and
  - made reasonable efforts to negotiate with Crown counsel to resolve the matter without a trial or to substantially narrow the issues.

This fee will be billable at the same rate as the Arraignment Court Process fee, as follows:

Offence Category	Tariff Rate	Tariff Code
I	\$40	0691
II	\$80	0692
III	\$113	0693
IV	\$150	0694

### No changes to tariff item for Arraignment Court Process

There will be no changes to the existing tariff item for Arraignment Court Process. However, you cannot bill for Early Preparation and Arraignment Court Process on the same information.

## Increase to selected fees for Early Termination

For accounts billed on or after November 1, 2007, LSS will increase Category II, III, and IV fees for Early Termination — Failure to appear, change of lawyer, or unrepresented diversions (to match the fees for Early Preparation and Arraignment Court Process) as follows:

- Code 0125 increased from \$70 to \$80
- Code 133 increased from \$90 to \$113
- Code 141 increased from \$140 to \$150

The Early Preparation fee will not be billable with either of the tariff items for Early Termination (Failure to appear, change of lawyer, or unrepresented diversions and No charge sworn/Represented diversions).

## Billing process

As the Early Preparation fee requires the resolution of the counts on an information, when billing the fee you must ensure that you are also billing for a guilty plea or a stay on that information. If you cannot bill a guilty plea or a stay due to other LSS billing rules (for example, the rules regarding services provided on the same half day), you should make sure to record the guilty plea or the stay for that information in the results box of the billing form.

The standard LSS rules regarding “C” informations set out in the General Tariff Information section of the Criminal Tariff apply when you bill the Early Preparation fee. Generally, under the [Guide to Legal Aid Tariffs](#) (at [www.lss.bc.ca](http://www.lss.bc.ca) under For Lawyers > Guide to Legal Aid Tariffs), the original information/indictment and a “C” information are treated as one information. If an information/indictment is re-laid, you should bill services only on the “C” information. Stays on the original information are not billable, and do not count as resolution for the purposes of billing the Early Preparation fee.

**Please note:** LSS will make the appropriate deductions from accounts submitted on or after November 1, 2007, if you bill:

- fees for Early Preparation and Arraignment Court Process on the same information;
- the Early Preparation fee without billing a stay or guilty plea on that information, or recording a stay or guilty plea as a result for that information; or
- Early Preparation fees for both the original information/indictment and a “C” information.

## Changes to Strategic Case Assessment Program (SCAP)

For *all* criminal referrals issued on or after November 1, 2007, you must notify the Manager, Criminal Law in advance of the preliminary inquiry or trial as soon as it becomes apparent that the proceeding will exceed a total of ten half days. For Category I, II, or III cases expected to exceed that limit, LSS will determine, *at its discretion*, whether the case should proceed under SCAP or remain on the block fee tariff.

LSS implemented SCAP in 2001 as part of the LSS Quality Assurance initiative. The program is designed to help LSS better predict costs in lengthy trials, appropriately allocate legal aid funding, and provide adequate resources to represent clients in lengthy criminal cases. Currently, the program applies only to Category IV cases, although LSS has allowed some Category III cases to proceed within SCAP at counsel's request. By applying SCAP to all lengthy criminal cases, LSS will ensure that it is better able to allocate legal aid funding effectively.

In expanding SCAP, LSS will make changes to streamline the SCAP process for Category I, II, and III cases:

- LSS will publish an updated version of the SCAP Case Management Questionnaire. For Category I, II, or III cases, if referral lawyers prefer to remain on the block fee tariff, they will be able to indicate their preference by completing a short-form version of the questionnaire. Lawyers who prefer to have their cases proceed under SCAP will be required to complete the long-form questionnaire. LSS will consider counsel's preference, along with the circumstances of the case, in determining whether or not the case should proceed within SCAP.
- LSS will update the SCAP guidelines and billing tips posted on the LSS website to inform counsel of the factors it will consider in determining whether a Category I, II, or III case should proceed within SCAP or remain on the block fee tariff.
- If, after reviewing a completed questionnaire, LSS determines that the case should remain on the block fee tariff, counsel will be entitled to bill a block fee of \$75 to compensate for the time required to participate in the SCAP assessment process.

If you have a referral issued before November 1, 2007, that involves Category I, II, or III offences, and the preliminary hearing or trial is expected to exceed a total of ten half days, you may request that the case proceed within SCAP. To do so, complete the long-form questionnaire and submit it to the Manager, Criminal Law. LSS will make a discretionary decision whether to bring the case into SCAP.

## **Moving forward with legal aid renewal**

These changes to the criminal tariff mark the conclusion of the tariff renewal process that LSS began in early 2005 which has resulted in a number of significant improvements for lawyers. LSS is evaluating the various changes it has made through this process and expects to complete that evaluation by June 2008. The evaluation will assist LSS as it considers future tariff improvements within the framework of legal aid renewal, its new strategic priority. As always, LSS welcomes your feedback about its tariff renewal initiatives and other legal aid matters, and you may direct any comments to [lawyersresources@lss.bc.ca](mailto:lawyersresources@lss.bc.ca).

Edward Tanaka  
*Director, Legal Advice and Representation*