



# Block Fee Phase II Module 4

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# SECTION I - CASE CATEGORIES & CHARGES

May 2011

Block Fee Phase II

2



# Block Fee Case Categories

Category		Example Charges*
Summary I	Includes all provincial and federal non-CCC offences and all summary conviction and Crown-option offences where the Crown proceeds summarily and the maximum sentence is six months	<ul style="list-style-type: none"> <li>▪ Assault</li> <li>▪ Theft under</li> <li>▪ Forgery and credit card offences</li> <li>▪ Minor weapons offences</li> </ul>
Summary II	Includes all Crown-option offences where the Crown proceeds summarily and the maximum penalty is greater than six months	<ul style="list-style-type: none"> <li>▪ Assault causing bodily harm or with a weapon</li> <li>▪ Threatening death or bodily harm</li> <li>▪ Breach of probation</li> <li>▪ Cruelty to animals</li> </ul>
Indictable	Includes all offences and Crown-option offences (except excluded charges) where the Crown proceeds by way of indictment	<ul style="list-style-type: none"> <li>▪ Aggravated assault</li> <li>▪ Theft over</li> <li>▪ Weapons trafficking</li> <li>▪ Gambling offences</li> </ul>
Excluded	<p>Very serious criminal charges or offences such as murder, terrorism offences, etc are excluded.</p> <ul style="list-style-type: none"> <li>• paid under hourly tariff; <u>not</u> part of the block fee program</li> </ul>	<ul style="list-style-type: none"> <li>▪ Murder – first and second degree</li> <li>▪ Kidnapping</li> <li>▪ Child pornography offences</li> <li>▪ Arson</li> </ul>
	<p>Certain cases and processes are excluded from Block Fees as well as all non resolved matters</p>	<ul style="list-style-type: none"> <li>▪ YCJA cases</li> <li>▪ BCM / CCR cases</li> <li>▪ Miscarriage of justice reviews</li> <li>▪ Appeals</li> </ul>

\*For a complete list please see the Tariff and Billing Handbook



# Excluded Processes

- Excluded processes are paid under the hourly tariff
- Types of proceedings that are excluded include:
  - Big Case Management (BCM) / Complex Case Rate (CCR) cases
  - Appeals
  - Youth Criminal Justice Act (YCJA) matters
  - Dangerous Offender (DO) proceedings
  - Faint hope applications
  - Extraordinary remedies
  - Ontario Review Board (ORB) hearings
  - Miscarriage of justice reviews
  - Protocol Case Unit (PCU) cases
  - Long term offender (LTO) applications(This list may be amended from time to time.)

# District Area Director (DAD) Exemptions

- LAO may exempt matters within the block fee program on a case-by-case basis if certain criteria are met and lawyers apply in writing to their District Area Director (DAD)
- Exempted block fee matters will proceed by the hourly tariff
- An exemption will be granted only in exceptional circumstances
- DADs will consider such factors as:
  - exceptional Crown resources devoted to the prosecution
  - exceptional disclosure
  - exceptional number of charges
  - likelihood of multiple proceedings
  - novel facts
  - legal arguments
  - lengthy sentencing proceedings

# Most Serious Charge/Setting Matters Down for Trial

## Most Serious Charge

- The most serious charge and type of proceeding determines whether the matter is to be billed and paid by block fees or by the hourly tariff
  - If the most serious charge falls in the Excluded charges case category
    - **Matter is billed and paid by Hourly tariff**  
(will remain as an hourly tariff matter, no matter how the charge(s) are resolved)
    - Example: Assault + Murder = Hourly Tariff
  - If the most serious charge falls within Summary I, Summary II, or Indictable case categories
    - **Matter is billed and paid by Block fee**
    - Example: Assault + Fail to Comply = Block Fee

## Setting Matters Down for Trial

- Once set down for trial,
  - all services provided on that certificate must be billed hourly



# Block Fee v/s Hourly Tariff

Paid by Block Fees	Paid by Hourly Tariff
All Summary I cases	Excluded Charges and Excluded Processes
All Summary II cases	Preliminary inquiries and trials for all charges
Most Indictable cases	All not resolved matters