

Appeals and Judicial Reviews Tariff



Legal
Services
Society

British Columbia
www.legalsaid.bc.ca

Appeals and Judicial Reviews Tariff

General Tariff Information

This chapter of *LSS Tariffs* provides information about how LSS will compensate you for services provided to clients for an appeal or judicial review. For general information about your contract with LSS, see *General Terms and Conditions*. For information about billing disbursement items, see *Disbursements*.

Tier	Years of call	Hourly rate	
		For service dates prior to Nov 4, 2019	For service dates on or after Nov 4, 2019
1	Less than 4 years	\$83.90	\$104.88
2	4 or more years and less than 10 years	\$88.10	\$110.13
3	10 or more years	\$92.29	\$115.36

Applications for appeals and judicial reviews

LSS provides representation for appeals, judicial reviews, and submissions in criminal, family, CFCSA, immigration, and prison law. A new application for legal aid is required. Applicants must meet current coverage and financial eligibility guidelines, which are outlined on the LSS website (under [Legal Aid — Legal Representation](#)).

In addition, when determining whether or not to approve funding for an appeal, judicial review, or submission, LSS does a merit assessment to determine whether:

- there is a reasonable likelihood of success,
- a reasonable person of modest means would themselves pay to pursue the case, and
- there is remaining LSS budget available to fund the case.

To apply or for questions, contact:

LSS Appeals Section

Email: helpdesk.appeals@lss.bc.ca

Phone: 604-601-6085

You may request a review of a decision by contacting the Appeals Section. Be sure to outline your reasons for requesting a review.

Tariff items and authorizations

This chapter describes the individual tariff items and lists the maximum hours that LSS will authorize for various types of appeals. All tariff items require prior authorization.

Representation contracts for appeals and judicial reviews will typically contain tariff items for preparation and court/tribunal attendance. The tariff items and the total number of hours authorized for each tariff item will appear on your representation contract, which you can access via LSS Online.

The hours specified in the tariff are intended to provide enough time to complete most appeals, judicial reviews, and submissions. However, LSS may authorize additional preparation hours if:

- You are new counsel. New counsel means you were not involved in the proceedings appealed from. The additional hours authorized will range from 3 to 15 hours depending on the appeal type and court level. Note that if you are in the same firm or sharing office space with the previous lawyer, you may not receive additional preparation hours.
- The appeal or judicial review involves large volumes of transcript or documentary evidence. The guideline is 5 hours of additional preparation for every 200 pages of material beyond the first 200 pages, based on the actual page count of the material.
- The appeal or judicial review is particularly complex, considering factors such as the number and nature of meritorious issues, legal and factual complexity, and length of the original proceedings.

In addition, LSS may, at its discretion, pay further legal fees to lawyers. See items 40 and 41 of [**General Terms and Conditions**](#) for more information.

Enhanced fees

Enhanced fees may be available for senior counsel in cases that LSS considers to be complex criminal law appeals. The [**Enhanced Fees and Exceptional Responsibility Premium policy**](#) sets out the procedures and criteria for approval of enhanced fees. See the LSS website (under [**Lawyers — LSS Policies**](#)). The LSS Appeals Section will work with counsel to develop a budget for the appeal.

Timekeeping

You must keep timekeeping records for each representation contract and retain them for at least five years from the date of payment of the final invoice. When invoicing for services billable on an hourly basis, you must attach a timekeeping record that specifies the date(s) and time spent on each task. LSS may ask you to provide additional information about the case or services rendered to date when considering requests for extra fees or additional preparation, or as part of our audit process. If you prefer, you may

use the timesheet provided in LSS Online (under **Resources — Forms**). You can also view an example of a completed timesheet.

Billing Items

This section describes billing rules and tariff items for criminal, family, CFCSA, immigration, and prison law appeals, judicial reviews, and submissions.

Use the information in this section to request authorization or when billing via LSS Online.

All tariff items require prior authorization from the LSS Appeals Section at the Vancouver Regional Centre.

Contact the Appeals Section if you require funding for a particular type of appeal or judicial review that is not specifically listed under the billing items below.

Note: You will need to request authorization via LSS Online to bill the following:

- more than the LSS Online billing maximum (check each of your contracts in LSS Online to see the list of tariff items you can bill and the maximum units for each item); and
- a tariff item that does not appear on your contract in LSS Online (LSS will apply the authorization guidelines as stated in the *LSS Tariffs* for that particular tariff item).

Billing rules — All appeals

The following billing rules apply to preparation and attendance tariff items for all areas of law. For rules specific to each area of law, see the relevant section below.

Preparation

- Billable in hourly increments accurate to 10ths of an hour for actual preparation time up to the maximum hours as authorized on your representation contract.
- Record the actual time spent as specified in your timekeeping records.
- Preparation includes all general preparation required to conduct the appeal or judicial review, or to prepare the submissions, including:
 - client interviews
 - taking instructions
 - preparing correspondence
 - preparing and filing court documents
 - researching and drafting written arguments

- o preparing for preliminary applications, including applications to extend time
- o preparing for hearings

Attendance

- Billable in hourly increments accurate to 10ths of an hour for actual time spent in court or at a tribunal hearing.
- Provide the date(s) and the time spent in court or at the tribunal. Bill the actual time spent as specified in your timekeeping records, from the time the hearing was scheduled to begin to its conclusion, excluding meal breaks.
- Attendance at applications to adjourn is not considered a hearing of the appeal. Bill the time you spend attending applications to adjourn under “Preparation.” Bill attendance for other pre-hearing applications under “Attendance at court proceeding.”

Criminal Appeals

The *Appeals and Judicial Reviews Tariff* specifies the maximum hours authorized for different types of criminal appeals, including conviction and sentence appeals in summary conviction and indictable matters, judicial review applications, extradition proceedings, judicial screening applications under section 745.6 of the *Criminal Code* (“faint hope” hearings), and Ministerial reviews under section 696.1 of the *Criminal Code*.

Preparation for bail pending appeal

- See “[Billing rules – All appeals – Preparation](#)” for general billing rules.

Hours authorized for specific services:	Up to
Release pending summary conviction appeal in BCSC	3
Release pending appeal to BCCA or SCC, contested extension of bail in BCCA or SCC, or release pending a new trial	5
Consent bail variation or extension of bail in BCCA or SCC	1

Preparation for court proceedings in BC Supreme Court

- See “[Billing rules – All appeals – Preparation](#)” for general billing rules.

Hours authorized for specific services:	Up to
Summary conviction — sentence appeal	5
Summary conviction — appeal	12
Summary conviction <i>and</i> sentence appeal	14
Judicial review applications (includes certiorari and other extraordinary remedies)	10
Extradition — submissions to the Minister	10
Judicial screening applications (section 745.6 of the <i>Criminal Code</i>)	25

Preparation for sentence appeal in BC Court of Appeal

- See “[Billing rules – All appeals – Preparation](#)” for general billing rules.
- Preparation includes time spent on any application for leave to appeal.

Hours authorized for specific services:	Up to
Sentence appeal — guilty plea	8
Sentence appeal — no guilty plea	10
BC Review Board disposition appeal	10
Sentence appeal – Dangerous/long term offenders or YCJA transfer to adult court	40

Preparation for conviction appeal in BC Court of Appeal

- See “[Billing rules – All appeals – Preparation](#)” for general billing rules.
- Preparation includes time spent on any application for leave to appeal.

Hours authorized for specific services:	Up to
Conviction	40
Conviction <i>and</i> sentence appeal	45
Extradition — appeal committal and/or judicial review of Minister’s surrender decision	40
Ministerial reviews (section 696.1 of the <i>Criminal Code</i>)	40

Preparation for appeal in Supreme Court of Canada

- See “[Billing rules — All appeals — Preparation](#)” for general billing rules.

Hours authorized for specific services:	Up to
Preparation – leave to appeal	25
Preparation — appeal	40

Attendance at court proceeding

- See “[Billing rules — All appeals — Attendance](#)” for general billing rules.

Actual time

Appeal opinion — see [Other items](#)

Travel and visiting clients in custody — see [Other items](#)

Family and CFSCA Appeals

The *Appeals and Judicial Reviews Tariff* specifies the maximum hours authorized for family and CFSCA appeals. Funding is limited to appeals of decisions relating to the primary, coverable legal issues in the case.

Preparation for family/CFSCA appeal

- See “[Billing rules – All appeals – Preparation](#)” for general billing rules.
- Includes all preparation for a family law or CFSCA appeal or judicial review.

Hours authorized for specific services:	Up to
Preparation for BCSC	40
Preparation for BCCA	45
Preparation — leave to appeal to SCC	20
Preparation — appeal in SCC	35

Attendance at court proceeding

- See “[Billing rules – All appeals – Attendance](#)” for general billing rules.
- Also billable per hour when you appear in Provincial Court to stay an order pending the appeal or application.

Actual time

Appeal opinion — see [Other items](#)

Travel and visiting clients in custody — see [Other items](#)

Immigration Appeals

The *Appeals and Judicial Reviews Tariff* specifies the maximum hours authorized for immigration proceedings, other than refugee hearings before the Refugee Protection Division of the Immigration and Refugee Board (IRB). It covers proceedings before other divisions of the IRB (Immigration Division, Immigration Appeal Division, Refugee Appeal Division), judicial review proceedings (including any subsequent appeals), and submissions to Canada Immigration or Canada Border Services Agency (CBSA).

Preparation for Immigration and Refugee Board (IRB)

- See “[Billing rules – All appeals – Preparation](#)” for general billing rules.

Hours authorized for specific services:	Up to
Preparation for hearing — non-refugee case	10
Preparation for hearing — Refugee Appeal Division	10
Application to re-open/reinstate before IRB	5

Preparation for immigration appeal/judicial review

- See “[Billing rules – All appeals – Preparation](#)” for general billing rules.

Hours authorized for specific services:	Up to
Stay applications in Federal Court (FC)	15
Leave to apply for judicial review in FC or BCSC, or an appeal in Federal Court of Appeal (FCA)	20
Preparation for judicial review in FC or BCSC, or an appeal in FCA when leave is granted	10
Preparation — leave to appeal to SCC	20
Preparation — appeal in SCC	35

Attendance at court proceeding (includes IRB)

- See “[Billing rules – All appeals – Attendance](#)” for general billing rules.

Actual time

Submissions to CIC/CBSA

- Billable per hour when you prepare submissions to Citizenship and Immigration Canada (CIC) or Canada Border Services Agency (CBSA).

Hours authorized for specific services:	Up to
Submissions to CIC/CBSA	9

Appeal opinion — see [Other items](#)

Travel and visiting clients in custody — see [Other items](#)

Prison Law (Administrative) Appeals

The *Appeals and Judicial Reviews Tariff* specifies the maximum hours authorized for prison law appeals. Funding is generally limited to judicial review of decisions that significantly deprive inmates of their residual liberty, such as placements in segregation, involuntary transfers to higher security, and parole revocation.

Preparation for prison law proceeding

- See “[Billing rules – All appeals – Preparation](#)” for general billing rules.
- Billable per hour for judicial reviews in BC Supreme Court or Federal Court of parole board/release decisions, conditions of detention, and facility transfers.

Hours authorized for specific services:

Preparation for prison law proceeding

Up to

10

Attendance at court proceeding

- See “[Billing rules – All appeals – Attendance](#)” for general billing rules.

Actual time

Appeal opinion – see [Other items](#)

Travel and visiting clients in custody — see [Other items](#)

Other items

Appeal opinion

- Billable per hour under an “appeal opinion contract” when the LSS Appeals Section specifically authorizes you to prepare an opinion letter, or asks you to provide information on the merits of appealing a court or tribunal decision.
- This item does not apply when you respond to general information requests the Appeals Section may send to you.
- Record the actual time spent as specified in your timekeeping records.

Hours authorized for specific services:

Up to

Appeal opinion

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Travel

- Billable per half day of travel to or from a hearing or to interview a client in custody if the trip exceeds 160 km per round trip. You can also bill for each half day you remain at the hearing location. When billing, you will need to provide details of your trip, specifying the court or in-custody location and your travel date(s).
- You can bill travel fees if “Travel” is authorized on your representation contract. If not, you must apply for prior authorization via LSS Online.
- The maximum travel and out-of-office fee on one date is one half day, unless you bill other services for the same day, in which case the maximum is two half days.
- Travel fees are paid per trip, not per client.
- Note that if you fly between Victoria and Vancouver, you are not entitled to travel fees.

For service dates prior to Nov 4, 2019	\$180.00 per half day
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For service dates on or after Nov 4, 2019	\$225.00 per half day
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Visiting clients in custody

- Billable once per representation contract when you visit a client in custody at a correctional or detention facility (other than a holding facility at a courthouse).
- In addition to this item, you may also bill the actual time spent interviewing a client in custody as preparation.
- If you visit more than one client at the same facility on the same day, you may bill this item for one client only, but you may bill preparation for each client you interview. When billing, you will need to indicate the facility.

For service dates prior to Nov 4, 2019	\$90
For service dates on or after Nov 4, 2019	\$112.50

Criminal Appeals Quick Reference

This chart summarizes the services and hours that are specified in the tariff for different types of criminal appeals. It is for illustrative purposes only; please check your representation contract for the services and hours authorized for your particular case.

Court	Service	Up to the following hours authorized
	Preparation	
BCSC	Bail pending a summary conviction appeal	3
	Summary conviction sentence appeal	5
	Summary conviction appeal	12
	Summary conviction <i>and</i> sentence appeal	14
	Judicial review applications (includes certiorari and other extraordinary remedies)	10
	Extradition - submissions to the Minister	10
	Judicial screening applications under section 745.6 of the <i>Criminal Code</i>	25
BCCA	Bail pending appeal, contested extension of bail, or release pending a new trial	5
	Consent bail variation or extension of bail	1
	Sentence appeal with guilty plea	8
	Sentence appeal with no guilty plea	10
	BC Review Board disposition appeal	10
	Sentence appeal – dangerous/long term offenders or YCJA transfer to adult court	40
	Conviction appeal	40
	Conviction <i>and</i> sentence appeal	45
	Extradition – appeal committal and/or judicial review of Minister's surrender decision	40
	Ministerial reviews (section 696.1 of the <i>Criminal Code</i>)	40
SCC	Bail pending appeal, contested extension of bail, or release pending a new trial	5
	Consent bail variation or extension of bail	1
	Leave to appeal	25
	Appeal	40
All	Additional preparation for new counsel and/or case complexity	As authorized
	Additional preparation for reviewing transcripts/documentary evidence	5 hrs/200 pages
All	Attendance	Actual
	Travel	\$180/\$360
	Visiting clients in custody	\$90
	Appeal opinion	2

Other Appeals (Non-Criminal) Quick Reference

This chart summarizes the services and hours that are specified in the tariff for all appeals other than criminal. It is for illustrative purposes only; please check your representation contract for the services and hours authorized for your particular case.

Area of law	Service	Up to the following hours authorized
Family/ CFCSA	Preparation	
	BCSC	40
	BCCA	45
	Leave to appeal to SCC	20
	Appeal in SCC	35
Immigration	Hearing – non-refugee case	10
	Hearing – RAD	10
	Application to re-open/reinstate before IRB	5
	Stay applications in FC	15
	Leave to apply for judicial review in FC or BCSC, or appeal in FCA	20
	Judicial review in FC or BCSC, or appeal in FCA when leave is granted	40
	Leave to appeal to SCC	20
	Appeal in SCC	35
	Submissions to CIC/CBSA	9
Prison Law	Prison law proceeding	10
All	Additional preparation for new counsel and/or case complexity	As authorized
	Additional preparation for reviewing transcripts/documentary evidence	5 hrs/200 pages
All	Attendance	Actual
	Travel	\$180/\$360
	Visiting clients in custody	\$90
	Appeal opinion	2