

## **New tariff changes improve services**

The Legal Services Society (LSS) is pleased to announce that it will implement a number of improvements to the *Guide to Legal Aid Tariffs*, effective July 15, 2008. These improvements include new tariffs to support initiatives that are part of our legal aid renewal pilot projects. Currently, we can fund these projects for three years. Continuation of these projects, and the related tariff improvements, will be subject to positive project evaluations and obtaining increased core funding for them at the end of the three-year period. Highlights include:

- New family tariff item for preparation for Supreme Court cases and increased hours for Supreme Court hearing preparation;
- New item that allows lawyers to bill for time spent assisting clients on collateral issues for CFCSA cases;
- Articling student hourly rate reduction, effective for cases referred on or after January 1, 2009, and the introduction of additional preparation hours for articling students (excluding Criminal block tariff items); and
- New CFCSA tariff item for preparation and attendance at consensual dispute resolution processes such as family group conferencing.

After completing the tariff renewal project last year, LSS announced it would consider further tariff improvements within the framework of legal aid renewal – the society’s strategic priority designed to ensure legal aid services benefit clients (see May 2007 Legal Aid Fax – [Special Edition](#)). This round of revisions supports legal aid renewal by establishing and maintaining tariffs that ensure private lawyers are available across the province to help clients reach early and lasting solutions to their legal problems.

In addition to the project-related initiatives, we are revising the tariffs to

- clarify when family Extended Services referrals are authorized,
- clarify when extra fees are available,
- clarify when a CFCSA referral ends and when new tariff hours are available,
- add a Family Tariff Quick Reference Guide,
- extend meterage to additional destinations

In arriving at these latest changes, the society reviewed the 2007 Tariff Lawyer Satisfaction Survey, the tariff review report (*Managing for Results: LSS Tariff Renewal*), and legal aid reform in other jurisdictions. The tariff revision process also included increased LSS staff participation through the creation of strategic and operational tariff revisions committees, and consultations with the private bar through both Family and Criminal Tariff Advisory Committees. LSS is looking to convene an Immigration Tariff Advisory Committee.

As the society moves forward with legal aid renewal, it will continue to consult lawyers on future tariff revisions. These consultations are intended, for example, to enable LSS to better provide lawyers with improved resources to help clients solve their legal issues.

Tariff changes take effect July 15, 2008 (with the exception of the articling student hourly rate reduction). Accounts submitted on or after this date may bill according to the updates outlined below.

## Updates to the *Guide to Legal Aid Tariffs*

The *Guide to Legal Aid Tariffs* has been updated to reflect changes to the guide since the last revision in November 2006, including those announced in Notices to Counsel #55 — #60.

The updated [Guide to Legal Aid Tariffs](#), which is the official version, is posted in PDF on the LSS website at [www.lss.bc.ca](http://www.lss.bc.ca) (Click “Lawyers,” then “Guide to Legal Aid Tariffs”). LSS will not be distributing printed copies of the revised pages. From the LSS site, you can update your guide by printing only the tariff sections you need and replacing the full section in your guide.

The following is a section-by-section summary of the changes to the guide. Revisions funded through legal aid renewal are noted as pilot projects.

### Introduction

- **Legal aid coverage and eligibility guidelines – Financial eligibility:** wording added to reflect LSS policy. LSS annually updates financial eligibility guidelines to reflect inflationary increases, and has increased clients’ personal vehicle exemption to \$15,000
- **Legal aid coverage and eligibility guidelines – Family cases:** clarified the criteria for family Emergency Services, Dispute Resolution Services, and Extended Services cases
- **Mentoring** – new information added which outlines LSS’ mentoring opportunities
- **Contact list** – general contact information updated

### General Terms and Conditions

LSS has made significant changes to the General Terms and Conditions section, which provides the framework for the contractual arrangements between LSS and referral lawyers. The changes include the following:

#### Definitions:

- **Additional preparation** – definition added
- **Attendance** – definition revised
- **Extra legal fees** – definition revised, “exceptional circumstances” criteria removed
- **Negative account** – definition added
- **Post-payment review** – definition added
- **Referral lawyer** – definition revised
- **Repayment amount** – definition added
- **Time-keeping record** – definition added

#### General Terms and Conditions:

- **General (paragraph 6-3)** – added criteria of holding a practising certificate
- **General (paragraph 10)** – added to reflect current WorkSafeBC legislation
- **Billing for services (paragraph 26)** – added a requirement that referral counsel must submit accounts upon request by LSS
- **Billing for services (paragraph 27)** – added explanation of PST billing rules
- **Billing for services (paragraph 28)** – added explanation of GST billing rules
- **Billing for services (paragraph 30)** – clarified that LSS may conduct a post-payment review of an account within two years from the date of payment
- **Counsel agents and articulated students (paragraph 33-1)** – added the criteria of holding a practising certificate

- **Counsel agents and articulated students (paragraph 34-1)** – modified terms and conditions relating to articulated students. In addition to Law Society restrictions, articulated students may not act in the specified list of services, including as duty counsel
- **Extra legal fees** – added “additional preparation” to paragraph subject heading
- **Extra legal fees and additional preparation (paragraph 41)** – removed “exceptional circumstances” criteria, clarified the difference between extra fees and additional preparation requests, and revised criteria for reviewing requests for extra fees and additional preparation
- **Extra legal fees and additional preparation (paragraph 42)** – revised procedure for submitting requests for extra fees and additional preparation
- **Record keeping (paragraph 49)** – added reference to a sample timesheet and blank timesheet provided for optional lawyer use
- **Record keeping (paragraph 51)** – modified terms and conditions relating to referral lawyers providing repayment amounts upon request, and LSS’ ability to process negative accounts
- **Costs (paragraph 52)** – added contact information if seeking authorization of additional time to collect costs
- **LSS Tariff Rates Quick Reference** – deleted references that duty counsel and circuit counsel do not receive tiered increases (reflects Notice to Counsel #60)
- **LSS Tariff Rates Quick Reference** – added articulated student rates to take effect January 1, 2009
- **Appendix 1 & 2** – added a sample timesheet and a blank timesheet for optional lawyer use

## **Criminal Tariff**

As announced in Notice to Counsel #59, LSS made changes to a new early preparation fee and Strategic Case Assessment Program (SCAP) requirements. Recent criminal changes include the following:

- **General tariff information** – added bullet indicating that counsel may refer to the General Terms and Conditions for requests for extra fees or additional preparation
- **Important terms (strategic case assessment program)** – added information on SCAP initiatives as outlined in Notice to Counsel #59
- **Important terms (exceptional matters)** – revised heading
- **Early termination** – added block fee increases for Early Termination – Failure to appear, change of lawyer, or unrepresented diversions as outlined in Notice to Counsel #59
- **Failure to appear, change of lawyer, or unrepresented diversions** – clarified that early termination may be billed once per information
- **Early preparation** – item introduced as outlined in Notice to Counsel #59
- **Criminal Tariff Quick Reference – frequently billed items** – revised
- **Criminal billing form** – updated certification and replaced holdbacks with adjustments

## **Family Tariff**

LSS has implemented some new family law tariff items that feature an emphasis on Supreme Court preparation and preparation for hearings in Supreme Court. Family tariff changes include the following:

- **General tariff information** – added an overview of the Emergency, Dispute Resolution Services, and Extended Services tariffs

**Emergency Services:**

- **Important box** – added bullet indicating that counsel may refer to the General Terms and Conditions for requests for extra fees or additional preparation
- **General preparation** – caution added clarifying that if hours are exhausted under other specific tariff items counsel may bill the outstanding hours as general preparation
- **General preparation** – deleted part of bullet that stated that item is billable for “other work not specifically covered by another tariff item”
- **Preparation for Supreme Court cases** – new tariff item added (pilot project)
- **Preparation for a hearing in Supreme Court** – maximum hours increased from 3 to 5 (pilot project)
- **Opinion for extended family services** – tariff item added so that counsel can bill up to one hour for preparing an opinion letter/questionnaire to apply for extended family services
- **Articling student additional preparation** – added new tariff item. Counsel may bill in addition to other items when an articling student works on a file (pilot project).

**Dispute Resolution Services (DRS):**

- **Important box** – added bullet indicating that counsel may refer to the General Terms and Conditions for requests for extra fees or additional preparation
- **General preparation** – caution added clarifying that if hours are exhausted under other specific tariff items counsel may bill the outstanding hours as general preparation
- **General preparation** – deleted part of bullet that stated that item is billable for “other work not specifically covered by another tariff item”
- **Travel** – added new item for travel to or from a mediation or collaborative location if the round trip exceeds 160 kilometres
- **Opinion for extended family services** – tariff item added so that counsel can bill up to one hour for preparing an opinion letter/questionnaire to apply for extended family services
- **Articling student additional preparation** – new tariff item added. Counsel may bill in addition to other items when an articling student works on a file (pilot project)

**Extended Services:**

- **Important box** – revised language
- **Important box** – added bullet indicating that counsel may refer to the General Terms and Conditions for requests for extra fees or additional preparation
- **Opinion for extended family services** – tariff item added so that counsel can bill up to one hour for preparing an opinion letter/questionnaire to apply for extended family services
- **Articling student additional preparation** – new tariff item added. Counsel may bill in addition to other items when an articling student works on a file (pilot project)
- **Family tariff quick reference** – added quick reference guide with frequently billed items
- **Family billing form** – updated certification and replaced holdbacks with adjustments

**CFCSA Tariff**

LSS has implemented new CFCSA tariff initiatives to help promote early resolution and holistic legal aid initiatives. CFCSA tariff changes include the following:

- **Important box** – added clarification of when LSS will provide a new CFCSA referral and when a new issue will be added to a CFCSA referral, which entitles counsel to bill most items anew under the existing referral

- **Important box** – added bullet indicating that counsel may refer to the General Terms and Conditions for requests for extra fees or additional preparation
- **General preparation** – added caution clarifying that if hours are exhausted under other specific tariff items counsel may bill the outstanding hours as general preparation
- **General preparation** – deleted part of bullet that stated that item is billable for “other work not specifically covered by another tariff item”
- **Attendance at pre-hearing and post-hearing applications** – deleted caution referring counsel to write to LSS “in exceptional circumstances” for authorization of additional preparation time
- **Preparation for hearing stages** – deleted portion of caution stating that counsel must “bill for each stage only once”
- **Preparation for hearing stages** – deleted caution referring counsel to write to LSS “in exceptional circumstances” for authorization of additional preparation time
- **Preparation for mediation** – deleted caution requiring prior authorization
- **Attendance at mediation** – deleted caution requiring prior authorization and increased maximum hours from 6 to actual time
- **Attendance at an Aboriginal extended family meeting** – incorporated/combined item into new consensual dispute resolution processes item
- **Preparation for consensual dispute resolution processes** – new item added to permit counsel to prepare for a variety of consensual dispute resolution processes (pilot project)
- **Attendance at consensual dispute resolution meetings** – new item added to allow counsel to attend a variety of consensual dispute resolution meetings (pilot project)
- **Additional preparation if an FRA application is required to resolve the underlying CFCSA cases** – clarified that the item is billable once per issue
- **Collateral issues** – new item added to permit counsel to bill for time spent assisting clients on collateral issues where the assistance will likely help resolve the CFCSA matter. Examples of collateral issues added (pilot project)
- **Articling student additional preparation** – new tariff item added. Counsel may bill in addition to other tariff items when an articling student works on a file (pilot project)
- **CFCSA billing form** – updated certification and replaced holdbacks with adjustments

### **Immigration Tariff**

- **Important box** – updated to explain that even if clients are separately referred, LSS considers them multiple clients if cases are treated by the Immigration and Refugee Board as a family unit or joined matter
- **Articling student additional preparation** – new tariff item added. Counsel may bill in addition to other items when an articling student works on a file (pilot project)
- **Immigration billing form** – updated certification and replaced holdbacks with adjustments
- **Immigration billing form fees summary** – added clarification that LSS considers clients to be multiple clients if they are treated by the IRB as a family unit or joined matter

### **Appeals Tariff**

- **Important box** – added bullet indicating that counsel may refer to the General Terms and Conditions for requests for extra fees or additional preparation

- **Articling student additional preparation** – new tariff item added for criminal, family, CFCSA, and immigration appeals. Counsel may bill in addition to other tariff items when an articling student works on a file (pilot project)
- **Billing forms** – updated certification and replaced holdbacks with adjustments

**Duty Counsel Tariff (includes Circuit Counsel)**

- **Duty counsel tariff guide to billing** – updated billing instructions to include tiered increases as outlined in Notice to Counsel #60
- **Criminal, family and immigration duty counsel billing forms** – updated to reflect Notice to Counsel #60
- **Duty counsel billing forms** – replaced holdbacks with adjustments
- **Circuit counsel tariff guide to billing** – updated billing instructions to include tiered increases as outlined in Notice to Counsel #60
- **Circuit counsel billing form** – updated certification and replaced holdbacks with adjustments

**Disbursements for All Tariffs**

- **Disbursements block payment** – item added as outlined in Notice to Counsel #56
- **Expert assessment/reports and testimony — Medical records and reports** – updated BCMA rates
- **Mediation** – amended to increase the hours for preparation
- **Mediation — meterage** – added to tariff item so that mediators may bill for meterage
- **Miscellaneous items not requiring prior authorization** – moved skip tracing to list of items
- **Photocopying and receiving faxes** – added request that counsel maintain a log of copies. Deleted caution requiring prior authorization for case law photocopying
- **Printing electronic disclosure** – increased amount billable prior to authorization to \$1000. Revised information to indicate that a log must be maintained to support pages printed and invoices must be produced upon request
- **Private detectives and investigators** – revised reference to skip tracing
- **Skip tracing** – deleted item and moved to “Miscellaneous items not requiring prior authorization”
- **Travel costs for lawyers — accommodation** – added note that LSS does not pay for personal expenses at hotels
- **Travel costs for lawyers — meterage** – added new definition of meterage and expanded billable meterage to include travel to mediation, meeting with clients and witnesses, and Examination for Discovery. Cautions added to clarify when meterage is billable and how to accurately calculate billable meterage. Updated current meterage rate
- **Videoconferencing** – amended to clarify that invoices must be retained and provided upon request
- **Appendices** – 1 & 2 amended (Request for Authorization of Transcripts and Request for Authorization of Disbursements)

We welcome your input regarding the *Guide to Legal Aid Tariffs*. If you have comments, please send them via e-mail to [lawyersresources@lss.bc.ca](mailto:lawyersresources@lss.bc.ca).

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