

Tariff Simplification – Revised Criminal Tariff Model

Based on feedback and analysis of the simplified criminal tariff model, LSS is making significant changes. These changes will make tariff compensation more equitable in guilty plea situations while maintaining a reduced number of tariff items, the balance between summary and indictable cases, and overall cost neutrality.

The revised simplified criminal tariff follows (“Appendix B”). The changes since the model was first posted are as follows:

- sentencing made payable each half day consistent with the current tariff
- increases to multiple information resolution
- increases to subsequent half days of trial
- reductions to the Provincial Court fee
- reductions to the non-trial resolution fee

The result of these changes will re-establish the current balance between summary and indictable proceedings. The original published model (dated February 2010) created an unintended benefit to indictable cases to the detriment of summary cases. The changes will create a more even distribution of tariff payments between lawyers when compared to the current tariff. A simplified tariff will inevitably create some “winners” and “losers” but LSS has worked to keep shifts for individual lawyers to acceptable levels.

Feedback and analysis

Since posting the Tariff Simplification Discussion Paper to our website, LSS has received many helpful comments by e-mail and at meetings conducted in several communities. We heard consistently that the general structure of a simplified tariff makes sense but that it is important for the numbers to add up in actual scenarios. We heard that the model as originally published created problems for summary cases, in particular for guilty pleas and multiple information scenarios. People believe that the amount of work involved justifies these situations being paid more than for stays. We heard that moderate length trials would face a significant cut. We also heard that counsel who handle a higher volume of our work were relatively worse off at a time when the overall inadequacy of the tariff is a growing concern.

LSS continued to work on our analysis of the impact of tariff simplification on lawyers. Our economic model was refined to the point that we could look at regions, different patterns of practice, and even individual billings by lawyers in individual cases. The model was tested by Tariff Accounts Examiners who reviewed 168 cases in our database. They compared what the model projected against what they determined the simplified tariff would actually pay. Having applied the new tariff to such a large volume of cases representative of the work done by the tariff bar, LSS is confident that the model predicts fairly the impact of a simplified tariff.

This recent analysis confirmed that the tariff model is within 1% of cost neutral (0.9% increase overall). Examination of the originally published simplified tariff did show a shift from summary cases to the

benefit of indictable cases of approximately 7%. Also, lawyers with a higher proportion of guilty pleas and trials would have tended to be worse off compared to lawyers with a higher percentage of stays of proceedings (in particular when those stays occurred early in the process). Lawyers with lower overall billings would have tended to be better off compared to lawyers with higher billings.

Revision

Any change to the criminal model has to maintain cost neutrality. We cannot increase any item in the model without making a corresponding decrease to some other item which will cover the cost. What we can change is also limited to a few key items as many items in the simplified tariff will remain unchanged (e.g. bail, first day of trial, travel). The revision of the model tariff therefore focused on these items: Provincial Court fee; non-trial resolution; sentencing; multiple information resolution, and subsequent half days of trial.

Based on feedback and our analysis, we are putting a higher priority on payments for sentencing, multiple information resolution, and subsequent half days of trial by reducing payments for the Provincial Court fee and non-trial resolutions which do not involve sentencing. The changes have been applied differently between summary and indictable to correct the imbalance in the earlier model.

The key change is to make sentencing payable per half day in the same way as the current tariff. The earlier model would have made sentencing only payable on subsequent half days. This change to the model allows guilty pleas which involve sentencing to be paid more than other types of non-trial resolution without creating new tariff items.

The reduction to the Provincial Court fee also permits a modest increase to the multiple information resolution fee and an increase to the subsequent half days of trial payment to bring this significantly closer to the current tariff.

This revision will leave the amounts paid overall for summary and indictable cases unchanged from the current tariff. It should address many of the concerns we have heard about payment for guilty plea scenarios. It appears to create a better distribution between lawyers across practice profiles (volume of work; proportion of trials, pleas, stays) and creates a slight advantage (about 2% to 4%) for lawyers in northern and rural locations where LSS has had greater difficulty in recruiting lawyers.

LSS continues work on the simplified criminal tariff. The target date for implementation is summer 2010.

As always your comments and feedback are appreciated. Please e-mail to lawyersresources@lss.bc.ca

Appendix B – Simplified Criminal Tariff

as revised May 2010

		Summary ¹	Indictable ²	Major ³
1	Provincial Court fee	85	100	175
2	Supreme Court fee		300	350
3	Visiting clients in custody	90	90	90
4	Bail matters in Provincial Court	125	150	200
5	Bail matters in Supreme Court	350	400	600
6	Contested fitness hearing	450	450	450
7	Non-trial resolution (Guilty pleas, Stay of proceedings, “terminal” FTA’s, Change of counsel)	200	300	475
8	Sentencing (each half day)	100	125	200
9	Multiple information resolution (per additional info)	90	120	150
10	Prelim (first day)		600	800
11	Prelim (subsequent half days)		300	400
12	Trial (first day)	600	800	1400
13	Trial (subsequent half days)	390	490	700
14	Mental health review (court or Review Board)	450	450	450
15	Travel	180	180	180

¹ Summary includes hybrids where the Crown proceeds summarily and max is 6 mos. Category IV will be preserved for major non-SCAP cases.

² Indictable includes summary matters where maximum sentence is greater than 6 months, except for breach of probation. Includes forcible confinement or abduction cases where the Crown proceeds summarily.

³ For non-SCAP cases for the following offences: murder, attempted murder, manslaughter, aggravated sexual assault, sexual assault with a weapon or causing bodily harm, kidnapping, and dangerous and long-term offender hearings. Includes forcible confinement or abduction cases where the Crown proceeds by indictment.