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**PART 1**  
**INTERPRETATION**

**Definitions**

**1** (1) In these Rules,

“Act” means the *Legal Aid Services Act, 2020*; (“Loi”)

“area of law” means, subject to any regulations made under subsection 47 (2) of the Act, an area of law referred to in section 4 of the Act; (“domaine du droit”)

“certificate” means a document referred in section 45; (“certificat”)

“certificate services” means legal aid services provided under the authority of a certificate by a roster member or staff lawyer; (“services fournis en vertu d’un certificat”)

“contribution agreement” means an agreement entered into under section 13; (“engagement à contribuer”)

“Corporation” means Corporation as defined in the Act; (“Société”)

“district” means an area of the province designated as a district under section 2; (“district”)

“former Act” means the *Legal Aid Services Act, 1998*; (“loi antérieure”)

“legally aided client” means an individual who is receiving or has received legal aid services from a service provider or staff lawyer; (“client bénéficiant de l’aide juridique”)

“person responsible”, in relation to an individual, means

- (a) a person who is legally responsible for financially supporting the individual,
- (b) a person who, in the opinion of the Corporation,
  - (i) usually contributes to the individual’s financial support,
  - (ii) it is reasonable to expect would contribute to the individual’s financial support, or
  - (iii) has made or is likely to make financial resources available to the individual,
- (c) a person who voluntarily contributes to the cost of providing legal aid services to the individual, or
- (d) a person who would, in the Corporation’s opinion, receive a direct benefit if legal aid services were provided to the individual; (“personne responsable”)

“proceeding” includes any action, application, motion or other process, whether in writing or otherwise, before a court or tribunal, or an officer of either, in which any part of a matter before the court or tribunal is decided; (“instance”)

“roster” means the roster established under section 25; (“tableau”)

“roster member” means an individual who is enrolled on the roster; (“membre inscrit au tableau”)

“staff lawyer” means a staff member who is employed as a lawyer; (“avocat à l’interne”)

“staff member” means an employee of the Corporation; (“membre du personnel”)

“tribunal” means any adjudicative or administrative board or tribunal established by or under an Act and includes a coroner. (“tribunal”)

- (2) In these Rules,
- (a) the law is always speaking, and the present tense is to be applied to circumstances as they arise;
  - (b) words in the singular include the plural and words in the plural include the singular;
  - (c) the table of contents, marginal notes, headnotes and headings are inserted into these Rules for convenience of reference only and do not form part of them;
  - (d) the English and French versions of these Rules are equally authoritative; and
  - (e) other grammatical forms of defined terms have corresponding meanings.
- (3) Subsection (2) applies unless
- (a) a contrary intention appears in the Act, the regulations or these Rules; or
  - (b) its application would give to a term or provision a meaning that is inconsistent with the context.

### **Districts**

**2** The Corporation may,

- (a) divide the province into districts for the purpose of providing legal aid services; and
- (b) publish on the Corporation's website the name of and a description of the counties, judicial regions or municipal areas that are included in each district.

### **Limited use of privileged and confidential information**

**3** With respect to the use of privileged or confidential information and documents of individuals who are applying to receive or who are receiving legal aid services, or of any person responsible in relation to such an individual, the Corporation may only use such information and documents for the following purposes:

- (a) to confirm the eligibility of an individual to receive or continue to receive legal aid services;
- (b) to make a funding decision with respect to an individual;
- (c) case management;
- (d) to ensure compliance with the Act and these Rules, including
  - (i) in the case of roster members, the *Legal Aid Services Standards* set out in Schedule 1, and
  - (ii) in the case of entity service providers, as defined in section 75, quality assurance requirements;
- (e) audits, investigations and the resolution of complaints.

**PART 2**  
**ELIGIBILITY FOR LEGAL AID SERVICES**

**DIVISION 1**

**DEFINITIONS FOR PART 2**

**Definitions**

**4** In this Part,

“appellate proceeding” means an appeal or judicial review of a decision or an application for prerogative remedy in respect of which the Corporation provides legal aid services; (“procédure d’appel”)

“assets”, in relation to a family unit, means the sum of all the assets owned by the family members, including but not limited to liquid assets and real property but not including any of the following:

- (a) pensions and annuities that are locked in until retirement under the *Pension Benefits Act* or the *Pooled Registered Pension Plans Act, 2015*,
- (b) Registered Disability Savings Plans,
- (c) lump sum or periodic payments made under any of the following:
  - (i) the Indian Residential Schools Settlement Agreement,
  - (ii) the Federal Indian Day School Settlement,
  - (iii) a “60s Scoop” settlement,
  - (iv) an Aboriginal land claim settlement,
  - (v) any other payment received from the Government of Canada or the government of a province or territory under a settlement specified by the Corporation,
- (d) compensation received under the Canadian Thalidomide Survivors Support Program,
- (e) assets of a dependent child, including Registered Education Savings Plans,
- (f) an absolute discretionary trust (otherwise known as a “Henson trust”) of which a disabled member of the family unit is the beneficiary; (“actif”)

“boarder” means an individual who pays for a room or other amenities in a house or residential unit and who shares a bathroom or kitchen with the owner or the current lease holder or with a relative of the owner or current lease holder; (“chambreur”)

“dependent child”, in relation to an individual, means an individual

- (a) who has not reached 18 years of age, or who has not reached 26 years of age and is in full-time attendance at a school, college, university or other educational institution, and
- (b) who resides with the individual or is financially supported by the individual to reside outside the home; (“enfant à charge”)

“entity service provider” has the same meaning as in section 75; (“entité fournisseur de services”)



“entity services” has the same meaning as in section 75; (“services visés”)

“family member”, in relation to an individual, means

- (a) if the individual resides with a spouse, the spouse,
- (b) a dependent child of the individual or of the individual’s spouse,
- (c) if the individual resides with the individual’s parent and relies on the parent for support, the parent and any other dependent child of the parent,
- (d) if the individual or the individual’s spouse has a dependent child who resides outside the home in accordance with a temporary order or agreement under the *Child, Youth and Family Services Act, 2017*, that child, and
- (e) if the individual or the individual’s spouse shares parenting time of a dependent child and the child resides with the individual at least 50% of the time, that child; (“membre de la famille”)

“family unit” means an individual who applies for or receives legal aid services and the individual’s family members; (“unité familiale”)

“income”, in relation to a family unit, means the sum of the gross annual income received by all of the family members during a given period from all sources. It includes, but is not limited to, every family member’s total earnings from wages and from investment enterprises and any other ventures. It does not include any of the following:

- (a) harmonized sales tax credit,
- (b) earnings of a dependent child,
- (c) criminal injury compensation paid by the Criminal Injuries Compensation Board,
- (d) student loans and grants from the Government of Canada or the government of a province or territory and other student grants, bursaries and scholarships,
- (e) income from the Government of Ontario’s Second Career Program,
- (f) payments from a benefit plan for families with children from the Government of Canada or the Government of Ontario, including the universal child care benefit, the child tax benefit and the child disability benefit,
- (g) compensation under the Canadian Thalidomide Survivors Support Program,
- (h) payments made by a First Nation to its members of money received under an Aboriginal land claim settlement; (“revenu”)

“liquid assets” means cash and assets that are readily convertible to cash and, for greater certainty, does not include real property; (“biens liquides”)

“medical reduction” means the annual cost of medical expenses incurred by a family unit on account of one or more family members; (“réduction au titre des frais médicaux”)

“spouse” means

- (a) a spouse as defined in section 29 of the *Family Law Act*,
- (b) either of two individuals who live together in a conjugal relationship outside marriage, or
- (c) either of two individuals who have declared to an agency other than the Corporation that they are common law spouses; (“conjoint”)

“support reduction” means the annual cost of child and spousal support payments, other than those in respect of a dependent child referred to in clause (e) of the definition “family member”, paid by an individual or an individual’s spouse. (“réduction au titre des aliments”)

## **DIVISION 2**

### **ELIGIBILITY FOR LEGAL AID SERVICES**

#### **Eligibility – general**

- 5** (1) An individual is eligible to receive legal aid services if the individual
- (a) applies in accordance with section 6; and
  - (b) satisfies the eligibility requirements set out in these Rules.
- (2) Despite subsection (1), an individual’s eligibility to receive legal aid services is governed by any agreement that is in effect between the Corporation and the provider of legal aid services in a province or territory if
- (a) the individual’s usual place of residence is in the province or territory; or
  - (b) the individual’s usual place of residence is in Ontario but the matter for which the individual is applying to receive legal aid services is one that is to be determined in a proceeding in that province or territory.
- (3) For the purpose of determining an individual’s eligibility to receive legal aid services, the Corporation may consider any information that it considers reliable and relevant.

#### **Applications**

- 6** (1) An application for legal aid services may be made by an individual or by another person on behalf of the individual as specified by the Corporation.
- (2) The application must be made in the form and manner specified by the Corporation and must include all of the information, documents and authorizations specified by the Corporation.
- (3) An individual who applies for legal aid services or another person referred to in subsection (1) or (5) on the individual’s behalf shall, on the request of the Corporation, provide the Corporation with the additional information and documents specified in the request, including any authorizations that permit the Corporation to verify the information and documents, by the date specified in the request.
- (4) An application for legal aid services for an individual who has not reached 18 years of age may be made by the individual alone or with the assistance of a parent or guardian on behalf of the individual.
- (5) An application for legal aid services for a mentally or physically incapacitated individual may be made on behalf of the individual by any of the following:
- (a) the individual’s guardian of property or guardian of the person;
  - (b) if there is no guardian, the individual’s attorney under a power of attorney for personal care or a continuing power of attorney;
  - (c) if there is no guardian or attorney, a friend or relative who has the individual's written authorization;
  - (d) if there is no guardian, attorney, friend or relative, by the Public Guardian and Trustee.

(6) An application for legal aid services for an individual for whom a representative has been designated under subsection 167 (2) of the *Immigration and Refugee Protection Act* (Canada) may be made on behalf of the individual by the representative.

#### **Certain applications not accepted**

7 The Corporation shall not accept any application for legal aid services that the Corporation determines is in an area of law in which the Corporation does not provide services.

#### **Refusal to consider applications – certain grounds for refusal**

8 (1) The Corporation may refuse to consider an application that is made by or on behalf of an individual if the Corporation is satisfied of any of the following with respect to the individual, a person who is applying on behalf of the individual or any person who is responsible for the individual:

- (a) the individual or person has provided the Corporation with inaccurate or incomplete information in the past;
- (b) the individual or person has provided inaccurate or incomplete information, or has refused to provide information, contrary to subsection 10 (1) of the Act;
- (c) the individual or person has engaged in conduct that, in the opinion of the Corporation, is uncooperative or disruptive with the result that the individual cannot be provided with effective legal aid services;
- (d) the individual or person has an outstanding debt to the Corporation in relation to previously provided legal aid services that is not secured by a charge under section 13 of the Act, a lien under section 14 of the Act, a charge under section 47 of former Act or a lien under subsection 48 (1) of the former Act.

(2) Despite the Corporation having determined that an individual or person meets any of the grounds for refusal set out in clauses (1) (a) to (d), the Corporation may, in making its determination on the application, accept the application and provide the individual or person with legal aid services, with any modifications that the Corporation considers necessary.

#### **Continuing obligation to provide information**

9 (1) An individual is eligible to receive legal aid services or to continue receiving legal aid services only if each of the following persons, as applicable, provides the consents, waivers and acknowledgments that the Corporation specifies:

- (a) the individual who is applying to receive or who is receiving legal aid services;
- (b) the spouse of an individual referred to in clause (a);
- (c) a person responsible for an individual referred to in clause (a).

(2) An individual who is receiving legal aid services or who has applied to receive legal aid services, or any person described in clause (1) (b) or (c), shall promptly inform the Corporation of any material changes to the financial or other information that any of the following persons has provided to the Corporation:

- (a) the individual who is applying to receive or who is receiving legal aid services;
- (b) the spouse of an individual referred to in clause (a);
- (c) a person responsible for an individual referred to in clause (a).

(3) For the purpose of confirming an individual's continuing eligibility to receive legal aid services, the individual and any person who is responsible for the individual shall, on request of the Corporation,

- (a) undergo a reassessment of financial eligibility in the manner specified in the request; and
- (b) provide the Corporation with the information and documents specified in the request, including any authorizations that permit the Corporation to verify the information and documents, by the date specified in the request.

**Consent and declaration**

**10** On the request of the Corporation, the following persons shall, as applicable, as a requirement of eligibility for legal aid services, agree to the terms set out in the consent and declaration form provided by the Corporation, by signing the form:

- (a) an individual who is applying to receive or who is receiving legal aid services;
- (b) the spouse of an individual referred to in clause (a);
- (c) a person responsible for an individual referred to in clause (a).

**Consent to release information**

**11** An individual who is applying to receive legal aid services shall, as a requirement of eligibility for legal aid services, consent to the release to the Corporation of any information and documents that the Corporation requires that relate to the legal aid services or the court proceedings, including information that is solicitor-client privileged.

**Financial eligibility**

**12 (1)** Subject to section 15, an individual is financially eligible to receive legal aid services or to continue receiving legal aid services if

- (a) the income of the individual’s family unit, less any support reduction or medical reduction, does not exceed the maximum income set out for those legal aid services in the Table for a family unit that matches the individual’s family unit in number; and
- (b) the value of the liquid assets of the individual’s family unit does not exceed the maximum value of liquid assets set out for those legal aid services in the Table.

(2) If the Corporation is not satisfied that an individual meets a financial eligibility requirement, the Corporation shall make any further inquiries that it deems appropriate, and shall not provide legal aid services to the individual until it is satisfied that the individual is eligible for legal aid services.

(3) A decision that an individual is financially ineligible to receive certificate services is reviewable in accordance with Division 3.

**TABLE  
FINANCIAL ELIGIBILITY**

Family unit size for duty counsel services	Gross annual income
1	\$22,720
2	\$32,131
3	\$39,352
4	\$45,440

<b>Family unit size for duty counsel services</b>	<b>Gross annual income</b>
5 or more	\$50,803

<b>Liquid asset limit value for duty counsel services</b>
\$2,255

<b>Family unit size for certificate services</b>	<b>Gross annual income</b>
1	\$18,795
2	\$32,131
3	\$39,352
4	\$45,289
5 or more	\$50,803
Single Boarders	\$12,330

<b>Family unit size for certificate services</b>	<b>Liquid asset limit value for certificate services</b>
1	\$1,504
2	\$2,255
3 or more	\$3,007

<b>Family unit size for entity services</b>	<b>Gross annual income</b>
1	\$22,720
2	\$32,131
3	\$39,352
4	\$45,440
5 or more	\$50,803

<b>Family unit size for entity services</b>	<b>Liquid asset value limit for entity services</b>
Individual	\$ 8,933

<b>Family unit size for entity services</b>	<b>Liquid asset value limit for entity services</b>
Family unit of 2 or more	\$11,910

### **Contribution agreements**

**13 (1)** For the purpose of subsection 9 (1) of the Act, the Corporation may require an individual who is requesting or receiving legal aid services, or a person responsible in relation to that individual, to enter into an agreement to contribute to the cost of providing those services in the following circumstances:

- (a) the assets of the individual's family unit include an interest in land in Ontario or an asset that is not readily convertible to money;
- (b) the Corporation is satisfied that the individual or person responsible is able to contribute to the cost of providing legal aid services to the individual;
- (c) the Corporation is satisfied that
  - (i) the individual or person responsible expects to receive money or other property, whether in a proceeding or otherwise, and
  - (ii) the money or other property, if received, would be available for contribution towards the cost of providing legal aid services to the individual;
- (d) the individual was released from custody or detention with a deposit of money in respect of the matter for which the individual is applying for or receiving legal aid services;
- (e) a peace officer seized money from the individual or person responsible in connection with the matter for which the individual is applying for or receiving legal aid services.

(2) For the purpose of determining the ability of a person responsible to contribute to the costs of providing legal aid services to the individual, the person responsible shall provide the Corporation with any information, documents and authorizations that the Corporation requires to verify relevant information, in the form and manner and no later than the time specified by the Corporation in a notice delivered by the Corporation to the person.

(3) For the purpose of determining the ability of an individual or person responsible to contribute to the costs of providing legal aid services to the individual, the Corporation may consider the following factors:

- (a) the income and the assets of the individual or person responsible;
- (b) the debts of the individual or person responsible;
- (c) the needs of any persons dependent on the individual or person responsible;
- (d) any other information or circumstances that the Corporation considers relevant and that are disclosed either in the individual's application, by the person responsible under subsection (2) or in the Corporation's verification of information.

(4) An agreement under this section must provide that the person who is liable under the agreement is liable for the lesser of the following amounts:

- (a) a maximum amount as determined by the Corporation based on the circumstances of the case;
- (b) the sum of
  - (i) the estimated cost of providing the services,

- (ii) 10% of the amount referred to in subclause (i), and
  - (iii) interest, calculated in accordance with subsection (9).
- (5) An amount payable under an agreement under this section is due
  - (a) in the case of an agreement that requires monthly payments, on the dates specified in the agreement;
  - (b) in the case of an agreement under which the amount is secured by a lien under section 14 of the Act and monthly payments are not required,
    - (i) if the legal aid services are provided by a roster member, 30 days after the date on which the Corporation settles the final account of the roster member, or
    - (ii) if the legal aid services are provided by a staff lawyer or entity service provider, 30 days after the end of the provision of those services; and
  - (c) in any other case, in accordance with the terms and conditions of the agreement.
- (6) The Corporation may deliver a notice to an individual who is receiving legal aid services, or a person responsible in relation to the individual, if the Corporation becomes aware that the individual's or person's ability to contribute to the costs of the legal aid services provided to the individual is different than what was previously determined.
- (7) The notice may require the individual or person to do the following, on or before the date set out in the notice:
  - (a) in the case of an individual or person who has previously entered into a contribution agreement, to amend the contribution agreement to reflect the change in ability to contribute;
  - (b) in any other case, to enter into a contribution agreement.
- (8) A decision made under this section is reviewable in accordance with Division 3 if it is a decision that
  - (a) requires an individual or person responsible to enter into a contribution agreement;
  - (b) requires the amendment of a contribution agreement; or
  - (c) determines the amount required to be contributed under a contribution agreement.
- (9) Interest at the post-judgment interest rate for the last quarter of the previous fiscal year, as published under clause 127 (2) (b) of the *Courts of Justice Act*, is payable on any amounts overdue under a contribution agreement.

**Eligibility other than financial**

**14** An individual is eligible to receive legal aid services only if

- (a) the matter for which the individual is applying to receive legal aid services is in an area of law in which the Corporation is authorized to provide legal aid services under the Act or the regulations;
- (b) the services that are applied for are services that the Corporation funds; and
- (c) the services that are applied for are services that the Corporation provides under its coverage policies.

### **Financial eligibility for entity services**

**15** (1) This section applies in respect of entity services.

(2) An individual is financially eligible to receive entity services if the primary source of income of the individual's family unit is one of the following:

- (a) Ontario Works;
- (b) Ontario Disability Support Program;
- (c) Old Age Security Pension and Guaranteed Income Supplement;
- (d) Canada Pension Plan;
- (e) War Veterans Allowance;
- (f) Workplace Safety and Insurance Board benefits.

(3) A group of individuals who have a common legal matter is financially eligible to receive entity services in relation to that legal matter if

- (a) the number of members of the group makes it impractical to assess financial eligibility under subsection 12 (1) for each member;
- (b) the entity services provider applies a financial test that demonstrates objectively that a majority of the members of the group would be financially eligible under subsection 12 (1) or subsection (2) of this section for the entity services; and
- (c) the financial circumstances of the members of the group and the likely cost of retaining the services of a lawyer prevent the group from retaining a lawyer and sharing the cost of the lawyer.

(4) Any individual is financially eligible to receive summary legal advice and public legal education from an entity service provider.

(5) An individual who is applying to receive entity services shall, on the request of an entity service provider and by the date specified in the request, provide the entity service provider with the specified information and documents, including any authorizations that permit the entity service provider to verify the information and documents.

### **Decision on application**

**16** (1) If the Corporation determines that an individual is eligible to receive legal aid services, the Corporation shall specify the type of service provider and the legal aid services that the individual is entitled to receive.

(2) The Corporation

- (a) may provide legal aid services in the manner that it considers appropriate; and
- (b) shall determine what legal aid services are appropriate for an individual, having regard to their specific circumstances.

### **Notice by Corporation**

**17** (1) The Corporation shall promptly deliver notice in writing to an individual of any of the following:

- (a) a declaration under clause 10 (4) (a) of the Act for a failure to discharge an obligation under subsection 10 (1) of the Act;
- (b) a refusal under section 8 to consider an application;
- (c) a determination that an individual is not eligible to receive certificate services.



(2) A declaration under clause 10 (4) (a) of the Act and a decision under section 8 are reviewable in accordance with Division 3.

#### **Merit opinion**

**18** (1) For appellate proceedings, for the purposes of determining whether a case has merit, the Corporation may issue a certificate that authorizes a roster member or staff member to prepare a legal opinion respecting the merits of the case and the likelihood of its success.

(2) The staff member or roster member who acknowledges the certificate shall prepare and deliver the legal opinion no later than 60 days after the acknowledgement.

#### **Merit assessment for appellate proceedings**

**19** A legal opinion under section 18 in relation to an application for legal aid services for an appellate proceeding must be accompanied by the following supporting documents, as applicable:

- (a) a copy of the relevant order or decision;
- (b) the trial judge's report, if available;
- (c) the notice of appeal or notice of application, if it has been prepared;
- (d) a copy of the reasons for judgment or sentence;
- (e) a copy of the charge to the jury;
- (f) a copy of the reasons for committal and pre-sentence report;
- (g) a copy of the Basis of Claim form;
- (h) legal submissions filed with the court in support of the case;
- (i) other documentation that the roster member or staff member considers relevant;
- (j) any other information that the Corporation requires in respect of the opinion.

### **DIVISION 3**

#### **REVIEW PROCESS**

##### **Definition of "applicant"**

**20** In this Division, "applicant" means an individual or person responsible for an individual who requests the review of a decision or determination. ("auteur de la demande")

##### **Reviewable decisions**

**21** A decision under this Part is final and is not reviewable unless this Part or the Corporation provides otherwise.

##### **Review by Corporation**

**22** (1) An applicant may request the review of a decision that is reviewable under this Division by submitting the request to the Corporation

- (a) not later than 15 days after notice of the decision is delivered or deemed to be delivered; or
- (b) in circumstances specified by the Corporation, not later than 45 days after notice of the decision is delivered or deemed to be delivered.

- (2) Unless a request for the review of a decision is made within the time specified in subsection (1), the decision of the Corporation is final and is not subject to further review.
- (3) A request for review must be made in writing in the form and manner approved by the Corporation.
- (4) The Corporation may require the applicant to provide the Corporation with additional information and documents, including any authorizations that permit the Corporation to contact third parties to verify the information and documents, and the applicant shall submit a response in writing in the time and manner that the Corporation specifies in the request.
- (5) If the applicant does not provide the Corporation with the information, documents or authorizations on or before the specified date, the request for review is deemed to have been withdrawn.
- (6) A review shall be conducted in writing only and there shall be no oral hearing.
- (7) For the purposes of the review, the Corporation may consider any relevant information including, without limitation,
  - (a) the information and documents that the applicant submitted and any information that was obtained in verifying that information or those documents;
  - (b) any additional information and documents that were received under subsection (4); and
  - (c) the contents of the applicant's file at the Corporation.
- (8) After completing its review, the Corporation may
  - (a) confirm the original decision;
  - (b) overturn the original decision; or
  - (c) seek additional information from the applicant.
- (9) For greater certainty, the Corporation may require an applicant to complete a financial reassessment, and the applicant shall complete the reassessment in the time and manner that the Corporation specifies.
- (10) If the applicant does not complete the reassessment before the date or in the manner specified, the request for review is deemed to have been withdrawn.
- (11) The Corporation shall deliver notice in writing of the decision made under subsection (8) and the reasons for it to the applicant and to the applicant's lawyer, if any.
- (12) A decision made under subsection (8) is final and is not subject to further review unless a request for reconsideration is made in accordance with subsection 23 (1).

#### **Reconsideration by Corporation**

- 23** (1) The Corporation may, on application of the applicant no later than six months after the notice of the decision was delivered under subsection 22 (11), reconsider a decision made under subsection 22 (8) if
- (a) the Corporation is satisfied that there has been a material change in the applicant's circumstances that relate to the applicant's eligibility for certificate services; or
  - (b) the applicant provides information that was not considered when the applicant's eligibility to receive certificate services was determined and that the Corporation considers would have been relevant in determining the applicant's eligibility.

(2) A request for reconsideration by the Corporation must be in writing and include a description and evidence of the material change referred to in clause (1) (a) or the information that was not considered that is described in clause (1) (b).

(3) Subsections 22 (4) to (7) apply to the reconsideration, with any necessary modifications.

(4) The Corporation shall deliver notice in writing of its reconsideration decision and the reasons for it to the applicant and to the applicant's lawyer, if any.

### **PART 3**

## **ROSTER MANAGEMENT**

### **DIVISION 1**

## **ROSTER MEMBERSHIP**

### **Definitions**

**24** In this Division,

“application” means an application under section 26; (“demande”)

“jurisdiction” means a jurisdiction in or outside Canada; (“territoire”)

“law society” means an organization in Canada or outside Canada that regulates the practice of law; (“barreau”)

“roster member's authorization” means an authorization of a roster member determined under section 27. (“autorisation du membre inscrit”)

### **Establishment of roster**

**25** The Corporation may establish, administer and maintain a roster of lawyers who are authorized under section 27 to provide legal aid services.

### **Application for enrolment on roster**

**26** (1) An individual who is a member in good standing with the Law Society of Ontario may apply to the Corporation to be enrolled on the roster, at the times and in the manner determined by the Corporation. [*Rule 2022/1, s. 1*]

(2) Subject to the Appendix to this Division, the Corporation may approve an application if the individual

- (a) has completed and submitted the application in the form and manner approved by the Corporation;
- (b) has submitted the information and documents required by the Corporation, including
  - (i) documents that authorize the Corporation to disclose the application or information contained in the application to third parties for the purpose of requesting documents or information from the third parties, and
  - (ii) documents that authorize the following to provide information and documents to the Corporation:
    - (A) the Law Society of Ontario and any other law society of which the applicant is or was a member,
    - (B) any court, professional insurer or other third party that has information or documents relevant to the application; and

- (c) establishes to the satisfaction of the Corporation that the applicant meets the conditions and requirements specified by the Corporation. [*Rule 2022/1, s. 1*]
- (3) The Corporation may require the applicant to provide any further information or documents for the purposes of assessing the application, including but not limited to, information or documents demonstrating that the applicant meets the conditions and requirements referred to in clause (2) (c). [*Rule 2022/1, s. 1*]
- (4) An application is deemed to be withdrawn if the applicant fails or refuses to provide
  - (a) the documents referred to in subclause (2) (b) (i) or (ii) within 21 days after submitting the application, or
  - (b) the information or documents referred to in subsection (3) within 21 days after the Corporation requests them. [*Rule 2022/01, s. 1*]
- (5) The Corporation may refuse to approve an application for any reason in respect of conduct by the applicant that, in the opinion of the Corporation, is or was inconsistent with the purpose of the Act set out in section 1 of the Act. [*Rule 2022/1, s. 1*]
- (6) A decision made under subsection (5) is reviewable in accordance with section 43. [*Rule 2022/1, s. 1*]
- (7) The Corporation shall deliver a written notice of a decision made under subsection (5) to the applicant in accordance with subsection 41 (2). [*Rule 2022/1, s. 1*]

#### **Authorizations**

- 27 (1) A roster member may apply for an authorization to provide legal aid services in one or more specified districts or parts of a district, in the area or areas of law for which they meet the minimum experience requirements set out in Schedule 3. [*Rule 2022/1, s. 1*]
- (2) If the roster member meets the minimum experience requirements set out in Schedule 3, the Corporation may grant the authorization. [*Rule 2022/1, s. 1*]
- (3) If the roster member does not meet the minimum experience requirements set out in Schedule 3, the Corporation may grant the roster member a conditional authorization described in section 3 of that Schedule. [*Rule 2022/1, s. 1*]
- (4) The Corporation shall deliver a written notice of its decision under subsection (2) or (3), including reasons, to the roster member. [*Rule 2022/1, s. 1*]
- (5) The Corporation may, at any time, impose any conditions or requirements on the roster member's authorization that the Corporation considers necessary, and shall deliver a written notice to that effect to the roster member, including but not limited to the following:
  - (a) requiring the roster member to be mentored or supervised in a manner and for a period specified by the Corporation;
  - (b) limiting the type of legal aid services or volume of legal aid services that the roster member may provide;
  - (c) requiring the roster member to provide the Corporation with the reports or updates specified by the Corporation within a specified period;
  - (d) requiring the roster member to meet minimum experience requirements within a specified period;
  - (e) imposing limitations and requirements on the submission of accounts to the Corporation;

- (f) requiring the roster member, in order to provide specified legal aid services, to maintain an office in a specific district or have an established practice in a specific district. [Rule 2022/1, s. 1]

(6) The Corporation may require that all roster members complete any training programs required by the Corporation relating to the provision of legal aid services. [Rule 2022/1, s. 1]

(7) Every roster member shall, with respect to each area of law in which they are authorized to provide legal aid services, complete a minimum of three hours of continuing professional development each year. [Rule 2022/1, s. 1]

### **Obligations of roster members**

**28** (1) A roster member shall comply with the following:

- (a) the Act and these Rules;
- (b) the Legal Aid Service Standards set out in Schedule 1;
- (c) the roster member's authorization, including any conditions or requirements imposed under subsection 27 (2);
- (d) any measure imposed on the roster member under section 33. [Rule 2022/1, s. 2]

(2) Roster members

- (a) shall keep informed of the Act and these Rules,
- (b) shall provide legal aid services in a manner that is respectful, that recognizes the dignity and worth of every client and that is free of bias, discrimination, harassment and racism, including anti-Indigenous and anti-Black racism;
- (c) shall be civil in their conduct towards their clients and towards any officer of the Corporation or staff member in the course of any dealings with them;
- (d) shall not engage in communications with or conduct towards their clients or any officer of the Corporation or staff member in a manner that is abusive or offensive, or that is otherwise inappropriate, and
- (e) shall not create any unreasonable or excessive administrative burden on the Corporation.

(3) Clauses (2) (b) to (e) also apply to individuals who are supervised by or who are acting under the direction of a roster member.

(4) The roster member is responsible for any breaches of clauses (2) (b) to (e) by an individual referred to in subsection (3).

### **Conflict of interest**

**29** (1) A roster member shall not acknowledge a certificate or act or continue to act for a legally aided client under a certificate if the roster member has a conflict of interest as defined in the Rules of Professional Conduct under the *Law Society Act*, in relation to

- (a) the client approved to receive legal aid services under the certificate; or
- (b) the proceedings to which the legal aid services relate.

(2) A roster member shall not act or continue to act for a legally aided client under a certificate if the roster member knew or discovered or, on exercising reasonable diligence, ought to have known or discovered that there is a risk that the roster member's loyalty to or representation of the client would be adversely affected or perceived to be adversely affected by

- (a) the roster member's current or prior professional or personal relationship with another person; or
- (b) the roster member's own actual, potential or perceived financial or personal interests.

#### **Requirement to provide information and documents**

**30** (1) The Corporation may, at any time, require a roster member to provide the Corporation with the information and documents specified by the Corporation.

(2) The roster member shall provide the Corporation with the required information and documents in the form and manner specified by the Corporation, no later than the date specified or any later date approved by the Corporation.

(3) If requested to provide information or documents to the Corporation under subsection (1) or under any other section, the roster member shall not refuse, on the basis of privilege or confidentiality or otherwise, to provide the information or documents to the Corporation.

#### **Notice to Corporation**

**31** (1) A roster member shall notify the Corporation in writing immediately if any of the following circumstances occurs:

- (a) the roster member is the subject of a criminal proceeding in any jurisdiction or the subject of a conduct, capacity or competence proceeding by any law society;
- (b) the Law Society of Ontario imposes a condition on the roster member that may restrict the roster member's ability to provide legal aid services;
- (c) the roster member's status at the Law Society of Ontario is no longer "In Private Practice";
- (d) the roster member is no longer a member in good standing with the Law Society of Ontario;
- (e) the roster member's contact information changes;
- (f) the roster member decides to cease providing legal aid services on a temporary basis for a period of more than 60 days;
- (g) any other circumstance specified by the Corporation.

(2) The Corporation may require the roster member to provide the Corporation with any other information that relates to the particular circumstance within the time specified by the Corporation.

(3) An individual who has been suspended or removed from the roster shall notify the Corporation, within 14 days after the effective date of the suspension or removal, of the status of all matters on which the individual was providing legal aid services when suspended or removed from the roster.

(4) The roster member shall immediately notify the Corporation in writing of the following:

- (a) the outcome of any proceeding referred to in clause (1) (a);
- (b) any changes to a condition referred to in clause (1) (b);
- (c) the resumption by the roster member of the provision of legal aid services after a temporary absence referred to in clause (1) (f).

### **Requirement to file annual self-report**

- 32** (1) A roster member who has been a member for at least 12 months shall, in the form and manner specified by the Corporation, file a self-report with the Corporation no later than March 31 of each year.
- (2) The self-report must include the information and documents required by the Corporation.
- (3) The Corporation may require the roster member to provide the Corporation, within the period specified by the Corporation, with the information and documents that the Corporation requires to verify any information or documents that are included in the self-report.
- (4) If a roster member fails to file the self-report on or before the date referred to in subsection (1) or fails to provide the information and documents required under subsection (3) within the specified period, the Corporation shall suspend the roster member from the roster.
- (5) The roster member is suspended from the roster until
- (a) the member files a completed self-report or provides the information and documents required under subsection (3), as the case may be; and
  - (b) pays the reinstatement fee, if any, specified by the Corporation.
- (6) The Corporation shall remove a roster member from the roster if the roster member fails to comply with subsection (1) by December 31 immediately following the March 31 when the self-report was required to be filed.

### **Failure to comply**

- 33** (1) If a roster member fails to comply with section 28, the Corporation may impose any one or more of the following measures:
- (a) require the roster member to participate in one or more programs of legal education or professional development or other programs approved by the Corporation;
  - (b) limit the roster member's authorization;
  - (c) require the roster member to provide legal aid services under the supervision of an individual specified by the Corporation;
  - (d) suspend the roster member from the roster;
  - (e) impose any other measure the Corporation considers appropriate in the circumstances;
  - (f) require the roster member to give notice of a measure imposed under this section to one or more individuals or organizations specified by the Corporation. [*Rule 2022/1, s. 3*]
- (2) The Corporation shall promptly deliver to the roster member a written notice of the decision under subsection (1) that includes the reasons for the decision and the effective date of any measure imposed under that subsection.
- (3) Instead of imposing a measure under subsection (1), the Corporation may, when it considers it appropriate, provide the roster member with any necessary training or other assistance for the purpose of preventing the reoccurrence of any contravention of these Rules by the roster member.
- (4) The Corporation may notify the Law Society of Ontario of any failure by the roster member to comply with section 28, including any measures imposed by the Corporation under this section.

### **Administrative suspensions**

**34** (1) The Corporation may, without notice, suspend a roster member from the roster in either of the following circumstances:

- (a) the roster member fails to respond to a requirement to provide information or documents under section 30 by the date specified by the Corporation;
- (b) the roster member's status at the Law Society of Ontario is no longer "In Private Practice".

(2) If the Corporation is satisfied that the reason for which the roster member was suspended no longer applies, the Corporation shall revoke the suspension.

### **Other suspensions**

**35** (1) The Corporation may suspend a roster member from the roster

- (a) if the Corporation has made a decision under subsection 38 (3) to remove the roster member;
- (b) if the roster member is the subject of a criminal proceeding in any jurisdiction, or the subject of a conduct, capacity or competence proceeding by any law society; or
- (c) if, in the opinion of the Corporation, it is necessary to do so
  - (i) to protect the personal safety and security of a legally aided client or other individual, or
  - (ii) to protect the Corporation from liability for damages that may arise from the actions, omissions or conduct of the roster member.

(2) The Corporation shall promptly deliver to the roster member a written notice of a decision under subsection (1) that includes the following information:

- (a) the reasons for the decision;
- (b) the effective date of the suspension;
- (c) the effect of the suspension determined under section 36.

(3) A suspension referred to in clause (1) (a) is in effect pending a review under section 43.

(4) The Corporation may notify the Law Society of Ontario and the roster member's legally aided clients of the suspension.

(5) The Corporation may revoke a suspension under subsection (1) by delivering a written notice to the roster member that specifies the effective date of the revocation.

### **Effect of suspensions**

**36** If a roster member is suspended from the roster under any of sections 32 to 35, the Corporation may prohibit the roster member, while suspended, from carrying out any of the following activities, except as specifically permitted in writing by the Corporation:

- (a) providing legal aid services under any certificate that the roster member has acknowledged;
- (b) acknowledging new certificates;
- (c) providing duty counsel services or advice lawyer shifts;
- (d) acting as an agent on a legal aid matter;



- (e) providing legal aid services in one or more specified districts or in one or more specified parts of a district or districts or in a specific area of law;
- (f) submitting any accounts.

#### **Administrative removal**

**37** (1) The Corporation may remove a roster member from the roster without notice in any of the following circumstances:

- (a) the roster member has surrendered the roster member's licence to practise law to the Law Society of Ontario;
- (b) the roster member's licence to practise law has been revoked by the Law Society of Ontario;
- (c) the roster member becomes an employee of the Corporation;
- (d) the roster member has been inactive for a period of two years.

(2) A roster member is deemed to have been inactive if the roster member has failed to do any of the following in the previous two years:

- (a) log onto the Corporation's online portal for lawyers;
- (b) acknowledge a certificate under section 48;
- (c) submit an account under section 64 or 65.

(3) An individual who has been removed from the roster under subsection (1) and seeks to be reinstated on the roster shall apply under section 26.

#### **Removal from roster**

**38** (1) The Corporation may remove a roster member from the roster if the Corporation determines that the roster member

- (a) failed to comply with a provision of Division 3 with the result that there was an overpayment or improper payment of more than \$7,500;
- (b) failed to pay an amount owing to
  - (i) an agent retained by the roster member to provide legal aid services,
  - (ii) a third-party provider for services, other than legal aid services, provided in a legal aid matter, or
  - (iii) the Corporation;
- (c) engaged in misconduct of a sexual nature with a client, or in a relationship that otherwise exceeds the bounds of a normal solicitor-client relationship;
- (d) was found by a law society to have engaged in professional misconduct or conduct unbecoming a lawyer that involved dishonesty, fraud, misrepresentation, misappropriation of property, a breach of trust, a vulnerable person or a client of the lawyer;
- (e) was found guilty of an offence under section 45 of the Act;
- (f) was found guilty of a criminal offence that involved fraud, misappropriation of property, breach of trust, a vulnerable person or a client of the lawyer;
- (g) was found guilty of obstruction of justice under the *Criminal Code* (Canada);

- (h) was found in a civil proceeding in any jurisdiction to have engaged in fraud or misrepresentation, to have misappropriated property or to be liable for a breach of trust;
  - (i) was found by a court or tribunal to have been negligent, incompetent or ineffective in providing legal aid services under the Act; or
  - (j) was found guilty of civil or criminal contempt of court, was found by a court or tribunal to have committed an abuse of process or to be a vexatious litigant, or had costs awarded by a court against the roster member personally in the course of representing a client.
- (2) The Corporation shall promptly deliver to the roster member a written notice of a decision under subsection (1) that includes
- (a) the reasons for the decision;
  - (b) the effective date of the removal; and
  - (c) the effect of the removal determined under section 39.
- (3) In addition to the reasons for removal set out in subsection (1), the Corporation may remove a roster member from the roster for any other reason in respect of conduct by the roster member that, in the opinion of the Corporation, is or was inconsistent with the purpose of the Act set out in section 1 of the Act.
- (4) The Corporation shall promptly deliver a notice of the decision under subsection (3) to the roster member in accordance with subsection 41 (2) that includes the following information:
- (a) the effective date of the removal;
  - (b) the effect of the removal determined under section 39.
- (5) A decision under subsection (3) is reviewable in accordance with section 43.
- (6) The Corporation shall promptly notify the Law Society of Ontario and the roster member's legally aided clients of the removal.

#### **Effect of removal from roster**

- 39** (1) From the effective date of the removal, the former roster member shall
- (a) immediately cease acting for any legally aided client under any certificate except to the extent specifically authorized by the Corporation in writing;
  - (b) not provide or agree to provide any further legal aid services, including as an agent, except to the extent specifically authorized by the Corporation in writing;
  - (c) submit all accounts in accordance with these Rules within 90 days after the effective date; and
  - (d) assist the Corporation and the roster member or staff lawyer retained by the legally aided client or assigned under section 47 in ensuring that any outstanding matters under a certificate are not prejudiced.
- (2) If the individual does not comply with subsection (1), the Corporation may do either or both of the following:
- (a) notify the Law Society of Ontario of the non-compliance;
  - (b) withhold any payments for accounts until the individual complies.
- (3) The Corporation may notify a legally aided client of any issues or concerns with the individual who is providing legal aid services to that client.

## **Resignation**

**40** (1) A roster member may make a request in writing to the Corporation to resign as a roster member.

(2) Promptly after receiving the roster member's request, the Corporation may

- (a) approve the request, subject to subsection (3); or
- (b) refuse the request.

(3) The Corporation shall, after making a decision under subsection (2), promptly deliver a notice of the decision to the roster member that includes a statement as to whether the roster member is required under subsection (4) to continue providing legal aid services under certificates that the roster member has acknowledged.

(4) If the Corporation approves the request made under subsection (1), the Corporation may require the roster member to continue providing legal aid services under certificates that the roster member has acknowledged.

## **REVIEWS**

### **Notice of reviewable decisions**

**41** (1) A decision or determination made under this Division is final and not reviewable unless specifically provided for in this Division.

(2) When a decision or determination made under this Division is reviewable in accordance with this section, the Corporation shall, in the form and manner approved by the Corporation, promptly deliver a written notice to the individual who is entitled to the review that

- (a) includes written reasons for the decision or determination;
- (b) informs the individual that the decision or determination may be reviewed and how to request a review; and
- (c) provides an active offer of a review in French.

(3) With respect to the disclosure of information or documents,

- (a) the notice and any materials that are included with the notice constitute the written record of the decision; and
- (b) the Corporation is not required to disclose any information or documents that were previously provided to the individual or that are not relevant to the review.

### **Review in writing only**

**42** A review shall be conducted in writing only and there shall be no oral hearing.

### **Review process**

**43** (1) A request for the review of a decision or determination under this Division must be submitted to the Corporation in the form and manner specified by the Corporation within 15 days after the date on which notice of the decision or determination is delivered.

(2) The request must include all of the following information and documents:

- (a) the name and contact information of the individual requesting the review;
- (b) a copy of the reasons for the decision or determination;

- (c) written submissions that set out the basis for disputing the decision or determination, which must not be more than 20 pages and be in the form specified by the Corporation.
- (3) On the written request of the individual, the Corporation may extend any deadline under this section.
- (4) If the individual does not make the request for the review within the time referred to in subsection (1) or as extended under subsection (3), the decision or determination under review is final without further reasons.
- (5) The Corporation may require the individual to provide, in the form and manner approved by the Corporation and on or before the date specified by the Corporation, any additional information and documents that the Corporation considers necessary for conducting the review.
- (6) The individual shall provide the information and documents required under subsection (5) on or before the date specified by the Corporation.
- (7) The Corporation may draw an adverse inference if the individual does not provide the information or documents required under subsection (5) within the time specified under that subsection or as extended under subsection (3).
- (8) For the purposes of the review, the Corporation may consider only the following information and documents:
- (a) the written submissions, information and documents submitted by the individual;
  - (b) any other relevant information or documents.
- (9) The Corporation may confirm, vary or revoke the original decision.
- (10) When a current roster member requests a review, the Corporation may, pending the outcome of the review, do any one or more of the following:
- (a) prohibit the roster member from providing legal aid services;
  - (b) assign the roster member's current files to a roster member or staff lawyer assigned under section 47;
  - (c) permit the roster member to continue providing specified legal aid services;
  - (d) prohibit the roster member from accepting new legal aid clients.

## **APPENDIX**

(Subsection 26 (2))

### **INELIGIBILITY FOR ENROLMENT ON THE ROSTER**

#### **Ineligibility**

- 1** (1) The following individuals are not eligible to be enrolled on the roster:
- (a) an individual who, at the time of submitting an application or at any time until the Corporation approves or refuses the application, is the subject of
    - (i) a criminal proceeding in any jurisdiction, or
    - (ii) a conduct, capacity or competence proceeding by a law society;
  - (b) an individual who, at the time of submitting an application or at any time until the Corporation approves or refuses the application, is charged with an offence under section 45 of the Act or under section 96 of the former Act;

- (c) an individual who, at the time of submitting an application or at any time after submitting an application but before the Corporation approves or refuses the application, has an outstanding debt owing to the Corporation;
  - (d) an individual who, at any time until the Corporation approves or refuses the application, has been found in a civil proceeding in any jurisdiction
    - (i) to have engaged in fraud or misrepresentation,
    - (ii) to have misappropriated property, or
    - (iii) to be liable for a breach of trust;
  - (e) an individual who at any time during the application process, after being advised by the Corporation that the individual's conduct was abusive or offensive, continues to act in an abusive or offensive manner;
  - (f) an individual who, at any time until the Corporation approves or refuses the application, has been found by a court or tribunal
    - (i) to have committed an abuse of process, or
    - (ii) to be a vexatious litigant.
- (2) An individual is not eligible to be enrolled on the roster if any of the following occurred in the five years before the application is submitted:
- (a) the individual was found guilty of a criminal offence that involved fraud, misappropriation of property, a vulnerable person or a breach of trust,
    - (i) in Canada for which the individual has not been pardoned or been granted or issued a record suspension, or
    - (ii) in a jurisdiction outside Canada for which the individual has not been pardoned;
  - (b) was found guilty of obstruction of justice under the *Criminal Code* (Canada);
  - (c) the individual was found guilty of an offence under section 45 of the Act or under section 96 of the former Act;
  - (d) the individual was found guilty of civil or criminal contempt of court;
  - (e) the individual was found guilty by a law society of professional misconduct or conduct unbecoming a lawyer, that involved dishonesty, fraud, misrepresentation, misappropriation of property, a vulnerable person or a breach of trust;
  - (f) the individual was dismissed, other than dismissal by layoff or shortage of work, as an employee of the Corporation;
  - (g) the individual was removed from the roster under section 38 or was removed from a panel under the former Act.
- (3) The Corporation shall refuse to approve the application of an individual who is found not eligible under a provision of this Appendix.
- (4) The Corporation shall deliver a notice to the applicant that includes the reason for the refusal.

## DIVISION 2

### CERTIFICATE MANAGEMENT

#### Definition of “acknowledging lawyer”

**44** (1) In this Division, “acknowledging lawyer” means, unless otherwise provided, a roster member or staff lawyer who is assigned under section 47 or who acknowledges a certificate under section 48. (“avocat ayant accusé réception du certificat”)

(2) For the purposes of these Rules, a certificate is acknowledged by a roster member or staff lawyer under section 48 when the roster member or staff lawyer

- (a) enters all of the information required to acknowledge the certificate;
- (b) accepts the required declarations, undertakings and acknowledgements; and
- (c) submits the certificate to the Corporation through the online portal for lawyers.

#### Issuing certificates

**45** (1) If an individual is eligible to receive certificate services under Part 2, the Corporation shall issue a certificate to the individual in the form and manner approved by the Corporation.

(2) A certificate must include all of the following information:

- (a) the date of issuance of the certificate;
- (b) the effective date of the certificate;
- (c) the termination date determined under subsection (3);
- (d) the expiry date referred to in section 49;
- (e) the nature and extent of the legal aid services that are authorized to be provided;
- (f) a statement whether the individual or a person who is responsible for the individual has entered into a contribution agreement;
- (g) the form of acknowledgement;
- (h) any terms and conditions imposed by the Corporation.

(3) The certificate terminates three years after the date on which it is issued unless the date is extended under subsection (4).

(4) If, after two years following the date of issuance of the certificate, the legal aid services that are to be provided under the certificate have not been completed, the acknowledging lawyer shall, no later than 60 days before the termination date of the certificate, in the form and manner specified by the Corporation,

- (a) submit a report to the Corporation that includes all of the following information:
  - (i) the status of the proceeding that is the subject of the certificate, including
    - (A) the anticipated remaining legal aid services that are to be provided under the certificate and a description of those services,
    - (B) the anticipated date on which the proceeding will be concluded,
    - (C) if a settlement is likely, the nature of the settlement and the amount of the settlement, if applicable, and
    - (D) any other information required by the Corporation,

- (ii) a description of the legal aid services provided but not yet billed and an estimate of the amount yet to be billed,
  - (iii) an estimate of the cost to provide the remaining legal aid services,
  - (iv) whether the acknowledging lawyer is aware of any circumstances that would suggest that the legally aided client is no longer eligible to receive the legal aid services,
  - (v) confirmation of the status of any contribution agreement, including the estimated cost payable under the agreement; and
- (b) request an extension to the termination date of the certificate, if the legal aid services authorized to be provided under the certificate might not be completed before that date.

(5) If the Corporation approves the extension request, the Corporation shall deliver a notice to the acknowledging lawyer and to the legally aided client that specifies the new termination date.

(6) If the Corporation refuses to approve the extension request, the Corporation shall deliver a notice of its decision to the acknowledging lawyer and to the legally aided client, including the reasons for the decision.

#### **Amendment of certificates**

**46** (1) A legally aided client or the client's acknowledging lawyer may, in the form and manner specified by the Corporation, apply for an amendment to the certificate in respect of any of the following:

- (a) additional legal aid services directly related to the initially authorized services;
- (b) travel costs for the acknowledging lawyer;
- (c) additional authorizations to be obtained before incurring the expense for legal aid services not covered in the original certificate;
- (d) special disbursements for which authorization is required;
- (e) any other authorizations, conditions or amendments determined by the Corporation in relation to the nature and extent of services authorized under the certificate.

(2) An application for travel costs shall be made

- (a) no later than 30 days after the acknowledging roster lawyer acknowledges the certificate; or
- (b) no later than 30 days after a material change in circumstances beyond the acknowledging roster lawyer's control that results in travel being required.

(3) If the Corporation refuses to approve the application in whole or in part, the Corporation shall deliver a notice of its decision to the legally aided client and to the acknowledging lawyer, including the reasons for the decision.

#### **Assignment of lawyers**

**47** (1) It is the responsibility of an individual who has been approved to receive certificate services to retain a qualified roster member or staff lawyer who is able and willing to act in accordance with the authorizations and conditions of the certificate.

(2) Despite subsection (1), the Corporation may, in any of the following circumstances, assign a specified roster member or staff lawyer to be the acknowledging lawyer of an individual who has been approved to receive or is receiving certificate services:

- (a) the Corporation is satisfied that the individual is unable, or is unlikely to be able, to retain a roster member or staff lawyer to provide the certificate services;
  - (b) the Corporation has reason to believe that, in the circumstances, without the assignment, the individual is likely to be unrepresented in a proceeding that could have serious consequences for the individual;
  - (c) the individual requests permission to change lawyers and the Corporation is satisfied that the request is related to the unreasonableness of the individual's conduct.
- (3) Before assigning a roster member or staff lawyer under subsection (2) to be an acknowledging lawyer, the Corporation shall determine whether the roster member or staff lawyer
- (a) has the experience necessary to provide the certificate services to the individual; and
  - (b) is able and willing to act in accordance with the authorizations and conditions of the certificate.
- (4) By becoming an acknowledging lawyer under this section, in addition to any other requirements under this Division, a roster member or staff lawyer shall not, without the Corporation's prior approval,
- (a) resign from the proceeding; or
  - (b) retain an agent to provide substantive legal aid services in relation to the proceeding.
- (5) An individual whose acknowledging lawyer is assigned by the Corporation under subsection (2) and who refuses the choice of acknowledging lawyer is considered to have refused to receive legal aid services.
- (6) Nothing in this section limits the number of times that the Corporation may exercise its power under subsection (2) to assign an acknowledging lawyer in relation to the same certificate services, subject to the court approving the change of the lawyer of record, if an approval is required.

#### **Acknowledgement of certificate**

- 48** (1) Subject to section 29, a roster member or staff lawyer who receives a certificate to represent an individual shall
- (a) if able and willing to act in accordance with the authorizations and conditions of the certificate, acknowledge the certificate; or
  - (b) if unable or unwilling to act, decline to acknowledge the certificate.
- (2) The roster member or staff lawyer shall, within 30 days after receiving the certificate and in the form and manner approved by the Corporation, notify the individual and the Corporation of the roster member's or staff lawyer's decision under subsection (1).

#### **Expiry of unacknowledged certificates**

- 49** (1) A certificate expires 90 days after it is issued if no roster member or staff lawyer acknowledges the certificate within those 90 days.
- (2) The Corporation may extend the expiry date referred to in subsection (1) for a period not exceeding 90 days from that expiry date.
- (3) The Corporation shall promptly deliver a notice to the individual when the certificate has expired.



### **Issuing retroactive certificates**

**50** The Corporation shall not issue a certificate or amend a certificate with retroactive effect unless the acknowledging lawyer satisfies the Corporation of all of the following:

- (a) the legal aid services were provided in an urgent situation, and notice that the services were provided was delivered to the Corporation within a reasonable time after they were provided;
- (b) the individual would have qualified for legal aid services at the time the services were provided;
- (c) no previous application for the same legal aid services has been refused;
- (d) the lawyer has not offered or accepted a private retainer or other payment or benefit for the legal aid services.

### **Cancelling certificates**

**51** (1) A certificate may only be cancelled as follows:

- (a) in accordance with subsection (2) for any reason;
- (b) on application to the Corporation by the legally aided client in accordance with subsection (5).

(2) If the Corporation cancels a certificate for any reason under clause (1) (a), the Corporation shall promptly deliver a notice of cancellation to the legally aided client and to the acknowledging lawyer that includes all of the following information:

- (a) the written reasons for the cancellation;
- (b) the effective date of the cancellation, which may be retroactive to a date no earlier than the date the certificate was issued;
- (c) a notice in accordance with section 54.

(3) A decision under subsection (2) is reviewable in accordance with section 55.

(4) If a request for a review is not made in accordance with section 55,

- (a) the certificate is cancelled effective on the date specified in the notice of cancellation referred to in subsection (2); and
- (b) the roster member is prohibited from billing for any services provided on or after the effective date of the cancellation unless the certificate is reinstated retroactively.

(5) A legally aided client who has been issued a certificate that has been acknowledged, or an acknowledging lawyer on behalf of a legally aided client with the client's consent, may, in the form and manner specified by the Corporation, apply to the Corporation to have the certificate cancelled.

(6) The application must include the reason for the proposed cancellation and any other information the Corporation requires.

(7) If a legally aided client applies to cancel the certificate, the client shall notify the client's acknowledging lawyer.

(8) After reviewing the application, the Corporation shall make a decision whether to cancel the certificate and shall deliver a notice of the decision to the legally aided client and to the acknowledging lawyer without delay after making the decision.

(9) The notice must include all of the following information:

- (a) the reasons for the Corporation's decision;
- (b) if the Corporation agrees to cancel the certificate, the effective date of the cancellation, which may be retroactive to a date no earlier than the date the certificate was issued;
- (c) a statement whether the acknowledging lawyer is permitted
  - (i) to complete work that has already commenced, and if so, to what extent, and
  - (ii) to bill for work already provided.

(10) Effective on the date of cancellation set out in the notice referred to in subsection (2) or (9), as applicable, the acknowledging lawyer shall cease providing any legal aid services under the certificate, except as provided in the notice.

#### **Reinstatement of terminated or cancelled certificate**

**52** (1) The Corporation may, on application by the acknowledging lawyer or the legally aided client, in the form and manner approved by the Corporation, reinstate a certificate terminated under section 45 or cancelled under section 51 if the client or the acknowledging lawyer satisfies the Corporation that the certificate should be reinstated.

(2) If the certificate is reinstated, the Corporation shall deliver a notice of the reinstatement to the legally aided client and to the acknowledging lawyer.

(3) The notice must specify the effective date of the reinstatement, which may be retroactive to a date no earlier than the date on which the certificate was terminated or cancelled.

(4) If the application is refused, the Corporation shall deliver a notice of the decision to the legally aided client and to the acknowledging lawyer, including reasons for the decision.

#### **Report to Corporation**

**53** (1) The legal aid services authorized by a certificate are completed when the earliest of the following occurs:

- (a) the claim or proceeding is fully disposed of by judgment, order or settlement;
- (b) three years, or the extended period specified by the Corporation under subsection 45 (5), has passed since the certificate was issued;
- (c) the roster member is removed from the roster and, if applicable,
  - (i) has completed carrying out the services permitted under section 36, or
  - (ii) has completed providing the legal aid services authorized under section 39;
- (d) the certificate is cancelled by the Corporation in accordance with section 51.

(2) When the legal aid services authorized by a certificate are deemed to be complete as provided in subsection (1), the acknowledging roster lawyer shall promptly

- (a) report the fact to the Corporation and provide any related information that the Corporation requires; and
- (b) deliver to the legally aided client, or to another person who has consented to accept delivery,
  - (i) a copy of the information referred to in clause (a), if instructed by the Corporation, and
  - (ii) in return for a receipt, all documents and other property of the legally aided client that are in the acknowledging roster lawyer's possession.

(3) The Corporation may direct the roster member not to provide the materials referred to in subclause (3) (b) (ii) if doing so could prejudice or embarrass the legally aided client.

## REVIEW PROCESS

### Notice of reviewable decisions

**54** (1) Except for a decision under subsection 51 (2), a decision under this Part is final and not reviewable.

(2) When a decision is made under subsection 51 (2), the Corporation shall, in the form and manner approved by the Corporation, promptly deliver a written notice to the individual who is entitled to the review that

- (a) informs the legally aided client that the decision may be reviewed and how to request a review; and
- (b) provides an active offer of a review in French.

### Review process

**55** (1) A legally aided client may request the review of a decision made under subsection 51 (2) by submitting the request to the Corporation not later than 15 days after notice of the decision is delivered or deemed to be delivered.

(2) Unless a request for the review of a decision is made within the time specified in subsection (1), the decision of the Corporation is final and is not subject to further review.

(3) A request for review must be made in writing in the form and manner approved by the Corporation.

(4) Subsections 22 (4) to (7), (9) and (10) apply to a review under this section, with any necessary modifications.

(5) After completing its review, the Corporation may

- (a) confirm the original decision;
- (b) overturn the original decision; or
- (c) seek additional information from the applicant.

(6) The Corporation shall deliver notice in writing of the decision made under subsection (5) and the reasons for it to the applicant and to the applicant's lawyer, if any.

(7) A decision made under subsection (5) is final and is not subject to further review unless a request for reconsideration is made in accordance with subsection 56 (1).

### Reconsideration by Corporation

**56** (1) The Corporation may, on application of the legally aided client no later than six months after the notice of the decision was delivered under subsection 55 (6), reconsider a decision made under subsection 55 (5) if

- (a) the Corporation is satisfied that there has been a material change in the applicant's circumstances since the decision to cancel the certificate was made; or
- (b) the applicant provides information that was not considered when the decision to cancel the certificate was made and that the Corporation considers would have been relevant in determining that the certificate should not be cancelled.

- (2) A request for reconsideration by the Corporation must be in writing and include a description and evidence of the material change referred to in clause (1) (a) or the information that was not considered that is described in clause (1) (b).
- (3) Subsections 22 (4) to (7) apply to the reconsideration, with any necessary modifications.
- (4) The Corporation shall deliver a notice in writing of its reconsideration decision and the reasons for it to the applicant and to the applicant's lawyer, if any.

### **DIVISION 3**

#### **PAYMENT TO ROSTER MEMBERS**

##### **Definitions**

**57** In this Division,

“acknowledging roster member” means a roster member who has acknowledged a certificate under section 48, and includes a roster member who is assigned under section 47; (“membre inscrit ayant accusé réception du certificat”)

“agent” means a roster member retained by an acknowledging roster member to provide legal aid services to a legally aided client of the acknowledging roster member; (“représentant”)

“articling student” means a person who has entered into service under articles of clerkship or the law practice program under the bylaws made under the *Law Society Act*, and includes a person who

- (a) has completed articles of clerkship or the law practice program, and
- (b) continues to be employed and supervised in accordance with the bylaws made under the *Law Society Act*; (“stagiaire”)

“detailed account” means the detailed account described in clause 63 (1) (a); (“compte détaillé”)

“discretion request” means a request under section 70; (“demande d’augmentation discrétionnaire”)

“law clerk” means an individual, other than an articling student, who is retained or employed by the acknowledging roster member to provide services, other than services of an administrative nature; (“auxiliaire juridique”)

“online account” means an account submitted under section 64 or 65 through the Corporation’s online portal for lawyers by an acknowledging roster member or a delegate of the member; (“compte en ligne”)

“third-party provider” means a person retained by an acknowledging roster member or agent to provide authorized services, other than legal aid services, to the acknowledging roster member or agent that are billed as a disbursement. (“tiers fournisseur”)

##### **General obligations**

**58** (1) When preparing or submitting accounts, a roster member, whether in the capacity of an acknowledging roster member or an agent, shall

- (a) act honestly and be forthright;
- (b) ensure that the roster member’s detailed account is prepared and submitted in accordance with these Rules;

- (c) ensure that the following are accurate and do not contain any material errors or omissions:
    - (i) any representations, selections, declarations and acknowledgements made in the online account,
    - (ii) the contents of the roster member's detailed account, including the accounts of
      - (A) a law clerk or articling student of the roster member, or an investigator in the employ of the roster member, who performed services for the roster member,
      - (B) an agent retained by the roster member, and
      - (C) a third-party provider retained by the roster member,
    - (iii) any other information or documents submitted in relation to the accounts including discretion requests or requests for an extension for late submissions; and
  - (d) ensure that the fees and disbursements billed for the legal aid services provided are actual, reasonable and necessary to the standard of what a reasonable privately paying client of modest means who has been properly informed by the client's lawyer would pay for those services under similar circumstances.
- (2) The roster member is responsible for paying agents and third-party providers who are retained by the roster member, in a timely manner.
- (3) The onus is on the roster member to provide, when required by the Corporation, proof of and justification for the legal services provided and disbursements incurred, including any notes and records of the roster member and any independent records or documents from a court, tribunal, agent or third-party provider.
- (4) If the preparation of an account or any portion of an account, or the submission of the online account, is delegated to another person, the roster member shall
- (a) ensure that the person
    - (i) is properly trained to carry out those duties, and
    - (ii) has been accurately identified in the online account and that the person's contact information has been provided; and
  - (b) directly supervise the person in the preparation and submission of the account.

#### **Entitlement to payment of fees and disbursements**

**59** (1) Subject to section 67, an acknowledging roster member is entitled to the payment of fees and disbursements determined under this Division for providing certificate services only if

- (a) subject to subsection (3), at the time the services are provided, the acknowledging roster member is enrolled on the roster and is authorized under section 27 to provide those services;
- (b) the services are provided under the authority of a certificate, as amended from time to time; and
- (c) subject to section 50, the services are provided on or after the effective date of the certificate.

(2) A roster member is entitled to the payment of fees and disbursements determined under this Division for providing duty counsel services only if at the time the services are provided, the person was enrolled on the roster and was authorized under section 27 to provide those services.

(3) If a roster member has been suspended or removed from the roster but is authorized under section 36 or 39 to provide legal aid services and incur disbursements, the individual is entitled to be paid fees for providing those services and any authorized disbursements incurred.

#### **Determination of fees and disbursements**

**60** (1) The tariff of fees to be paid for providing legal aid services under a certificate and for disbursements incurred is set out in Schedule 2.

(2) A person shall not be paid for providing more than 10 hours of legal aid services in a day but each hour in court spent at trial or in a preliminary inquiry or administrative hearing is considered a half-hour for the purpose of this subsection.

(3) A roster member shall not be paid in a fiscal year for more than the dollar value equivalent of 2,350 hours of services provided by the roster member multiplied by the member's tier rate specified in Schedule 2.

(4) The Corporation may authorize payment for more hours of services than subsection (3) would otherwise allow if, in the opinion of the Corporation,

- (a) the additional hours spent were necessary to ensure the appropriate representation of a legally aided client; or
- (b) there were other exceptional circumstances.

(5) Amounts to be paid to an acknowledging roster member for fees and disbursements must be deposited directly into a deposit account held in a financial institution in the name of the roster member or the roster member's law firm that is on record with the Corporation.

#### **Big case management**

**61** (1) A roster member who acknowledges a certificate for a criminal proceeding may apply to the Corporation to establish a budget for a stage if the following requirements are met:

- (a) the proceeding is exceptionally complex;
- (b) the fees and disbursements are likely to exceed the available tariff for the stage;
- (c) any of the following apply:
  - (i) the total amount of the fees and disbursements for the criminal proceeding is likely to exceed \$20,000,
  - (ii) the criminal proceeding involves more than one accused person and the total amount of the fees and disbursements is likely to exceed \$50,000 for all accused persons,
  - (iii) the preliminary hearing is likely to take more than 10 days.

(2) The application must be in the form and manner specified by the Corporation and must include all of the following:

- (a) a list of the steps in the proceeding in respect of which a reasonable privately paying client of modest means who had been properly informed by the client's lawyer would expect to pay for those steps under similar circumstances;
- (b) the total amount of the anticipated fees and disbursements for the proceeding;
- (c) a breakdown of the fees and disbursements anticipated for each of the steps;
- (d) a synopsis of the allegations in the proceeding;
- (e) any other information and documents required by the Corporation.

- (3) The Corporation may refuse the application in any of the following circumstances:
  - (a) a requirement referred to in subsection (1) is not met;
  - (b) a majority of the legal aid services have already been provided at the time that the application is made;
  - (c) the roster member has not provided the information or documents required under subsection (2).
- (4) If the Corporation approves the application, the Corporation shall
  - (a) establish a budget for the stage in the proceeding; and
  - (b) deliver a notice to the roster member that includes a copy of the budget established by the Corporation.
- (5) For the purposes of establishing the budget, the Corporation may require the roster member to provide the Corporation with further information and documents.
- (6) The accounts for legal aid services provided under a certificate for the proceeding must be settled in accordance with the budget.
- (7) The decision on the amount of the budget is reviewable in accordance with section 72.

#### **Mid-level case management**

- 62** (1) A roster member who acknowledges a certificate for an eligible criminal proceeding may apply to the Corporation to establish a budget for the proceeding if all of the following apply:
- (a) the total amount of the fees and disbursements for the proceeding is likely to be between \$8,000 and \$20,000;
  - (b) the proceeding has been set down for a preliminary hearing or trial, or both;
  - (c) the amount of the fees and disbursements for the proceeding is likely to exceed the available tariff;
  - (d) the proceeding is exceptionally complex.
- (2) A roster member who acknowledges a certificate for a proceeding under the *Child, Youth and Family Services Act, 2017* or a family law proceeding may apply to the Corporation to establish a budget for the proceeding if all of the following apply:
- (a) the total amount of the fees and disbursements
    - (i) is likely to exceed \$8,000, in the case of a proceeding under the *Child, Youth and Family Services Act, 2017*, other than for a supervision order, or
    - (ii) is likely to exceed \$12,000, in the case of a family law proceeding;
  - (b) the total amount of the fees and disbursements for the proceeding is likely to exceed the available tariff;
  - (c) the proceeding is exceptionally complex.
- (3) Applications under subsections (1) and (2) must be in the form and manner specified by the Corporation and must include all of the following information:
- (a) a list of the steps in the proceeding in respect of which a reasonable privately paying client of modest means who had been properly informed by the client's lawyer would expect to pay for those services under similar circumstances;
  - (b) the amount of money that represents the anticipated total fees and disbursements for the proceeding;

- (c) a breakdown of the fees and disbursements anticipated for each of the steps;
  - (d) any other information and documents required by the Corporation.
- (4) The Corporation may refuse an application under subsection (1) or (2) in any of the following circumstances:
- (a) a requirement referred to in subsection (1) or (2), as applicable, has not been met;
  - (b) a majority of the legal aid services have already been provided at the time that the application is made;
  - (c) the roster member has not provided the information and documents required under subsection (3).
- (5) If the Corporation approves the application, the Corporation shall
- (a) establish a budget for the stage in the proceeding; and
  - (b) deliver a notice to the roster member that includes a copy of the budget established by the Corporation.
- (6) For the purposes of establishing the budget, the Corporation may require the roster member to provide the Corporation with any further information and documents.
- (7) The accounts for legal aid services provided under a certificate for the proceeding must be settled in accordance with the budget.
- (8) The decision on the amount of the budget is reviewable in accordance with section 72.

#### **Maintaining records**

- 63** (1) A roster member shall keep and maintain the following records with respect to the legal aid services provided under each certificate that the roster member acknowledges or provides as an agent:
- (a) a detailed account that contains a full description of the legal aid services provided by the roster member, in chronological order, and that includes all of the following:
    - (i) the date and duration of the services, billed in tenths of an hour,
    - (ii) the start and end times for each court or tribunal proceeding,
    - (iii) the start and end time for services of one half hour or more,
    - (iv) an itemized list of disbursements incurred by the acknowledging roster member, agents and third-party providers and copies of the invoices for those disbursements,
    - (v) the accounts and related records of any agent retained by the roster member to provide legal aid services under the certificate to the legally aided client,
    - (vi) any other information required by the Corporation to be included in the detailed account;
  - (b) a copy of any order of a court or tribunal that relates to the legal aid services provided or that purports to affect the Corporation;
  - (c) the outcome or results of the proceedings that were the subject of the legal aid services that were provided under the certificate;
  - (d) proof and justification of the items included in the roster member's detailed account.
- (2) A roster member who provides duty counsel services shall keep and maintain the following records with respect to the services that the roster member provides:



- (a) the name of each legally aided client and a description of the services provided to each of them, in chronological order, including
    - (i) the date on which the services were provided,
    - (ii) the start and end times for all of the services provided, and
    - (iii) any other information and documents required by the Corporation;
  - (b) the outcome or results of the proceedings that were the subject of the services provided.
- (3) A roster member shall retain the records described in subsections (1) and (2) for at least six years after the end of the year in which the account that relates to those records is submitted, unless otherwise directed by the Corporation.
- (4) On the request of the Corporation, the roster member shall provide the records to the Corporation in support of an account submitted to the Corporation at the following times:
- (a) in the case of certificate services, at any time during the period that begins when the roster member acknowledges the certificate and ends at the end of the six-year period in which the final account is submitted;
  - (b) in the case of duty counsel services, at any time during the period that begins on the day on which the duty counsel services were provided and ends at the end of the six-year period in which the account is submitted.

#### **Submitting accounts for certificate services**

**64** (1) In this section, “anniversary date” means the day and month of each year that corresponds to the date of issuance of the certificate. (“date d’anniversaire”)

- (2) A roster member shall, in the form and manner specified by the Corporation and in accordance with this section, submit an account for each certificate that the roster member acknowledges.
- (3) The roster member shall make the necessary representations, selections and declarations required to be made in the online account and shall include the roster member’s detailed account and any other information and documents required to be provided under these Rules or by the Corporation.
- (4) An account shall, with respect to the legal aid services provided under each certificate that the roster member acknowledges, be submitted within the following times:
- (a) if the legal aid services are completed within 12 months after the date of issuance of the certificate, the roster member shall submit the final account and any supplementary accounts, for all fees and disbursements incurred during the first 12 months, no later than six months after the one-year anniversary date;
  - (b) if the legal aid services are not completed within 12 months after the date of issuance of the certificate, the roster member shall submit an interim account for all fees and disbursements, if any, incurred during the first 12 months, no later than six months after the one-year anniversary date;
  - (c) for fees and disbursements incurred during each subsequent 12-month period, the roster member shall submit a further interim account and supplementary accounts, if any, no later than six months after the corresponding anniversary date, but if the legal aid services are completed during a subsequent 12-month period, the roster member shall submit a final account and any supplementary accounts, no later than six months after the corresponding anniversary date.

- (5) For the purposes of subsection (4), legal aid services are completed when the earliest of the following occurs:
- (a) the claim or proceeding is fully disposed of by judgment, order or settlement;
  - (b) three years, or the extended period specified by the Corporation under subsection 45 (5), has passed since the certificate was issued;
  - (c) the roster member is removed from the roster and, if applicable,
    - (i) has completed carrying out the services permitted under section 36, or
    - (ii) has completed providing the legal aid services authorized under section 39;
  - (d) the Corporation cancels the certificate.
- (6) An account that is submitted after the time required by subsection (4) must be accompanied by
- (a) a written request for an extension; and
  - (b) an explanation for the failure to submit the account within the required time.
- (7) Unless the Corporation approves a request for an extension under subsection (6), the account or the portion of the account that was submitted late is not eligible for payment.
- (8) The Corporation may approve a request for an extension only if, in the opinion of the Corporation, there were extenuating circumstances as to why the roster member was unable to submit the account within the time required by subsection (4).
- (9) The roster member shall provide the legally aided client with a copy of both the online account and the detailed account within 14 days after submitting the account.
- (10) The submission of a final account does not have the effect of cancelling the certificate.

#### **Submitting accounts for duty counsel services**

- 65** (1) A roster member shall, in the form and manner specified by the Corporation and in accordance with subsection (2), submit an account with respect to duty counsel services provided by the roster member, no later than 60 days after the date on which the services were provided.
- (2) The roster member shall make the necessary representations, selections and declarations required to be made in the online account and shall include, as applicable, the information referred to in subsection 63 (2) and any other information or documents required to be provided by these Rules or by the Corporation.
- (3) An account or portion of an account that is submitted after the time specified in subsection (1) must be accompanied by the following:
- (a) a written request for an extension with respect to the account or portion of the account;
  - (b) an explanation for the failure to submit the account within the time specified under subsection (1).
- (4) Unless the Corporation approves a request under subsection (3), the account is not eligible for payment.
- (5) The Corporation may approve a request under subsection (3) only if, in the opinion of the Corporation, there were extenuating circumstances as to why the roster member was unable to submit the account within the time specified.

### **General billing rule**

**66** (1) In this section, “financial benefit” means an increase in the amount of fees payable to a roster member under the Act or these Rules. (“avantage pécuniaire”)

(2) A roster member shall not provide or arrange for the provision of one or more legal aid services to a legally aided client in such a manner that would result, directly or indirectly, in a financial benefit to the roster member unless the manner in which the services were provided may reasonably be considered to have been undertaken or arranged primarily in the best interest of the legally aided client rather than for the financial benefit to the roster member.

(3) The onus is on the roster member to prove and justify that the arrangement for the provision of one or more legal aid services was performed in the best interest of the legally aided client.

### **Compliance**

**67** (1) If the Corporation determines, after reviewing an account submitted under section 64 or 65 or after an examination, audit or investigation under these Rules, that the accounts submitted by a roster member have not been prepared or submitted in accordance with these Rules, the Corporation may refuse to pay the roster member’s account in whole or in part.

(2) The Corporation may disallow the payment of fees or disbursements, in whole or in part, that are otherwise payable under the Act and these Rules in any of the following circumstances:

- (a) if the fees or disbursements relate to
  - (i) a proceeding that is
    - (A) unreasonably taken or prolonged,
    - (B) not likely to advance the legally aided client’s interests, or
    - (C) incurred through negligence or the ineffective assistance of the roster member,
  - (ii) the preparation of a document by the roster member that was improper or unnecessary, or
  - (iii) other preparation time by the roster member was unreasonable in its nature or scope or in the time spent;
- (b) if the roster member
  - (i) withdraws or is removed from the record due to a conflict that the roster member could have reasonably anticipated,
  - (ii) provides legal aid services while subject to a suspension imposed by the Law Society of Ontario or while no longer holding the status of “In Private Practice”, or
  - (iii) is not entitled to payment under section 59 or fails to comply with subsection 58 (1) or section 66, 68 or 69.

(3) If a client has paid an amount on a private retainer as defined in section 68 and the client is later issued a certificate for the same matter, the Corporation may, if the fees paid were unreasonable on a private basis or the services provided overlapped the effective date of the certificate,

- (a) deduct from the roster member’s account an amount equal to the amount paid by the client; or
- (b) recover the amount from the roster member in accordance with subsection (6).

- (4) The Corporation may refuse to pay the roster member's account in whole or in part, if
- (a) the roster member fails to provide the information or documents requested under subsection 71 (3); or
  - (b) the Corporation determines that a roster member has, in connection with an account or in information or documents provided under subsection 71 (3),
    - (i) provided any false, inaccurate, inconsistent or misleading information or has omitted any material information,
    - (ii) made any misleading material representations, or
    - (iii) made any false declarations.
- (5) If after an account has been paid, in whole or in part, and the Corporation subsequently refuses to pay an amount or disallows an amount under this section, any amount owing by the roster member or former roster member may be recovered in accordance with subsection (6).
- (6) The Corporation may take any of the following measures to recover amounts owing by a roster member or former roster member under this section:
- (a) deduct the amounts owing from any future payment;
  - (b) commence an action to recover the amounts owing;
  - (c) take any other action required to secure payment of the amounts owing.
- (7) If a roster member fails to comply with subsection 29 (2) and later withdraws or is ordered removed from a proceeding as a result of the conflict, the roster member shall, in addition to any amount that may be recovered under this section, indemnify the Corporation for any costs incurred that result from the conflict including any
- (a) amounts paid to another lawyer to represent the legally aided client as a result of the roster member being removed from the record; or
  - (b) costs to the Corporation that relate to a review or appeal respecting the roster member's failure to comply with this section.
- (8) A decision under this section is reviewable in accordance with section 72.

#### **Private retainers**

**68** (1) In this section, "private retainer" means an agreement or arrangement to represent a legally aided client, whether or not the agreement or arrangement

- (a) is in writing;
  - (b) is unsigned;
  - (c) provides the representation on a pro bono basis; or
  - (d) provides for a fee or other benefit payable by the client or by some other person on behalf of the client. ("mandat privé")
- (2) A roster member shall not enter into a private retainer with a legally aided client in relation to a proceeding authorized under a certificate or a related or ancillary proceeding unless the Corporation has cancelled the client's certificate under section 51.
- (3) A roster member shall, in the form and manner specified by the Corporation, report any private retainers entered into by the roster member, or by a third party on behalf of the roster member, to provide, before, on or after the effective date of a certificate, legal services in relation to the proceeding authorized under the certificate or a related or ancillary proceeding.

(4) If a roster member bills a legally aided client on a private retainer for legal services performed before the date of issuance of a certificate in relation to the same proceeding or a related or ancillary proceeding under the certificate, the roster member's online account must include a copy of the private retainer or, if the retainer was not in writing, a summary that sets out the following information:

- (a) the services provided;
- (b) the dates and times those services were provided;
- (c) the amount the client paid for those services.

(5) When a roster member represents two or more persons in relation to the same proceeding, and one of them is retained under a private retainer and another is represented under a certificate, the roster member shall, in the form and manner specified by the Corporation, promptly report the fact and the details of the retainer to the Corporation.

(6) A roster member shall not seek reimbursement, either directly or through a third party, from a legally aided client for amounts recovered from the roster member under these Rules or for amounts not paid by the Corporation for a service or disbursement, whether or not

- (a) the Corporation had authorized the service or disbursement; or
- (b) the roster member had submitted an account for the services or disbursement.

#### **Duty counsel and subsequent representation**

**69** (1) When a roster member has represented or advised an individual as duty counsel in a proceeding, neither the roster member nor an associate of the roster member in the practice of law shall, except as provided in subsection (2), act for the individual in the same proceeding or in a related or ancillary proceeding, other than as duty counsel.

(2) Subsection (1) does not apply if the roster member

- (a) has obtained prior approval from the Corporation;
- (b) certifies, in the form and manner specified by the Corporation, that there was an earlier solicitor-client relationship with the individual; or
- (c) provided advice under the "Advice Lawyer – Family Violence 2 Hour Authorization".

(3) Subsection (1) continues to apply to subsequent unrelated proceedings if the solicitor-client relationship was established in contravention of subsection (1).

(4) When a roster member provides duty counsel services to a legally aided client and subsequently the roster member or an associate of the roster member represents that person under a certificate, a private retainer or a Court Order for Representation in relation to the same proceeding or a related or ancillary proceeding, the Corporation may, in accordance with subsection 67 (6), recover from the roster member an amount equal to the duty counsel fees paid by the Corporation to the roster member.

#### **Discretion requests**

**70** (1) If an amount billed for a legal aid service provided in respect of a proceeding exceeds the maximum fee authorized under section 60 and a budget has not been approved for the proceeding under section 61 or 62 or the proceeding is to be billed as a block fee, the roster member, at the time of submitting the account, may request, in the form and manner specified by the Corporation, an increase to the fees payable.

(2) If a request is not made at the time of submitting the account, the roster member may, in the form and manner specified by the Corporation, submit a request within 60 days after the settlement of the account.

- (3) A request under subsection (1) or (2) must include the following information:
  - (a) a detailed explanation for the requested increase to the fees;
  - (b) a detailed description of the exceptional circumstances that justify an increase;
  - (c) a copy of the relevant account;
  - (d) any other information or documents required by the Corporation.
- (4) The Corporation may approve a request under subsection (1) or (2) if
  - (a) the roster member establishes to the satisfaction of the Corporation that there were exceptional circumstances that justify authorizing the increase; and
  - (b) the Corporation is of the opinion that a reasonable privately paying client of modest means who had been properly informed by the client's lawyer would pay for the legal aid services under similar circumstances.
- (5) After making its decision, the Corporation shall deliver a notice in writing informing the roster member of its decision and the reasons.
- (6) A decision under this section is reviewable in accordance with section 72.

#### **Examination, audit and investigation**

- 71** (1) The Corporation may, with respect to an account that has been submitted or paid, examine the account in detail or may audit or investigate the account at the following times:
- (a) in the case of an account submitted by a roster member who has acknowledged a certificate, at any time before the 6th anniversary of the end of the year in which the final account in relation to the services provided under the certificate was submitted;
  - (b) in the case of an account submitted by a roster member who has provided duty counsel services, at any time before the 6th anniversary of the end of the year in which the account was submitted.
- (2) The Corporation may, at any time, examine, audit or investigate any of the roster member's accounts that have been submitted or paid.
- (3) The Corporation may deliver a notice to a roster member requiring the roster member to provide, by a date specified in the notice, any information or documents specified by the Corporation for the purpose of the examination, audit or investigation, including
- (a) proof and justification of the services provided, disbursements incurred and time spent on providing the services; and
  - (b) an independent record or document from a court, tribunal, agent or third-party provider.
- (4) The roster member shall provide the information or documents by the date specified in the notice.
- (5) The Corporation may draw an adverse inference in either of the following circumstances:
- (a) if the roster member does not provide the required information or documents within the time specified under subsection (4);
  - (b) if the information or documents provided are incomplete or not legible.
- (6) Following the audit or investigation of the account, the Corporation may deliver a notice to the roster member informing the member of the results of the examination, audit or investigation, including the details of any errors or omissions in the billing of the accounts and, if applicable, specifying any amounts owing to the legally aided client or the Corporation.

## REVIEWS

### Notice of reviewable decisions

**72** (1) A decision or determination made under this Division is final and not reviewable unless specifically provided for in this Division.

(2) When a decision or determination made under this Division is reviewable in accordance with this section, the Corporation shall, in the form and manner approved by the Corporation, promptly deliver a written notice to the individual who is entitled to the review that

- (a) includes written reasons for the decision or determination;
- (b) informs the individual that the decision or determination may be reviewed and how to request a review; and
- (c) provides an active offer of a review in French.

(3) With respect to the disclosure of information or documents,

- (a) the notice and any materials that are included with the notice constitute the written record of the decision; and
- (b) the Corporation is not required to disclose any information or documents that were previously provided to the individual or that are not relevant to the review.

### Review in writing only

**73** A review shall be conducted in writing only and there shall be no oral hearing.

### Review process

**74** (1) A request for the review of a decision or determination under this Division must be submitted to the Corporation in the form and manner specified by the Corporation within the following times:

- (a) in the case of a review of a decision or determination under section 61, 62 or 67, no later than 30 days after the date on which notice of the decision or determination is delivered;
- (b) in the case of a review of a decision or determination under section 70, no later than 60 days after the date on which notice of the decision or determination is delivered.

(2) The request must include all of the following information and documents:

- (a) the name and contact information of the individual requesting the review;
- (b) a copy of the reasons for the decision or determination;
- (c) written submissions that identify the account to be reviewed and that set out the grounds for the review and the reasons the individual is disputing the decision or determination with respect to
  - (i) the interpretation or application of these Rules, or
  - (ii) if the Corporation exercised discretion, the principles on which it did so.

(3) On the written request of the individual, the Corporation may extend any deadline under this section.

(4) If the individual does not make the request for the review within the time referred to in subsection (1) or as extended under subsection (3), the decision or determination under review is final without further reasons.

- (5) The Corporation may require the individual to provide, in the form and manner approved by the Corporation and on or before the date specified by the Corporation, any additional information and documents that the Corporation considers necessary for conducting the review.
- (6) The individual shall provide the information and documents required under subsection (5) on or before the date specified by the Corporation.
- (7) The Corporation may draw an adverse inference if the individual does not provide the information or documents required under subsection (5) within the time specified under that subsection or as extended under subsection (3).
- (8) For the purposes of the review, the Corporation may consider only the following information and documents:
- (a) the written submissions, information and documents submitted by the individual;
  - (b) any other relevant information or documents.
- (9) The Corporation may confirm, vary or revoke the original decision.

## **PART 4**

### **ENTITY SERVICE PROVIDERS**

#### **DIVISION 1**

### **ENTITY SERVICE PROVIDERS**

#### **Definitions**

75 In this Part,

“entity service provider” means a community legal clinic, an Indigenous legal services organization, a student legal services organization or any other entity that has entered into a service agreement with the Corporation; (“entité fournisseur de services”)

“entity services” means legal aid services that are provided by an entity service provider under a service agreement; (“services visés”)

“fiscal year”, in respect of the Corporation, means the period that begins on April 1 of a year and ends on March 31 of the following year, established by subsection 27 (1) of the Act; (“exercice”)

“Indigenous legal services organization” means an organization that is directed, led and operated by members of the Indigenous community or communities that it serves, and that provides legal or other law-related services to Indigenous individuals and the community or communities that it serves in a culturally relevant and appropriate manner that is sensitive to the unique values, customs and traditions of the Indigenous individuals, community or communities that it serves; (“organisme autochtone de services juridiques”)

“risk level”, in relation to an entity or entity service provider, means the level of risk that the Corporation determines exists, in accordance with subsection 78 (3), as to whether the entity or entity service provider will provide the entity services in accordance with the Act, these Rules and the service agreement; (“niveau de risque”)

“service agreement” means an agreement that is entered into by the Corporation and an entity service provider for the provision of entity services; (“entente de services”)

“service proposal” means a proposal that meets the requirements of section 80; (“proposition de services”)



“student legal services organization” means an organization

- (a) that is directly connected to or affiliated with an accredited law school in Ontario,
- (b) one of whose principal aims is to deliver clinical legal education to law students, and
- (c) that receives significant financial support in the form of funding, office space and information technology from the university with which it is affiliated. (“organisme étudiant de services juridiques”)

#### **Call for new or additional entity services**

**76 (1)** When the Corporation wishes to provide new or additional entity services, the Corporation may

- (a) send a request for applications to one or more entities, which may include an entity service provider that the Corporation considers may have the capacity to deliver the services; or
  - (b) publish, in a manner determined by the Corporation, a call for applications from entities.
- (2) A request or call for applications must specify all of the following:
- (a) the type of entity that may respond to the request or call for applications;
  - (b) the entity services that are to be authorized under the service agreement, including outcomes and outputs;
  - (c) any requirements that are specific to the request or call for applications;
  - (d) one or more districts or parts of districts in which the services are to be provided, or the communities, described by reference to demographic, socio-economic or other factors, to which the services are to be provided;
  - (e) the information, documents and authorizations that are required by the Corporation to be included with the application, including, in every case, a service proposal;
  - (f) the form and manner in which, and the date on or before which, the application must be received by the Corporation.
- (3) The Corporation may require that an entity applying under this section provide any additional information, documents and authorizations with the application that the Corporation specifies in the request or call for applications, in the form and manner and on or before the date specified in the request or call.

#### **When application will not be considered**

**77 (1)** The Corporation shall not consider an application from an entity unless it is satisfied that the entity meets the requirements specific to the request or call mentioned in clause 76 (2) (c) in addition to the following general requirements:

- (a) the entity has the legal capacity to enter into contracts or there is an individual who has the authority to enter into agreements on its behalf;
- (b) the entity meets, or demonstrates that it will be able to meet, the requirements set out in subsection 83 (3);
- (c) if the request or call is for an entity to provide the services as a community legal clinic, the entity meets, or demonstrates that it will be able to meet, the requirements set out in subsection 83 (4).

(2) The Corporation may refuse to consider an application that does not include all of the information, documents and authorizations referred to in subsections 76 (2) and (3).

### **Service agreements**

**78** (1) Subject to this section, the Corporation may enter into a service agreement with an entity or entity service provider that meets the requirements of sections 76 and 77 under which the entity or entity service provider is authorized to provide entity services in accordance with the Act, these Rules and the terms and conditions of the agreement.

(2) For the purpose of entering into a service agreement under subsection (1), the Corporation shall consider the following factors with respect to the entity or entity service provider:

- (a) its capacity to provide entity services in accordance with the principles set out in subsection 17 (2) of the Act;
- (b) its history of receiving and managing funding provided by the Corporation or a ministry, agency or other organization of the Government of Ontario or the Government of Canada;
- (c) its history of providing legal aid services or similar services;
- (d) its reputation with the public and, in particular, its reputation with the community it serves and other organizations that serve that community;
- (e) any other factors the Corporation considers relevant.

(3) After considering the factors set out in subsection (2), the Corporation shall determine the risk level for each entity or entity service provider.

(4) A service agreement must be signed by an individual who is authorized by the entity to enter into the agreement on its behalf.

### **Terms and conditions of service agreements**

**79** (1) The following are terms and conditions of every service agreement:

- (a) by entering into the agreement, the entity service provider
  - (i) agrees that its relationship with the Corporation is governed entirely by the Act, these Rules and the agreement, and
  - (ii) agrees to comply with all the following:
    - (A) the Act and any other legislation applicable to the entity service provider,
    - (B) these Rules,
    - (C) the agreement;
- (b) an entity service provider shall not assign or transfer an agreement without the prior written consent of the Corporation, which consent may be made subject to any terms and conditions that the Corporation considers necessary;
- (c) an agreement may be amended only by the written agreement of the entity service provider and the Corporation;
- (d) the entity service provider shall comply with the directives, guidelines or policies that are issued under an Act or regulation of Ontario or Canada and are applicable to the Corporation, as modified by the Corporation for the purpose of their application to the entity service provider, to the extent that

- (i) at the beginning of the term of the agreement, the Corporation identifies which of those directives, guidelines and policies the entity service provider shall comply with and the contents of the applicable modifications, and
  - (ii) the Corporation promptly informs the entity service provider when there is any change
    - (A) in relation to which directives, guidelines or policies apply to the entity service provider,
    - (B) to a directive, guideline or policy that applies to the entity service provider, or
    - (C) to the modifications to a directive, guideline or policy that applies to the entity service provider;
  - (e) if the entity service provider, using funds provided by the Corporation, acquires or creates an asset that costs more than the limit set out in its agreement, the entity service provider shall not sell, lease or otherwise dispose of the asset without the prior written consent of the Corporation, which consent may be made subject to any terms and conditions that the Corporation considers necessary;
  - (f) the entity service provider shall maintain hours of service that will provide the public with reasonable access to the entity services and enable it to respond promptly to service requests;
  - (g) the entity service provider is not an agent, joint venturer, partner or employee of the Corporation for any purpose and shall not hold itself out as one;
  - (h) records of the entity service provider that are in the custody of the Corporation remain in the control of the entity service provider, except records referred to in clause 98 (b);
  - (i) the rights and obligations contained in the agreement bind and enure to the benefit of the heirs, executors, administrators, successors and permitted assigns of the entity service provider.
- (2) In addition to the terms and conditions set out in subsection (1), the Corporation may require that any of the following be included in a service agreement:
- (a) any terms and conditions that the Corporation considers necessary based on the entity service provider's risk level, including with respect to
    - (i) the term of the agreement, which must not be longer than three fiscal years,
    - (ii) outcomes or outputs, with reference to the annually submitted service proposal as approved by the Corporation,
    - (iii) performance measures related to the outcomes or outputs,
    - (iv) reporting requirements,
    - (v) monitoring requirements, and
    - (vi) financial management;
  - (b) in the case of a community legal clinic or an Indigenous legal services organization, any terms and conditions that are related to the entity service provider's use of support services under section 91.

(3) The term of a service agreement to which a community legal clinic, Indigenous legal services organization or student legal services organization is a party shall be, subject to subsection (4), three fiscal years if the Corporation determines that the clinic's or organization's risk level is low.

(4) The first fiscal year of the term of a service agreement is the portion of the fiscal year that begins on the day on which the agreement is entered into and ends on March 31 of the same fiscal year.

(5) In the event of a conflict or inconsistency between the terms of a service agreement and these Rules, these Rules prevail to the extent of the conflict or inconsistency.

### **Service proposals**

**80** (1) A service proposal must describe the entity services that an entity service provider proposes to provide under a service agreement and include details respecting the provision of those services that are indicated in the form provided by the Corporation for that purpose.

(2) A service proposal must be submitted in the form and manner and at the times specified by these Rules or by the Corporation, and must be accompanied by the information, documents and authorizations that are specified by the Corporation.

(3) Every entity service provider that has more than one fiscal year remaining in the term of its service agreement shall deliver to the Corporation, before the end of the current fiscal year, a service proposal for the next fiscal year of the term of the agreement, unless the Corporation directs otherwise.

(4) The entity services described in a service proposal provided in accordance with subsection (3) form part of the service agreement to which the proposal relates when those entity services are approved by the Corporation.

### **New service agreement with existing entity service provider**

**81** (1) If the Corporation wishes to enter into a new service agreement with an entity service provider on the expiry of the term of its agreement, the Corporation shall deliver written notice to the entity service provider

(a) at least 18 months before the term expires, in the case of an entity service provider that has a service agreement of more than two fiscal years; and

(b) at least 90 days before the term expires, in every other case.

(2) An entity service provider that receives a notice from the Corporation under subsection (1) and that wishes to enter into the new service agreement shall deliver written notice to the Corporation and submit a service proposal on or before the date specified in the notice.

(3) Before entering into the new service agreement, the Corporation shall be satisfied that the entity service provider meets the requirements set out in clauses 77 (1) (a) to (c).

(4) Section 78 applies for the purposes of entering into the new agreement, with any necessary modifications.

(5) A decision of the Corporation to not enter into a new service agreement with a community legal clinic, an Indigenous legal services organization or a student legal services organization shall be made by the board, and the board shall deliver a notice to that effect to the clinic or organization within the times set out in subsection (1).

(6) The decision referred to in subsection (5) shall not be delegated to a committee of the board, a board member, an officer of the Corporation or a staff member.

### **Requirement to provide information and documents**

**82** (1) The Corporation may at any time, by notice, require an entity service provider to provide the Corporation, in the form and manner and on or before the date specified in the notice, with the information and documents specified by the Corporation, which may include privileged or confidential information relating to an individual or a legally aided client of the entity service provider.

(2) An entity service provider shall provide the Corporation with the required information and documents in the form and manner specified by the Corporation, no later than the date specified in the notice or any later date approved by the Corporation.

(3) If requested to provide information or documents to the Corporation under subsection (1) or under any other section, the entity service provider shall not refuse, on the basis of privilege or confidentiality or otherwise, to provide the Corporation with the information or documents.

(4) An entity service provider shall

- (a) deliver written notice to the Corporation promptly after a change to any information that was provided to the Corporation under these Rules; and
- (b) deliver the new information to the Corporation within 14 days after the change is made.

(5) An entity service provider shall provide the Corporation with copies of any amendments to its letters patent or bylaws within 14 days after making the amendments, unless the Corporation directs otherwise.

### **Operational requirements**

**83** (1) An entity service provider shall continue to be a legal entity that has all the necessary powers to fulfil its obligations under the service agreement.

(2) An entity service provider shall ensure that, at all times,

- (a) it has everything it requires to provide the entity services specified in its service agreement, including facilities, employees, contractors and volunteers with the requisite skills, expertise and experience, and other resources;
- (b) each of its employees, contractors and volunteers and, if applicable, each of its directors, complies with the codes, procedures, protocols, policies and strategies described in subsection (3); and
- (c) except in the case of an entity service provider that does not deliver legal services, it employs or contracts with at least one individual who is a licensee in good standing of the Law Society of Ontario.

(3) An entity service provider shall prepare all of the following in writing and maintain them in a place that is accessible to those to whom they apply:

- (a) a code of conduct and ethical responsibilities that applies to all employees, volunteers and contractors and, if applicable, to the directors of the entity service provider, that holds those persons to a high standard of conduct and ethics;
- (b) procedures and policies for enabling employees and contractors of the entity service provider who are licensees of the Law Society of Ontario to satisfy their professional obligations under the *Law Society Act*;
- (c) procedures and policies, consistent with the Act and these Rules, for the ongoing and effective functioning of the entity service provider;

- (d) procedures and policies for enabling effective decision-making by the entity service provider;
  - (e) procedures and policies for the prudent and effective management of the funds provided to the entity service provider under the service agreement;
  - (f) procedures and policies for ensuring that the entity service provider has the capacity to provide high quality entity services;
  - (g) procedures and strategies for enabling the entity service provider to identify and address, in a timely manner, risks to the successful providing of the entity services;
  - (h) procedures and policies for enabling the entity service provider to provide ongoing and effective entity services, including, without limitation, the following procedures:
    - (i) intake protocols,
    - (ii) case selection criteria,
    - (iii) financial eligibility guidelines;
  - (i) procedures and policies for enabling compliance with any applicable privacy legislation;
  - (j) procedures, policies and practices for enabling the entity service provider to comply with any notice from the Corporation that requires statistical and financial information relating to the entity services;
  - (k) procedures and policies for enabling the entity service provider to prepare and submit any reports that are required under these Rules or the service agreement or on request of the Corporation;
  - (l) procedures and policies to address complaints against the entity service provider that are made to the entity service provider by any person;
  - (m) procedures and policies to ensure that the entity services are delivered in a manner that is respectful, that recognizes the dignity and worth of every client and that is free of bias, discrimination, harassment and racism, including anti-Indigenous and anti-Black racism;
  - (n) any other procedures and policies that the entity service provider considers necessary to ensure that it is able to carry out its obligations under the service agreement.
- (4) A community legal clinic shall also ensure all of the following:
- (a) its board of directors includes individuals who have financial, legal and management skills;
  - (b) its board of directors reflects the diversity of the community that it serves, including, without limitation, in relation to race, ethnicity, language, age and disability;
  - (c) if section 90 applies to the clinic, its board of directors includes individuals from the Francophone community;
  - (d) the clinic has procedures that allow it to effectively determine the legal needs of the community that it serves, including, without limitation, in relation to members of the community that are marginalized on the basis of race, ethnicity, language, age or disability.
- (5) If the Corporation delivers written notice to an entity service provider, the entity service provider shall provide the following, in the manner and on or before the date specified in the notice:

- (a) proof acceptable to the Corporation of the existence and content of the documents described in subsection (3);
- (b) in the case of a community legal clinic, proof acceptable to the Corporation of the matters described in subsection (4).

### **Insurance requirements**

**84** (1) An entity service provider shall hold, for the term of its service agreement, all the necessary and appropriate insurance that a prudent person would hold if the person were providing the entity services that the entity service provider is providing under its agreement.

(2) As a support service provided under section 91 to a community legal clinic, the Corporation may name the clinic as an insured under a policy of insurance purchased by the Corporation.

(3) A lawyer who is employed by a community legal clinic that is insured under an insurance policy referred to in subsection (2) is insured under that policy only for legal aid services that the lawyer undertakes on behalf of the entity service provider.

(4) If an entity service provider purchases insurance for the purposes of subsection (1), the policy of insurance must be purchased from an insurer acceptable to the Corporation.

- (5) A policy of insurance referred to in subsection (4) must
- (a) provide coverage, on an occurrence basis, for both
    - (i) commercial general liability for third party bodily injury or personal injury, and
    - (ii) property damage to an inclusive limit of not less than the amount specified by the Corporation for the entity service provider; and
  - (b) include
    - (i) a cross-liability clause,
    - (ii) contractual liability coverage,
    - (iii) employers liability coverage or, in the case of an entity service provider that is subject to the *Workplace Safety and Insurance Act, 1997*, a valid clearance certificate under that Act,
    - (iv) tenants legal liability coverage, if applicable, and, if so, with applicable sub-limits,
    - (v) non-owned automobile coverage with blanket contractual coverage for hired automobiles,
    - (vi) directors and officers insurance to an inclusive limit of not less than \$2,000,000 per occurrence and in the aggregate, insuring against liability for actual or alleged acts, errors or omissions of the entity service provider and its officers, directors, agents, employees and contractors that arise in the course of providing entity services,
    - (vii) professional liability insurance insuring against liability for actual or alleged acts, errors or omissions of the entity service provider and its officers, directors, agents, employees and contractors that arise in the course of providing entity services,
    - (viii) a term that provides for 30 days' notice of cancellation or termination of the contract of insurance, and
    - (ix) a term that requires 30 days' notice of a material change.

(6) The Corporation may require that an entity service provider that purchases insurance described in subsections (4) and (5) or that has a clearance certificate described in subclause (5) (b) (iii) provide proof of insurance or of the clearance certificate, as applicable.

### **Funding entity service providers**

**85** (1) The Corporation shall determine the amount of funds to provide to an entity service provider for the entity services set out in its service agreement, for each fiscal year of the term of the agreement.

(2) For the purpose of determining the amount of funds under subsection (1), the Corporation shall consider all of the following factors:

- (a) the financial resources of the Corporation;
- (b) the Corporation's objects and the principles set out in section 17 of the Act;
- (c) the entity service provider's service proposal;
- (d) the estimated reasonable costs of providing the entity services;
- (e) the service proposals received from and funding commitments made to other entities or entity service providers for the same period;
- (f) if applicable, the past performance of the entity or entity service provider in meeting in a cost-effective and efficient manner the legal needs of the individuals and communities that it served, including, without limitation, in relation to members of the community that are marginalized on the basis of race, ethnicity, language, age or disability;
- (g) in the case of a community legal clinic or an Indigenous legal services organization, whether and the extent to which the entity service provider uses support services under section 91;
- (h) any other factors that the Corporation considers relevant.

(3) A determination under subsection (1) is reviewable in accordance with Division 2 on either of the following grounds if it results in a reduction of 5% or more in the amount of funds to be provided for a fiscal year to a community legal clinic, an Indigenous legal services organization or a student legal services organization compared with the amount provided for the previous fiscal year:

- (a) the entity service provider has new and relevant information that was not available at the time of the determination;
- (b) the entity service provider believes that the determination was based on a factual error.

(4) A determination described in subsection (3) shall not take effect until the later of

- (a) the expiry of the time for requesting a review of the determination set out in subsection 105 (1), and
- (b) the day on which the Corporation makes a decision on the review.

(5) After a determination is made under subsection (1), the Corporation may reduce the amount of funds provided to an entity service provider under a service agreement if

- (a) there is a change in the Corporation's priorities established under clause 17 (1) (b) of the Act that may affect or may reasonably be expected to affect the Corporation's ability to meet its obligations under the agreement; or



- (b) circumstances arise that, in the Corporation's opinion, may affect or may reasonably be expected to affect the Corporation's ability to meet its obligations under the agreement, including, without limitation, either of the following circumstances:
  - (i) an amendment to the Act or the regulations,
  - (ii) a change in the amount of the funding the Corporation receives.
- (6) A decision under subsection (5) is reviewable in accordance with Division 2 on either of the following grounds if it results in a reduction of 5% or more in the amount of funds to be provided for a fiscal year to a community legal clinic, an Indigenous legal services organization or a student legal services organization compared with the amount determined for that fiscal year under subsection (1):
  - (a) the entity service provider has new and relevant information that was not available at the time of the decision;
  - (b) the entity service provider believes that the decision was based on a factual error.
- (7) A decision described in subsection (5) shall not take effect until the later of
  - (a) the expiry of the time for requesting a review of the decision set out in subsection 105 (1), and
  - (b) the day on which the Corporation makes a decision on the review.

#### **Additional funds**

- 86** (1) The Corporation may at any time provide an entity service provider with additional funds for a particular project, short-term initiative or one-time expense, as the Corporation determines.
- (2) The Corporation shall amend the service agreement of an entity service provider to specify in the agreement the entity services and the amount of the additional funds that the Corporation determines under subsection (1).

#### **Payments to entity service providers**

- 87** (1) Subject to this section, the Corporation shall provide an entity service provider with the amount of funds determined for the entity service provider under subsection 85 (1) at the times, in the manner and in the amounts set out in a schedule to its service agreement.
- (2) For the purposes of section 86 and subsection (1) of this section, the entity service provider shall designate and provide the Corporation with the details of a deposit account with a financial institution in which the entity service provider shall hold the funds provided under those provisions.
- (3) An entity service provider shall deposit any funds provided under section 86 and subsection (1) of this section that are not required for immediate use into a deposit account in a financial institution until the funds are required, and shall report to the Corporation the amount of interest earned at the times and in the form and manner specified by the Corporation.
- (4) An entity service provider shall report the amount of any rebates, credits and refunds that it receives that are attributable to expenses paid from funds provided by the Corporation, at the times and in the form and manner specified by the Corporation.
- (5) The Corporation may deduct the following amounts from any payment to an entity service provider under section 86 or subsection (1) of this section:
  - (a) the amount of any interest referred to in subsection (3) and any rebates, credits or refunds referred to in subsection (4);
  - (b) any amount up to the amount of the funds that

- (i) were provided to the entity service provider under a service agreement for a previous fiscal year, whether or not those funds were provided under the agreement that is in effect at the time the deduction is made, and
  - (ii) remained in the entity's possession or under its control at the end of that fiscal year;
- (c) any amount deductible under subsection 100 (1).
- (6) The Corporation is not obligated to release funds to an entity service provider if the entity service provider has not complied with subsection 84 (6).

#### **Payments for legal disbursements and costs**

**88** (1) Subject to the Corporation's financial resources, the Corporation shall provide a community legal clinic with funds that are designated by the Corporation for paying legal disbursements.

- (2) A community legal clinic shall
- (a) deposit any amounts that are provided under subsection (1) into a deposit account at a financial institution; and
  - (b) pay out funds from that account to pay for legal disbursements paid by the clinic in relation to a legally aided client of the clinic or as otherwise approved by the Corporation.
- (3) The following amounts must be deposited into the deposit account referred to in subsection (2):
- (a) any amount paid to the community legal clinic by a legally aided client for legal disbursements paid for from funds provided by the Corporation; and
  - (b) the amount of any costs awarded to a legally aided client that are retained by the clinic.

#### **Use of funds**

**89** (1) An entity service provider shall use the funds it receives under a service agreement only for the following purposes, in accordance with the agreement, the Act and these Rules:

- (a) to provide the entity services specified in the agreement;
  - (b) to pay the expenses and for the activities related to providing those entity services.
- (2) An entity service provider shall not use any of the funds it receives under a service agreement for any service or expense that the entity service provider is paid or reimbursed by
- (a) a ministry, agency or other organization of the Government of Ontario or the Government of Canada; or
  - (b) any other third party.

#### **French language services**

**90** If an entity service provider provides entity services in an area designated under the *French Language Services Act*, the entity service provider shall

- (a) take appropriate measures to make it known to members of the public that the services are available in French, including providing signs, notices and other information on the services and initiating communication with the public;
- (b) make its services and communications available, and provide them, in French, either directly or through partnerships or collaborations with others;

- (c) have a written policy and procedures for offering services in French; and
- (d) include Francophone communities in any consultations with stakeholders.

### **Support services to community legal clinics and Indigenous legal services organizations**

**91** (1) In this section, “support services” means any services that the Corporation provides to a community legal clinic or Indigenous legal services organization for the purpose of reducing the cost to the entity service provider of providing entity services. (“services de soutien”)

(2) Subject to the Corporation’s financial resources, the Corporation shall provide the support services that are set out in a service agreement to community legal clinics and Indigenous legal services organizations to assist with providing the entity services.

### **Conflict of interest**

**92** (1) In this section, “conflict of interest” means circumstances in which the entity service provider, or a person who is in a position to influence a decision of the entity service provider, has commitments, relationships or financial interests outside the entity service provider that could, or could appear to, interfere with the objective, unbiased and impartial exercise of the entity service provider’s judgement. (“conflict d’intérêts”)

(2) An entity service provider, or a person who is in a position to influence a decision of the entity service provider, shall avoid any conflict of interest or potential conflict of interest and the appearance of a conflict of interest in providing the entity services set out in and using the funds provided under its service agreement.

(3) Promptly after a circumstance arises or an event occurs that a reasonable person would view as creating a conflict of interest, or as having the appearance of a conflict of interest, but only if the entity service provider is unable to resolve the conflict or appearance of conflict, the entity service provider shall

- (a) provide the Corporation with a written report that includes the details of the circumstance or event; and
- (b) comply with the directions of the Corporation in relation to the conflict or appearance of conflict promptly after receiving them.

### **Records**

**93** (1) An entity service provider shall create and maintain financial records in accordance with Canadian accounting standards, except as otherwise directed by the Corporation.

(2) An entity service provider shall create and maintain the following records for a period of seven calendar years after the end of a service agreement:

- (a) deposits to the deposit accounts referred to in subsections 87 (2) and (3) and 88 (2) of funds provided by the Corporation;
- (b) deposits of funds to the deposit account referred to in subsection 88 (2) of amounts referred to in subsection 88 (3);
- (c) expenditures of funds provided by the Corporation from the deposit accounts referred to in subsections 87 (2) and 88 (2) and of amounts deposited under subsection 88 (3);
- (d) transfers of funds provided by the Corporation from the deposit account referred to in subsection 87 (3);
- (e) non-financial records that relate to the use of the funds and the entity services that were provided.

## Reports

**94** (1) An entity service provider shall submit the following reports to the Corporation:

- (a) the reports required under its service agreement, at the times and in the form and manner specified in the agreement;
- (b) the reports required under subsection (3), at the times and in the form and manner specified in the notice delivered under that subsection.

(2) An entity service provider shall deliver a written notice to the Corporation promptly after it becomes aware of a potential or actual year-end deficit or unfunded liability in relation to its service agreement, unless the Corporation directs otherwise.

(3) The Corporation may require reports from an entity service provider by delivering a written notice that specifies the information required, its required form and manner and the date on or before which it must be submitted.

(4) An entity service provider shall complete a report required under its service agreement or these Rules to the satisfaction of the Corporation.

(5) A report that is required under a service agreement or these Rules must be signed by an officer of the entity service provider who is authorized to sign reports on its behalf.

## Remedial measures

**95** (1) In this section, “default” means any of the following circumstances or events:

- (a) the Corporation is of the opinion that the entity service provider is failing or has failed to comply with a provision of the Act, these Rules or its service agreement, including, without limitation, if the entity service provider either
  - (i) no longer meets the applicable requirements under section 83, or
  - (ii) fails to provide entity services, use the funds provided by the Corporation or provide reports, in accordance with the Act, these Rules or the agreement;
- (b) the entity service provider makes an assignment, proposal, compromise or arrangement for the benefit of creditors;
- (c) a creditor of the entity service provider makes an application for
  - (i) a bankruptcy order against the entity service provider, or
  - (ii) the appointment of a receiver;
- (d) the entity service provider ceases to carry on business in Ontario;
- (e) the Corporation is of the opinion that the entity service provider is in breach of any other agreement between the Corporation and the entity service provider. (“défaut”)

(2) If a default has occurred or is occurring, the Corporation shall promptly deliver written notice to the entity service provider that

- (a) specifies the default;
- (b) requires the entity service provider to provide the Corporation with the reasons for the default;
- (c) proposes remedial measures to remedy the default;
- (d) specifies the date on or before which the entity service provider shall provide the reasons or take remedial measures; and

- (e) advises the entity service provider of the actions that the Corporation may take under subsection (4) if the entity service provider does not provide reasons or take remedial measures within the specified time.
- (3) On request of the entity service provider, the Corporation may specify a later date for the purpose of clause (2) (d) if the Corporation is of the opinion that the default cannot be remedied, or the remedial measures cannot be taken, within the time specified in the notice.
- (4) If an entity service provider does not provide reasons for the default or take remedial measures within the time specified in the notice or under subsection (3), the Corporation may take one or more of the following actions that the Corporation considers is proportionate to the default:
- (a) require that the entity service provider take any actions that the Corporation considers to be necessary to ensure that the entity service provider performs its obligations under the service agreement in accordance with its terms and conditions, the Act and these Rules;
  - (b) suspend or reduce the provision of funds under the agreement for a period specified by the Corporation;
  - (c) demand repayment of
    - (i) any amount of the funds paid under the agreement that remains in possession or under the control of the entity service provider,
    - (ii) an amount equal to the amount of the funds the Corporation reasonably believes were used in a manner contrary to the agreement, and
    - (iii) an amount equal to the funds paid to the entity service provider under the agreement;
  - (d) terminate the agreement, on notice, without the Corporation incurring further liability under the agreement, a penalty or other costs to the Corporation.
- (5) Subsection 96 (5) applies to a termination under clause (4) (d).
- (6) A decision of the Corporation to terminate the service agreement of a community legal clinic, an Indigenous legal services organization or a student legal services organization under clause (4) (d) is reviewable in accordance with Division 2 on either of the following grounds:
- (a) the entity service provider has new and relevant information that was not available at the time of the decision;
  - (b) the entity service provider believes that the decision was based on a factual error.

#### **Termination of service agreement**

**96 (1)** A service agreement terminates at the end of the term specified in it unless it is terminated earlier under section 95 or this section.

- (2) The Corporation may terminate a service agreement without incurring further liability under it, a penalty or other costs if
- (a) there is a change in the Corporation's priorities established under clause 17 (1) (b) of the Act that may affect or may reasonably be expected to affect the Corporation's ability to meet its obligations under the agreement; or
  - (b) circumstances arise that, in the Corporation's opinion, may affect or may reasonably be expected to affect the Corporation's ability to meet its obligations under the agreement, including, without limitation, either of the following circumstances:
    - (i) an amendment to the Act or the regulations,

- (ii) a change in the amount of the funding the Corporation receives.
- (3) The Corporation may terminate a service agreement of an entity service provider that is not a community legal clinic, an Indigenous legal services organization or a student legal services organization on delivery of 30 days' written notice to the entity service provider, unless otherwise specified in the service agreement.
- (4) Promptly after deciding to terminate a service agreement under subsection (2), the Corporation shall deliver notice of the termination to the entity service provider.
- (5) Termination of a service agreement under clause 95 (4) (d) or subsection (2) of this section takes effect on the date specified in the notice of termination.
- (6) A decision of the Corporation to terminate the service agreement of a community legal clinic, an Indigenous legal services organization or a student legal services organization under subsection (2) is reviewable in accordance with Division 2 on either of the following grounds:
  - (a) the entity service provider has new and relevant information that was not available at the time of the decision;
  - (b) the entity service provider believes that the decision was based on a factual error.

#### **Consequences of termination of service agreement**

- 97** (1) If a service agreement is terminated by the Corporation, the Corporation may determine the estimated costs of winding down the provision of the entity services.
- (2) If the estimated costs are less than the amount of the funds that were paid to the entity service provider that remain in its possession or under its control, the Corporation may direct the entity service provider to use those remaining funds, up to the estimated amount determined under subsection (1), to wind down the provision of the entity services.
- (3) If the estimated costs exceed the amount of the funds that were paid to the entity service provider that remain in its possession or under its control, the Corporation may provide further funds to the entity service provider, up to the estimated amount determined under subsection (1), to wind down the provision of the entity services.

#### **At end of service agreement**

**98** After the termination of a service agreement, the entity service provider shall, on receipt of a written demand from the Corporation and on or before the date specified in the demand, take the following actions:

- (a) pay to the Corporation an amount equal to the funds that were paid to the entity service provider under the agreement that remain in its possession or under its control at the termination of the agreement, less any amount that the Corporation authorizes the entity service provider to retain under subsection 97 (2);
- (b) transfer and deliver to the Corporation, or to another entity service provider on the direction of the Corporation, any records that relate to a legally aided client of the entity service provider;
- (c) provide the Corporation with a report that details the status of any outstanding entity services that remain to be provided under the agreement.

#### **Overpayments**

**99** (1) The Corporation may

- (a) determine that it paid funds to an entity service provider in excess of the amount required under the service agreement; and

- (b) determine the amount of those excess funds.
- (2) The Corporation shall deliver a written notice to an entity service provider of any determination under subsection (1) and include in the notice a demand for repayment of the amount of the excess funds.

#### **Recovering debt**

**100** (1) An amount specified in a demand under clause 95 (4) (c) or subsection 99 (2) is a debt due to the Corporation and may be recovered by the Corporation, if not recovered by other means,

- (a) by deducting the amount from any amount payable to the entity service provider under the service agreement under which the debt was incurred or under a later service agreement; or
  - (b) in a court of competent jurisdiction.
- (2) An amount specified in a demand under clause 98 (a), if not recovered by other means, may be recovered by the Corporation in a court of competent jurisdiction.

#### **Declaration under subsection 10 (6) of the Act**

**101** A decision of the Corporation to make a declaration under clause 10 (6) (a) of the Act or to recover an amount under clause 10 (6) (b) of the Act, in respect of an entity service provider, is reviewable in accordance with Division 2.

## **DIVISION 2**

### **REVIEWS**

#### **Reviewable decisions**

**102** (1) A decision or determination made under this Part is final and not reviewable unless specifically provided for in this Part.

(2) The review of a decision or determination made under one of the following provisions shall be conducted by the board and shall not be delegated to a committee of the board, a board member, an officer of the Corporation or a staff member:

- (a) a funding determination under subsection 85 (1) or (5);
- (b) the termination of a service agreement under clause 95 (4) (d) or subsection 96 (2).

#### **Notice of reviewable decisions**

**103** (1) The Corporation shall, in the form and manner approved by the Corporation, deliver a notice to the entity service provider entitled to the review that includes

- (a) written reasons for the decision or determination;
  - (b) a notice that the decision or determination may be reviewed and information on how to request a review; and
  - (c) an active offer of a review in French.
- (2) With respect to the Corporation's disclosure of information or documents,
- (a) the notice and any materials that are included with the notice constitute the written record of the decision; and

- (b) the Corporation is not required to disclose any information or documents that were previously provided to the entity service provider or that are not relevant to the review.

#### **Review in writing only**

**104** A review shall be conducted in writing only and there shall be no oral hearing.

#### **Review process**

**105** (1) A request for the review of a decision or determination under this Part must be submitted to the Corporation in the form and manner specified by the Corporation within 20 days after the date on which notice of the decision or determination is delivered.

- (2) The request must include all of the following information and documents:
  - (a) the name and contact information of the entity service provider requesting the review;
  - (b) a copy of the reasons for the decision or determination;
  - (c) written submissions that set out the grounds on which the entity service provider is disputing the decision, which must not be more than 20 pages and be in the form specified by the Corporation;
  - (d) any other information and documents that support the written submissions.
- (3) On the written request of the entity service provider, the Corporation may extend any deadline under this section.
- (4) If the entity service provider does not make the request for the review within the time referred to in subsection (1) or as extended under subsection (3), the decision or determination under review is final without further reasons.
- (5) The Corporation may deliver notice to the entity service provider requiring the entity service provider to provide, on or before the date specified in the notice, any additional information and documents that the Corporation considers necessary for conducting the review.
- (6) The Corporation may draw an adverse inference if the entity service provider does not provide the information or documents required under subsection (5) within the time specified under that subsection or as extended under subsection (3).
- (7) For the purposes of the review, the Corporation may consider the following information and documents:
  - (a) the written submissions, information and documents submitted by the entity service provider;
  - (b) any other relevant information or documents.
- (8) The Corporation may
  - (a) determine that the request for review does not disclose grounds for review and dismiss the review; or
  - (b) confirm, vary or revoke the original decision or determination.
- (9) A copy of every decision on a review conducted under this Part, other than a review of a decision or determination referred to in subsection 102 (2), shall be delivered to the board.



**DIVISION 3**  
**TRANSITIONAL PROVISIONS**

**Definitions**

**106** In this Division,

“cancelled agreement” means an agreement or memorandum of understanding that was cancelled under subsection 72.3 (5) of the former Act; (“entente annulée”)

“continuing entity” means the following entities that provide legal aid services under a continuing service agreement:

- (a) Aboriginal Legal Services Inc.,
- (b) Grand Council Treaty #3 Representative Services Inc.,
- (c) Nishnawbe-Aski Legal Services Corporation,
- (d) Nokiiwin Tribal Council,
- (e) Ontario Federation of Indigenous Friendship Centres,
- (f) University of Toronto Faculty of Law on behalf of Pro Bono Students Canada,
- (g) Six Nations Elected Council,
- (h) Sykes Assistance Services Corporation,
- (i) TAIBU Community Health Centre; (“entité active”)

“continuing service agreement” means an agreement between the Corporation and a continuing entity that was entered into under the former Act for the provision of legal aid services and that was in effect immediately before the former Act was repealed; (“entente de services continue”)

“effective date” means the date on which the Act comes into force; (“date d’effet”)

“former Act” means the *Legal Aid Services Act, 1998*, as it read immediately before its repeal; (“loi antérieure”)

“interim agreement” means an agreement between the Corporation and a transitional entity that was entered into before the effective date to replace a cancelled agreement and that expires on the effective date; (“entente provisoire”)

“transitional period”, in respect of a continuing entity and a continuing service agreement, means the period that begins on the effective date and ends on the earlier of

- (a) in the case of an entity
  - (i) that is set out in any clause of the definition “continuing entity” other than clause (h), March 31, 2022, or
  - (ii) that is set out in clause (h) of that definition, June 30, 2023, and
- (b) the date on which the Corporation terminates an agreement in accordance with the terms and conditions of the agreement; (“période transitoire”)

“transitional entity” means a clinic or a student legal aid services society that provided legal aid services under an interim agreement. (“entité transitoire”)

### **Continuing entities and continuing service agreements**

**107** (1) Divisions 1 and 2 of this Part do not apply during the transitional period to a continuing service agreement or to a continuing entity for the purposes of its continuing service agreement.

(2) The guidelines, standards, policies, procedures and directives of the Corporation that applied to a continuing entity or continuing service agreement under the former Act continue to apply in the same way during the transitional period.

### **New service agreements with continuing entities**

**108** (1) The Corporation may enter into a new service agreement with a continuing entity in accordance with section 81 on the expiry or termination of the continuing service agreement as if that entity were an entity service provider as defined in section 75 whose service agreement is expiring.

(2) Before entering into the new service agreement under subsection (1), the Corporation shall be satisfied that the continuing entity was in compliance with the terms and conditions of its continuing service agreement at all times up to and including on the last day of the transitional period.

(3) For the purposes of entering into the new service agreement,

- (a) clauses 81 (1) (a) and (b) shall be read as “at least 60 days before the term expires” in all cases;
- (b) the service proposal required by subsection 81 (2) shall be in respect of the first fiscal year of the term of the new agreement; and
- (c) if the Corporation paid any amount to the continuing entity under the continuing service agreement in respect of a period after the transitional period, that amount is deemed to be part of the amount of funds determined under subsection 85 (1) to be paid under the new service agreement for the first fiscal year of the term of the agreement.

### **Service agreements with transitional entities**

**109** (1) The Corporation may enter into a service agreement with a transitional entity in accordance with section 81 on the effective date as if that entity were an entity service provider as defined in section 75 whose service agreement is expiring.

(2) Before entering into the service agreement under subsection (1), the Corporation shall be satisfied that the transitional entity was in compliance with the terms and conditions of the interim agreement at all times up to and including on the effective date.

(3) For the purposes of entering into the service agreement,

- (a) subsection 79 (3) does not apply to the service agreement, the term of which shall begin on the effective date and end on
  - (i) March 31, 2025 if the Corporation determines under subsection 78 (3) that a low level of risk exists in relation to the transitional entity, and
  - (ii) March 31, 2023 if the Corporation determines under subsection 78 (3) that a high level of risk exists in relation to the transitional entity;
- (b) the Corporation need not send a notice under subsection 81 (1);

- (c) the transitional entity need not provide the Corporation with the service proposal required by subsection 81 (2) in respect of the first fiscal year of the term of the agreement; and
- (d) if the Corporation paid any amount to the transitional entity under the interim agreement in respect of a period after the effective date, that amount is deemed to be part of the amount of funds determined under subsection 85 (1) to be paid under the service agreement for the first fiscal year of the term of the agreement.

## **PART 5**

### **RECOVERY OF COSTS OF PROVIDING LEGAL AID SERVICES**

#### **Definitions**

**110** In this Part,

“court costs”, in relation to a proceeding, mean amounts for fees and disbursements

- (a) ordered by the court or a tribunal under the governing legislation for the proceeding,
- (b) ordered by the court in the exercise of the court’s inherent jurisdiction, or
- (c) settled by agreement of the parties; (“frais judiciaires”)

“recoverable amount”, in relation to a legally aided client, means the applicable amount recoverable under subsection 111 (2) or (3) in respect of legal aid services provided to the legally aided client. (“montant recouvrable”)

#### **RECOVERABLE AMOUNT AND RESPONSIBILITY FOR RECOVERING**

#### **Amount to be recovered by Corporation**

**111** (1) In this section,

“cost of providing the services” means

- (a) in relation to legal aid services provided by a roster member, the amount payable by the Corporation to the roster member for fees and disbursements for providing those services;
- (b) in relation to legal aid services provided by a staff member, the amount that would be payable by the Corporation to the staff member for fees and disbursements for providing those services if the staff member were a roster member; and
- (c) in relation to legal aid services provided by an entity service provider, the amount determined by the Corporation to be the portion of the funding provided to the entity service provider that is attributable to those legal aid services; (“coût de la prestation des services”)

“entity service provider” has the same meaning as in section 75. (“entité fournisseur de services”)

(2) If a legally aided client or a person responsible for the legally aided client is liable under a contribution agreement in respect of a matter, the amount the Corporation is entitled to recover for legal aid services provided to the legally aided client in respect of the matter is the lesser of the following amounts:

- (a) the maximum amount to be paid under the contribution agreement as determined under clause 13 (4) (a);
  - (b) the sum of
    - (i) the actual cost of providing the services,
    - (ii) 10% of the amount referred to in subclause (i), and
    - (iii) interest, calculated in accordance with subsection 13 (9).
- (3) The amount the Corporation is entitled to recover under section 13 of the Act for legal aid services provided to the legally aided client in respect of a matter is the sum of the following amounts, minus any amounts already paid under subsection (2):
- (a) the actual cost of providing the services; and
  - (b) 10% of the amount referred to in clause (a).

#### **Responsibility for recovering recoverable amount**

**112** (1) It is the responsibility of a service provider for a legally aided client to take all reasonable steps to collect the recoverable amount in relation to the client.

(2) On receiving an amount payable to a legally aided client, including, without limitation, an amount as court costs, in payment of a judgment, order or settlement or under an irrevocable assignment, the service provider shall immediately notify the Corporation of the amount received and take the steps instructed by the Corporation.

#### **Recovering amounts under contribution agreement**

**113** (1) If a legally aided client has been released from custody or detention with a deposit of money and the deposit is referred to in a contribution agreement respecting the client, the service provider acting for the client in the matter shall

- (a) on request of the Corporation, obtain from the person who made the deposit an irrevocable assignment in writing, in the form and manner specified by the Corporation, of an amount equal to the amount of the deposit that does not exceed the recoverable amount in relation to that client;
  - (b) on the direction of the Corporation, file the assignment with the court in which the proceeding is being heard; and
  - (c) at the conclusion of the proceeding, apply promptly to the Corporation, in the form and manner specified by the Corporation, for directions in respect of the deposit and take the steps directed.
- (2) If a peace officer seized an amount of money from a legally aided client in connection with a matter in respect of which legal aid services are provided, and the seized amount is referred to in a contribution agreement respecting the client, the service provider for the client shall
- (a) on request of the Corporation, obtain from the client an irrevocable assignment in writing, in the form specified by the Corporation, of the portion of the seized amount that does not exceed the recoverable amount in relation to that client;
  - (b) on the direction of the Corporation, file the assignment with the police force holding the money and submit a copy of the assignment to the Corporation; and
  - (c) at the conclusion of the proceeding, if the seized money is not forfeited to the Crown, apply promptly to the Corporation, in the form and manner specified by the Corporation, for directions to apply to the court for an order under subsection 491.1 (2) of the *Criminal Code* (Canada) in respect of that money.

### **Recovering amounts under section 13 of the Act**

**114** (1) A service provider for a legally aided client who becomes entitled to recover money or other property in a proceeding shall protect the Corporation's interests in the money or property by taking the applicable steps under this section.

(2) In a proceeding in which a legally aided client is entitled to recover money or other property, the service provider shall

- (a) obtain from the client
  - (i) in respect of money, a written direction to pay the money to the service provider in trust or to the Corporation, and
  - (ii) in respect of other property, a written acknowledgement, in a form approved by the Corporation, of the Corporation's interest in the other property; and
- (b) deliver to the person from whom the money or other property is recoverable and that person's lawyer, if any, a notice that states
  - (i) that the Corporation has a charge against the money or other property under section 13 of the Act, and
  - (ii) that the money must not be paid, nor the property released or transferred, to the client until the charge has been discharged.

(3) In a proceeding before a tribunal, unless the governing legislation of the tribunal prohibits the charging of money and property awarded by the tribunal, the service provider for a legally aided client shall, at any time before the money or property awarded is paid to the client, deliver to the tribunal a notice that states

- (a) that the service provider's client is receiving or has received legal aid services in relation to the proceeding; and
- (b) that the Corporation has a charge under section 13 of the Act on any money or property recovered by the client.

### **RECOVERING COURT COSTS**

#### **Orders and settlements in respect of court costs**

**115** (1) Unless a service provider receives instruction in writing from the Corporation to dispense with court costs in respect of the proceeding, the service provider shall

- (a) apply to the court or tribunal in accordance with the governing legislation for an order for court costs; or
- (b) attempt to reach a settlement respecting court costs in an amount based on the service provider's private retainer rate.

(2) If the parties are unable to reach a settlement for court costs in the amount referred to in clause (1) (b), the service provider shall apply to the Corporation, in the form and manner specified by the Corporation, for instructions respecting court costs.

(3) If the service provider prepares a bill of costs, the service provider shall prepare the bill of costs using the service provider's private retainer rate.

(4) If an order or settlement for court costs is obtained for a legally aided client, the service provider shall

- (a) immediately notify the Corporation of the terms of the order or settlement; and

- (b) provide the Corporation with a copy of the order or settlement and any other information or document the Corporation specifies in relation to the order or settlement.

#### **Orders for court costs in relation to support**

**116** A service provider acting for a legally aided client in a proceeding that involves issues of child or spousal support and other issues shall request that, in any order for court costs, the court apportion the amount of the court costs between the support issues and the other issues.

#### **Apportioning court costs when legal services other than certificate services provided**

**117** (1) This section applies if, in relation to the same proceeding, legal aid services were provided to an individual under a certificate and other services were provided to the same individual before the certificate was issued or after the certificate expires or is cancelled.

(2) The Corporation shall apportion the amount of court costs payable under an order or settlement for court costs made in relation to the proceeding as between the certificate services and the other legal services.

#### **Recovering court costs**

**118** (1) A service provider for a legally aided client who becomes entitled to court costs in relation to a proceeding shall protect the Corporation's interests in the costs by taking the applicable steps under this section.

(2) In a proceeding in which a legally aided client is entitled to court costs, the service provider shall

- (a) except to the extent that the Corporation instructs otherwise,
  - (i) ensure that an order in respect of the court costs is issued and entered,
  - (ii) obtain from the client a written assignment of the court costs to the Corporation in a form approved by the Corporation,
  - (iii) file with the court a request for a writ of seizure and sale and a writ of seizure and sale in respect of the costs,
  - (iv) deliver to the Corporation a copy of the order, assignment and writ of seizure and sale, and
  - (v) deliver to the person from whom the costs are recoverable and that person's lawyer, if any, a notice that states that the costs are the property of the Corporation under the Act or by assignment; and
- (b) as directed by the Corporation,
  - (i) file the writ of seizure and sale and the assignment with the appropriate official, and
  - (ii) take steps to collect the costs.

(3) In a proceeding before a tribunal, a service provider for a legally aided client who is entitled to court costs in the proceeding shall, if an assignment under subclause (2) (a) (ii) is obtained, deliver to the tribunal, before the conclusion of the proceeding, a notice that states that

- (a) the service provider's client is receiving or has received legal aid services in relation to the proceeding; and
- (b) any award of court costs is the property of the Corporation by assignment.

## WAIVER OF COLLECTION RIGHTS

### Waiver

**119** The Corporation may waive any of its rights under subsections 9 (3) to (5) of the Act or sections 12 to 14 of the Act to collect amounts due to it and may accept payments from a legally aided client or person responsible for a legally aided client in a lesser amount than the amount that is due to the Corporation, if the Corporation is satisfied that

- (a) failure to waive those rights would cause hardship for the client or person responsible;
- (b) all or part of the amount due to the Corporation is uncollectible;
- (c) waiving those rights would reduce the overall amount ultimately payable by the Corporation to provide the legal aid services; or
- (d) waiving those rights would promote the timely settlement of the matter.

## PART 6

### DELIVERY OF DOCUMENTS

#### Delivery of documents to Corporation

**120** (1) In this section, “appropriate office of the Corporation” means the district office or other office, or department, of the Corporation

- (a) to which a document is to be delivered; or
- (b) where the officer to whom a document is to be delivered is located. (“bureau approprié de la Société”)

(2) Unless directed otherwise by the Corporation or these Rules, a document that under these Rules is to be delivered or submitted to the Corporation may be delivered or submitted by any of the following methods:

- (a) by leaving a copy of the document at the appropriate office of the Corporation with a staff member or other person who appears to be in control of the office;
- (b) by prepaid registered or regular mail addressed to the appropriate office of the Corporation;
- (c) by email to the email address, or by fax to the fax number, posted on the Corporation’s website for the appropriate office of the Corporation;
- (d) in the case of a document from a legally aided client or an individual who has applied to receive legal aid services, by posting to the Corporation’s online portal for clients;
- (e) in the case of a document from a roster member that relates to a legally aided client to whom the roster member is providing certificate services, by posting to the Corporation’s online portal for lawyers.

(3) If the Corporation or a Rule directs a service provider to deliver or submit a document to the Corporation to a specific office, department or person or by a specific method of delivery, and the service provider does not comply with the direction, the document is conclusively deemed not to have been delivered to the Corporation.

(4) A service provider or an individual who has provided the Corporation with contact information for delivery must deliver notice of any change to that contact information to the Corporation immediately after the change occurs.

### **Delivery of documents by Corporation**

**121** A document that the Corporation is to deliver to a service provider or an individual under these Rules may be delivered by one of the following methods:

- (a) by personal service or an alternative to personal service in accordance with the Rules of Civil Procedure;
- (b) by prepaid registered or regular mail to the most recent address provided to the Corporation by the service provider or individual;
- (c) by email to the most recent email address, or by fax to the most recent fax number, provided to the Corporation by the service provider or individual;
- (d) in the case of a document for a roster member that relates to a legally aided client to whom the roster member is providing certificate services, by posting to the Corporation's online portal for lawyers;
- (e) in the case of a document for a roster member, by delivery to the Law Society of Ontario with a request that it forward the document to the roster member if
  - (i) delivery by the other methods authorized by this section has failed, or
  - (ii) in the Corporation's opinion, delivery by the other methods authorized by this section is impractical in the circumstances;
- (f) in the case of a document for a legally aided client, for an individual who has applied to receive legal aid services or for a person responsible for a legally aided client or individual who has applied to receive legal aid services, by posting to the Corporation's online portal for clients;
- (g) in the case of a document for a legally aided client, by delivery in accordance with this section to the roster member who is acting for the client.

### **Deemed delivery**

**122** (1) A document that is delivered by the Corporation by registered or regular mail is deemed to be delivered on the 7th day after it is mailed, in the absence of evidence to the contrary.

(2) A document that is delivered by the Corporation by email or fax is deemed to be delivered on the day after it was transmitted, in the absence of evidence to the contrary.

(3) A document that is delivered by the Corporation by posting to the Corporation's online portal for clients or the online portal for lawyers is deemed to be delivered the day after notice of the posting is transmitted electronically, in the absence of evidence to the contrary.

(4) A document that is delivered by the Corporation by delivery to the Law Society of Ontario is deemed to be delivered to the roster member on the 7th day after the Law Society of Ontario forwards the document, in the absence of evidence to the contrary.

## **PART 7**

### **COMING INTO FORCE**

#### **Coming into force of Rules**

**123** These Rules come into force on the day on which the Act comes into force.



## SCHEDULE 1

(Section 28)

### LEGAL AID SERVICES STANDARDS

#### Purpose

1 The purpose of the *Legal Aid Services Standards* is to ensure that the legal aid services that roster members provide

- (a) are client-focused, of high quality and efficient;
- (b) deliver value for money spent; and
- (c) are appropriate to the circumstances of legally aided clients.

#### Communicating with clients

2 In providing legal aid services, and as applicable before providing them, roster members shall explain to the legally aided clients their rights, responsibilities and options, including all of the following:

- (a) the laws that apply to the proceedings for which the legal aid services are being provided;
- (b) the potential impacts of any decisions that the client may be required to make, including ensuring that the client is not unduly pressured into making any decision;
- (c) the client's legal rights with respect to the proceedings for which the legal aid services are being provided;
- (d) any court or tribunal processes that apply in relation to the legal aid services being provided;
- (e) the required steps in relation to any proceedings for which the legal aid services are being provided;
- (f) the range of possible outcomes of the client's matter and how long it may take to resolve the matter.

#### Providing legal aid services

3 (1) In providing legal aid services to a legally aided client, roster members shall

- (a) treat each client with dignity and respect, including by providing any necessary accommodation for clients with disabilities;
- (b) be aware of the needs and requirements specific to each client;
- (c) conduct themselves in a professional manner;
- (d) meet all of their obligations to the Corporation, their clients and the Law Society of Ontario;
- (e) ensure that client information is always kept confidential; and
- (f) maintain current their knowledge on the provision of legal aid services, including billing practices and procedures.

(2) In acting for a legally aided client on a matter, roster members shall

- (a) maintain the competence necessary to provide the legal aid services in the relevant areas of law;
- (b) maintain current their knowledge of relevant jurisprudence and legislation;

- (c) provide the client with the roster member's current contact information and any alternate contact information;
  - (d) thoroughly review the client's matter and specific legal issues;
  - (e) take all reasonable steps to protect the client's interests and to advance the client's legal position;
  - (f) keep the client informed on the progress of the client's matter and respond to the client's concerns in a timely manner;
  - (g) advise the client in advance when and why the client is required to attend court or a tribunal proceeding;
  - (h) prepare the client for court or tribunal appearances;
  - (i) appear for court or tribunal dates when expected or required to do so on the client's matter and, if unable to attend,
    - (i) ensure that an agent attends in the roster member's place,
    - (ii) ensure that the agent is a roster member who is qualified, prepared and authorized to provide the legal aid services required, and
    - (iii) advise the client that an agent is attending instead of the roster member;
  - (j) continue to provide the legal aid services to the client until the matter is completed.
- (3) In providing legal aid services to a legally aided client, roster members shall not do any of the following:
- (a) undertake a proceeding other than to advance the client's interests, including in a manner that is unreasonable, inappropriate, unreasonably prolonged or vexatious;
  - (b) represent the client in a matter if the roster member does not have sufficient knowledge, experience or skill to handle the matter or the time to devote to the matter;
  - (c) unnecessarily delay the progress of a client's matter;
  - (d) act in a manner that is contrary to the client's interests;
  - (e) remove themselves from the record without prior notification to the Corporation.

#### **Evaluation of legal aid services provided**

- 4** (1) The Corporation may evaluate the quality of legal aid services provided by a roster member.
- (2) In making an evaluation under subsection (1), the Corporation may take any relevant information into account and consider any relevant factor, including the following:
- (a) the roster member's record of compliance with the Corporation's rules, procedures, billing and account submission rules or administrative requirements;
  - (b) information about the roster member's conduct towards legally aided clients, including as evidenced by the results of any client satisfaction surveys and reviews;
  - (c) any decision or documents from a court or tribunal;
  - (d) information received from other lawyers (whether or not they are a roster member), from their legally aided clients and from judges.

## SCHEDULE 2

(Section 60)

### FEES AND DISBURSEMENTS

Schedule 2 amendment history: Rule 2023/2, ss. 1 to 12;

#### PART A

#### GENERAL APPLICATION

##### Application

**1** (1) This Part and Parts C and E apply to the payment of fees and disbursements for legal aid services referred to in Parts B and D payable to roster members, law clerks, articling students and investigators in the employ of the roster member.

(2) A roster member who provides duty counsel services is only entitled to payment for services provided when scheduled.

##### Hourly rates

**2** (1) Table 1 sets out the hourly rates payable for legal aid services provided by roster members, law clerks, articling students and investigators in the employ of the roster member.

**Table 1**

**Hourly Rates for Roster Members, Law Clerks, Articling Students and Investigators**

<b>Areas other than Northern Areas</b>			
<b>Description</b>	<b>Hourly rate for legal aid services  (Effective October 16, 2023)</b>	<b>Hourly rate for legal aid services  (Effective April 1, 2024)</b>	<b>Hourly rate for legal aid services  (Effective April 1, 2025)</b>
Tier 1	\$114.60	\$120.33	\$126.35
Tier 2	\$128.93	\$135.37	\$142.14
Tier 3	\$143.25	\$150.41	\$157.94
Complex case rate	\$169.10	\$177.56	\$186.44
Law clerks and investigators in the employ of the roster member	\$33.99	\$35.69	\$37.48
Articling students	\$67.98	\$71.38	\$74.95
<b>Northern Areas</b>			

Tier 1	\$126.06	\$132.36	\$138.99
Tier 2	\$141.82	\$148.91	\$156.36
Tier 3	\$157.58	\$165.45	\$173.73
Complex case rate	\$186.01	\$195.31	\$205.08
Law clerks and investigators in the employ of the roster member	\$33.99	\$35.69	\$37.47
Articling students	\$74.78	\$78.52	\$82.45

(2) The hourly rates that are payable to a roster member for legal aid services provided by them under a certificate are determined in the following way:

- (a) the hourly rates are those that are in effect on the date on which the certificate is issued; and
- (b) the roster member is to be paid according to the tier that applies to them at the time the service is provided.

(3) A roster member who provides duty counsel services is paid at the hourly rate according to the tier that applies to them at the time the service is provided.

(4) A roster member who provides advice lawyer services is paid at the hourly rate according to the tier that applies to them at the time the service is provided, to a maximum of two hours.

(5) A law clerk or investigator in the employ of a roster member providing certificate services is paid at the hourly rate that applies to them on the date on which the roster member's certificate is issued.

(6) An articling student under the supervision of a roster member providing certificate services is paid at the hourly rate that applies to them on the date on which the roster member's certificate is issued.

(7) The complex case rate applies with respect to complex proceedings approved by the Corporation payable to roster members who meet the qualifications and requirements specified by the Corporation.

### **Travel time**

**3** (1) Subject to subsections (2) to (4), travel time is payable for travel of more than 50 kilometres, one way, from the roster member's regular place of business

- (a) for an appearance as counsel on a contested motion, examination for discovery, settlement conference, pre-trial hearing or trial on behalf of a legally aided client; or
- (b) to interview a legally aided client or a witness.

(2) Authorization in advance of the travel is required except for travel for any of the following:

- (a) appeals to the Court of Appeal or the Supreme Court of Canada;
- (b) judicial review applications or appeals in the Federal Court;
- (c) hearings before the Refugee Protection Division of the Immigration and Refugee Board.

(3) An application for authorization for travel time must be made no later than the time referred to in subsection 46 (2) of these Rules.

(4) Travel time is not payable for travel within the Greater Toronto Area.

#### **Hourly rates for travel time**

4 (1) The hourly rates for travel time are set out in Table 2.

(2) The hourly rates for Northern areas apply for services provided in any of the following districts:

- (a) District of Cochrane (05);
- (b) District of Kenora (15);
- (c) District of Rainy River (35);
- (d) District of Temiskaming (39); and
- (e) Communities served by Nishnawbe-Aski Nation (48).

(3) Despite any provision of this Schedule that provides for a lower amount, if the roster member is required to travel 200 km or more, one way, from their regular place of business and the place where the services are provided is not the location of a district office, the minimum total daily amount payable for services provided in a district set out in subsection (2) is the following:

- (a) \$1,241.06, effective October 16, 2023;
- (b) \$1,303.11, effective April 1, 2024;
- (c) \$1,368.27, effective April 1, 2025.

**Table 2**

#### **Hourly Rates for Travel Time**

<b>Description</b>	<b>Rate per hour for travel time</b>	<b>Rate per hour for travel time, Northern Areas</b>
Tier 1	\$43.00	\$47.30
Tier 2	\$48.38	\$53.21
Tier 3	\$53.75	\$59.13
Law clerks	\$23.00	\$23.00
Articling students	\$23.00	\$25.30

#### **Mileage**

5 When travel is authorized, mileage is paid at the rate of \$0.40 per kilometre for travel in Southern Ontario and \$0.41 for travel in Northern Ontario.

#### **Provisions applying to Parts B and D**

6 The following provisions apply to both Parts B and D:

- (a) when specifically provided for, actual time spent in attendance at a proceeding may be billed if the matter is reached, evidence is led or submissions are made other than submissions made in support of or opposing an adjournment. Attendance on adjournments, to be spoken to attendances, on trial audits or at assignment court are not attendances for the purposes of this clause;
- (b) unless otherwise provided for, attendance excludes waiting time;
- (c) all services except for actual attendance at a trial or hearing are considered preparation time;
- (d) if a roster member can readily ascertain that a maximum allowed by this Schedule is clearly inadequate with respect to a matter for which a certificate has been issued, the roster member shall promptly advise the Corporation of the details of the case and an estimate of the time and services required;
- (e) when the Corporation specifically authorizes a service not dealt with by this Schedule, the Corporation shall pay the fee set out in the authorization, and in the absence of a set fee, may allow a reasonable fee and, in determining the fee payable in respect of the matter, shall have regard to this Schedule for comparable services;
- (f) a roster member may submit an interim account only when the roster member's unbilled account balance, exclusive of disbursements, exceeds \$500, unless otherwise permitted by the Corporation in writing.

## PART B

### CRIMINAL MATTERS

7 (1) The following provisions apply to the determination of fees and disbursements for providing services for a criminal matter:

- (a) in general, the most serious charge authorized on the certificate and the type of proceeding determines whether the fees will be determined on the basis of an hourly rate or under a block fee;
- (b) all services authorized on the certificate must be billed on an hourly rate basis calculated in accordance with Tables 3 to 7 if
  - (i) the most serious offence is an excluded offence as set out in the List of Offences published by the Corporation on the Corporation's website,
  - (ii) the charge is set down for trial, preliminary inquiry, Not Criminally Responsible hearing or Gardiner Hearing,
  - (iii) the proceeding is an excluded proceeding described in clause (c), or
  - (iv) the certificate is exempted under clause (d);
- (c) for the purpose of subclause (b) (iii), excluded proceedings include proceedings to which the big case management and complex case rates apply, Appeals, proceedings under the *Youth Criminal Justice Act* (Canada), Dangerous Offender proceedings, Extraordinary Remedies/Prerogative Writs, Ontario Review Board hearings, Protocol Case Unit cases, Long Term Offender applications, Breach of Conditional Sentences and Extradition Proceedings;
- (d) in exceptional circumstances, the Corporation may, in accordance with subsection (2), exempt a certificate from being billed under a block fee;
- (e) except as provided in clauses (a) and (b), services provided under all other proceedings must be billed as block fees in accordance with Table 8;

- (f) once a charge on a certificate that would otherwise be billed as a block fee has been set down for trial, all services provided after the date on which the trial date was set must be billed on an hourly rate basis including any ancillary matters provided for in Table 6;
  - (g) if specifically provided for in Table 8, ancillary proceedings may be billed as an interim block account if the services were provided before the matter was set down for trial;
  - (h) when a roster member represents an individual charged with two or more offences and for valid reasons the charges are disposed of separately such that the pleas, trials or withdrawals are heard in different courts on different days or before different judges, the roster member is entitled to separate tariffs or block fees for each group of offences, if the roster member satisfies the Corporation that the course of action taken by the roster member was appropriate;
  - (i) when a roster member represents an individual charged with two or more offences and the charges are disposed of together such that the pleas, trials or withdrawals are heard in the same court at approximately the same time, the roster member is entitled to one tariff for all offences heard together and to such additional fees as may be appropriate in accordance with section 70 of these Rules, or if two block fee certificates are resolved together, one block fee;
  - (j) despite clause (i), services provided for an ancillary proceeding billed on an interim block fee account may be billed separately when a roster member represents a person charged with two or more offences and the charges are disposed of together such that the pleas, trials or withdrawals are heard in in the same court at approximately the same time;
  - (k) when a roster member represents two or more individuals, and one of them is a private retainer client and another of them is represented under a certificate, the roster member shall disclose the fact of representing a private client to the Corporation and the Corporation shall prorate all disbursements and preparation time between the private client and the legally aided client;
  - (l) when youth charges are withdrawn after a successful application for extrajudicial sanctions, the maximum fee payable for a guilty plea for the same type of offence applies, and includes all preparation, correspondence and communication, adjournments and remands;
  - (m) fees for proceedings under the *Youth Criminal Justice Act* (Canada) and the *Young Offenders Act* (Canada) are payable at the same rate as is provided under the Act creating the offence, unless otherwise provided;
  - (n) [Revoked by Rule 2023/2, clause 5(a)]
  - (o) when a roster member's services are completed before a plea is entered or before the resolution of the matter, the applicable tariff is that which applies to a guilty plea for that offence, which, in the case of an indictable offence referred to in clause 10 (a), must not exceed 13 hours;
  - (p) provided that the more serious offence is authorized on the certificate, if the client pleads guilty to a lesser included offence the roster member is entitled to the tariff maximum for withdrawal of the more serious offence;
  - (q) when charges are withdrawn due to the application of the Kienapple principle before the commencement of a trial, the tariff for a guilty plea applies.
- (2) For the purpose of clause (1) (d), in determining whether to exempt a certificate from being billed as a block fee, the Corporation must consider the following factors:

- (a) whether the Crown will be devoting exceptional resources to the proceeding;
- (b) whether there will be
  - (i) an exceptional number of disclosures,
  - (ii) an exceptional number of charges,
  - (iii) the likelihood of multiple proceedings, novel facts or legal arguments, or
  - (iv) lengthy sentencing proceedings;
- (c) any other factor that the Corporation considers relevant.

#### INDICTABLE 2 OFFENCES

**8** For the purposes of Tables 3, 4 and 5, “contested trial” means a trial during which the Crown calls evidence to prove guilt beyond a reasonable doubt and the defence contests the Crown’s case through challenging the admissibility of evidence, cross-examination of Crown witnesses, calling defence evidence, and making submissions to the court that the Crown has failed to prove beyond a reasonable doubt that the accused is guilty of the criminal offence as charged. It includes a preliminary inquiry, a discovery, a Not Criminally Responsible hearing and a Gardiner hearing. (“procès contesté”)

**9** Table 3 sets out the maximum billable hours for services provided in respect of the Indictable 2 offences set out in the List of Offences published by the Corporation on the Corporation’s website.



**Table 3**

**Maximum Billable Hours for Indictable 2 Offences**

<b>Item</b>	<b>Description of services</b>	<b>Maximum hours allowed</b>
1	For all services rendered in connection with a plea of guilty or withdrawal of one or more charges that occurs before the commencement of a contested trial, including but not limited to the following:	15
	(a) all preparation, pre-trial conferences with the Crown, waiting time, correspondence, communications, document preparation;	
	(b) judicial interim release hearings, variations, judicial pre-trials not otherwise provided for in Table 6;	
	(c) adjournments and remands.	
2	For all services rendered in connection with a contested trial that lasts up to 10 days	22
	When the contested trial lasts more than 10 days, an additional	5
3	Actual time spent in attendance at the proceedings described in item 1 or 2 when evidence is heard or submissions made.  Time spent at court waiting to be reached on the date of the contested trial is billable as court time only if  (a) the matter is reached and commences on that date, and  (b) no other services are billed for the same period of time to any other client, whether legally aided or on a private retainer.	No Maximum
4	Preparation for each additional day of court attendance after the first day for a proceeding described in item 1 or 2.	4

**INDICTABLE 1 OFFENCES**

**10** Table 4 applies to all of the following:

- (a) to Indictable 1 offences, as set out in the List of Offences published by the Corporation on the Corporation's website, when the Crown elects to proceed by way of indictment;
- (b) to sexual assault contrary to section 271 of the *Criminal Code* (Canada), is payable pursuant to Table 4 regardless of the Crown's election;
- (c) when the Crown does not make an election, the proceeding shall be paid as a summary offence in accordance with Table 5.

**Table 4**

**Maximum Billable Hours for Indictable 1 Offences**

Item	Description of services	Maximum hours allowed
1	<p>For all services rendered in connection with a plea of guilty that occur before the commencement of a contested trial, whether or not a charge for another offence to which this table applies is withdrawn, including but not limited to the following:</p> <ul style="list-style-type: none"> <li>(a) all preparation, pre-trial conferences with the Crown, waiting time, correspondence, communications, document preparation;</li> <li>(b) judicial interim release hearings, variations, judicial pre-trials not otherwise provided for in Table 6,</li> <li>(c) adjournments and remands;</li> <li>(d) hearing time for the first half day, or two half days,</li> </ul>	
	<ul style="list-style-type: none"> <li>(i) when a plea of guilty is entered to all charges and the actual hearing time occupies a half-day in court and the total time spent on preparation described in clauses (a) and (b) does not exceed five hours,</li> </ul>	13
	<ul style="list-style-type: none"> <li>(ii) when one or more charges are withdrawn or a plea of guilty is entered to all charges and the actual hearing time occupies two half days, or total time spent on preparation as described in item 1 exceeds five hours</li> </ul>	15
2	<p>When an offence is resolved by way of a guilty plea and the actual hearing time exceeds a total of one full day or two half-days, the roster member is entitled to receive for each half-day in court after the first day, an additional</p>	2.5
3	<p>For all services rendered in connection with a contested trial, including but not limited to the following:</p> <ul style="list-style-type: none"> <li>(a) all preparation, pre-trial conferences with the Crown, waiting time, correspondence, communications, document preparation;</li> <li>(b) judicial interim release hearings, variations, judicial pre-trials not otherwise provided for in Table 6;</li> <li>(c) adjournments and remands;</li> <li>(d) two half-days, or less, of actual hearing time.</li> </ul>	17
4	<p>When an offence proceeds to a contested trial and the actual hearing time last more than two half-days, the case shall be billed as a contested trial in accordance with Table 3, Indictable 2 offences.</p>	

SUMMARY CONVICTION OFFENCES

11 Table 5 applies to all of the following:

- (a) summary conviction offences under the *Criminal Code* (Canada) and the *Controlled Drugs and Substances Act* (Canada);
- (b) hybrid offences when the Crown elects to proceed by way of summary conviction, when no election is made, or when the defendant and prosecutor consent to the matter proceeding by way of summary conviction after the expiration of the limitation period set out in subsection 786 (2) of the *Criminal Code* (Canada);
- (c) summary conviction offences under statutes of Canada other than the *Criminal Code* and the *Controlled Drugs and Substances Act*; and
- (d) offences under a statute of Ontario.

**Table 5**  
**Maximum Billable Hours for Offences – Summary Conviction Offences**

Item	Description of services	Maximum hours allowed, 11(a) and (b) offences	Maximum hours allowed, 11(c) and (d) offences
	<b>Fees</b>		
1	For all services rendered in connection with a plea of guilty to all charges that occur before the commencement of a contested trial, including, but not limited to, <ul style="list-style-type: none"> <li>(a) all preparation, pre-trial conferences with the Crown, waiting time, correspondence, communications, document preparation;</li> <li>(b) judicial interim release hearings, variations, judicial pre-trials not otherwise provided for in Table 6;</li> <li>(c) adjournments and remands; and</li> <li>(d) attendance at court.</li> </ul>	8	5
2	For all services rendered when one or more charges are withdrawn before the commencement of a contested trial including, but not limited to, <ul style="list-style-type: none"> <li>(a) all preparation, pre-trial conferences with the Crown, waiting time, correspondence, communications and document preparation;</li> <li>(b) judicial interim release hearings, variations, judicial pre-trials not otherwise provided for in Table 6;</li> <li>(c) adjournments and remands; and</li> <li>(d) attendance at court.</li> </ul>	10	7

3	For all services rendered in connection with a contested trial, including but not limited to, <ul style="list-style-type: none"> <li>(a) all preparation, pre-trial conferences with the Crown, waiting time, correspondence, communications, document preparation;</li> <li>(b) judicial interim release hearings, variations, judicial pre-trials not otherwise provided for in Table 6;</li> <li>(c) adjournments and remands; and</li> <li>(d) attendance at court for the first day of trial.</li> </ul>	15	9
4	If item 1 or 2 applies, for each half-day of proceedings after the first full day or two half- days, including all preparation, an additional	2.5	2.5
5	If item 3 applies,		
	(a) actual time spent in attendance for hearing days occurring after the first day when evidence is heard or submissions made excluding wait time;	No maximum	No maximum
	(b) per diem preparation for each additional day of court attendance after the first day	4	4

**Table 6**

**Maximum Billable Hours for Ancillary Criminal Proceedings**

Item	Description of services	Maximum hours allowed
	<b>Judicial Interim Release</b>	
1	For all preparation and conduct of the first application for a judicial interim release order, whether contested or on consent	2
2	For all preparation and conduct the second application for a judicial interim release order, whether contested or on consent, made pursuant to section 524 of the <i>Criminal Code</i> (Canada)  Billable if the Crown brings a section 524 of the <i>Criminal Code</i> (Canada) hearing regardless of whether or not a first bail hearing was billed. A first and second bail hearing cannot be billed for the same hearing.	3
3	For all preparation and filing of the first variation of a judicial interim release order or for attendance for the first variation of a judicial interim release order	1
	<b>Canadian Charter of Rights and Freedoms</b>	

Item	Description of services	Maximum hours allowed
4	For all preparation, including drafting, serving and filing of the notice of motion and factum for the first application for an order pursuant to the <i>Canadian Charter of Rights and Freedoms</i>	8
4.1	Actual time spent in attendance at a motion described in item 4 when evidence is heard or submissions made	No maximum
	<b>Judicial Pre-trial</b>	
5	For all preparation and attendance at	
	(a) one judicial pre-trial hearing before a judge of the Ontario Court of Justice;	2
	(b) one judicial pre-trial hearing before a judge of the Ontario Court of Justice when the matter has been set for trial, preliminary inquiry, NCR hearing, Gardiner hearing or discovery;	2
	(c) one judicial pre-trial hearing before a judge of the Superior Court of Justice.	2
	<b>Gladue</b>	
6	For the preparation or delivery of Gladue submissions at a bail hearing, or sentencing when a publicly funded Gladue report has been prepared for the specific offence or a recently prepared report was used	3
	<b>Bail Review</b>	
7	For all services for an application to the Superior Court of Justice for a review of orders made under section 515 of the <i>Criminal Code</i> (Canada), when approved by the Corporation. Payable if the roster member conducted a bail review or the Crown consented to a release after materials were prepared and filed.	5
	<b>Fitness Hearings</b>	
8	For attendance at fitness hearings	
	(a) billable only on the resolution of the matter; and	
	(b) billed as an additional day in accordance with the type of proceeding as set out in Tables 3, 4 and 5.	

**Table 7**

**Maximum Billable Hours for Other Proceedings**

Item	Description of services	Maximum hours allowed
	<b><i>Criminal Code</i> Review Board Hearings</b>	

Item	Description of services	Maximum hours allowed
1	For all services rendered in connection with a <i>Criminal Code</i> Review Board hearing:	
	(a) For all preparation other than for the attendance at the hearing	
	(i) for conducting the first day of hearing	10
	(ii) for conducting the second day of hearing	8
	(b) for attendance at the hearing	No maximum
2	For all services for an application for judicial interim release pending appeal to the Superior Court of Justice, the Court of Appeal or the Supreme Court of Canada, or for an application for release pending a new trial	5
3	For all services for an extension of judicial interim release pending appeal to the Superior Court of Justice, the Court of Appeal or the Supreme Court of Canada, or for an extension of release pending a new trial	3
	<b>Appeals to Superior Court of Justice</b>	
4	For all services rendered in connection with a summary conviction appeal to the Superior Court of Justice, other than attendance in court on the hearing of the appeal,	
	(a) on appeal from conviction or from conviction and sentence	16
	(b) on appeal from sentence	14
5	For attendance in court on the hearing of the appeal	No maximum
6	Despite items 12 and 13, on a stated case summary conviction appeal	
	(a) for all services rendered in connection with the appeal, other than attendance in court on the hearing of the appeal, and for one day attendance on the hearing of the appeal	11
	(b) for each day attendance on the hearing of the appeal after the first day, including all preparation	8.5
	<b>Appeals to the Court of Appeal</b>	
7	For all services rendered in connection with an appeal to the Court of Appeal other than attendance in court on the hearing of the appeal:	
	(a) on appeal from conviction or from conviction and sentence	37
	(b) on appeal from sentence	

Item	Description of services	Maximum hours allowed
	(i) if a plea of guilty was entered	14
	(ii) if the sentence followed a trial	16
	(c) on appeal from a decision of the Ontario Review Board	35
8	For attendance on the hearing of the appeal	No maximum
	<b>Appeals to the Supreme Court of Canada</b>	
9	For all services rendered in connection with an appeal to the Supreme Court of Canada, other than attendance in court on the hearing of the application for leave to appeal and the appeal:	
	(a) for application for leave to appeal	12
	(b) for hearing of appeal	37
10	For attendance on hearing of the application for leave to appeal and the appeal	No maximum
11	For receiving judgment	2
	<b>Prerogative Writs</b>	
12	For all preparation	16
13	For attendance on hearing of prerogative writ	No maximum
	<b>Bail Pending Appeal</b>	
14	For all services rendered in connection with an application for bail pending appeal to any level of court	5
15	For all services rendered in connection with an application for the extension of an order granting bail pending appeal to any level of court	3

**PART C**  
**CRIMINAL BLOCK FEES**

**12** In this Part,

“CCC” means the *Criminal Code* (Canada); (“CCC”)

“hybrid offence” means an offence under the CCC when the Crown may elect to proceed by way of indictment or by summary conviction; (“infraction mixte”)

“indictable charge” mean a charge under an indictable offence under the CCC or a hybrid offence for which the Crown elects to proceed by way of indictment; (“accusation d’acte criminel”)

“summary 1 charge” mean a charge under

- (a) an offence under an Act of Ontario,
- (b) an offence under an Act of Parliament other than under the CCC, or
- (c) a summary conviction offence under the CCC or a hybrid offence when the Crown elects to proceed by way of summary conviction and the maximum term of imprisonment was six months before September 19, 2019; (“accusation d’infraction de type 1 punissable sur déclaration de culpabilité par procédure sommaire”)

“summary 2 charge” means a charge under a hybrid offence for which the Crown elects to proceed by way of summary conviction and the maximum term of imprisonment was greater than six months before September 19, 2019. (“accusation d’infraction de type 2 punissable sur déclaration de culpabilité par procédure sommaire”)

**13** (1) The block fees in Table 8 are payable, subject to subsection (2), only when the roster member or agent attends court, either in person or virtually, to resolve a matter or when providing an ancillary service.

(2) In the case of a withdrawal or stay when the Crown has provided its agreement in writing in advance of the appearance date, a student may attend instead of the roster member.

**14** Discretion under section 70 of these Rules is not available on matters billed as block fees.

**15** A block fee payment includes all services provided under the certificate. It also includes the following associated costs:

- (a) sending faxes and photocopying (except for photocopying services provided by a third party);
- (b) process servers; and
- (c) service and filing of documents in Ontario.

**16** (1) If all the charges are unresolved because of a circumstance referred to in subsection (2), the account must be billed based on the hourly tariff for charges resolved by a guilty plea referred to in Part B.

(2) Following are the circumstances for the purpose of subsection (1):

- (a) a client changed lawyers;
- (b) the certificate was cancelled;
- (c) the lawyer was removed from the record;



- (d) the client failed to appear at a proceeding;
- (e) the lawyer was in a conflict of interest;
- (f) the lawyer did not attend at resolution;
- (g) the lawyer was discharged by the client;
- (h) the lawyer was suspended or prohibited from practising by the Law Society of Ontario;
- (i) other similar circumstances determined by the Corporation.

**Table 8**  
**Criminal Block Fees**

<b>Areas other than Northern Areas</b>					
<b>Item</b>	<b>Block fee type</b>	<b>Type of charge</b>	<b>Block fee rate</b>		
			<b>Rate effective October 16, 2023</b>	<b>Rate effective April 1, 2024</b>	<b>Rate effective April 1, 2025</b>
	<b>Resolution block fee</b>				
1	Guilty plea to all charges - Conduct and complete services rendered in connection with a guilty plea, including sentencing	Summary I Summary II Indictable	\$727.61 \$845.03 \$1,424.46	\$887.28 \$887.28 \$1,495.68	\$931.65 \$931.65 \$1,570.47
2	One or more charges withdrawn or stayed -- Conduct and complete a withdrawal or stay proceeding, including if a guilty plea occurs on a different day  Unless some of the charges are being heard separately pursuant to clause 7 (1) (h) in Part B  The withdrawal fee is not payable if a charge is withdrawn pursuant to the Kienapple principle	Summary I Summary II Indictable	\$956.08 \$1,107.95 \$1,543.16	\$1,163.35 \$1,163.35 \$1,620.32	\$1,221.51 \$1,221.51 \$1,701.34
	<b>Block fees for ancillary services</b>				
3	<b>Judicial pre-trial</b> Conduct and complete one judicial pre-trial	Summary I or II or Indictable	\$319.07	\$335.03	\$351.78

4	<p><b>Bail review</b></p> <p>For all services for an application to the Superior Court of Justice for a review of an order made under section 515 of the CCC</p> <p>Payable when the roster member conducted a bail review or the Crown consented to a release after materials were prepared and filed</p> <p>All other services provided are included in the block fee payment.</p>	Summary I or II or Indictable	\$478.61	\$1,005.08	\$1,055.34
5	<p><b>Mental health</b></p> <p>The mental health block fee is authorized based on the accused having an identifiable history of mental health issues and is only available on certificates when the matter has not been set down for trial.</p> <p>The mental health block fee may only be billed on a final account or supplementary account following a resolution of the charges.</p>	Summary I or II or Indictable	\$239.31	\$251.27	\$263.83
6	<p><b>Gladue</b></p> <p>For the preparation or delivery, or both, of a Gladue submission at a bail hearing or at sentencing:</p> <p>(a) when a publicly funded Gladue report is prepared for the specific charge; or</p> <p>(b) when a recently prepared report is used.</p>	Summary I or II or Indictable	\$287.16	\$502.53	\$527.66
<b>Northern Areas</b>					
<b>Item</b>	<b>Block fee type</b>	<b>Type of charge</b>	<b>Rate effective October 16, 2023</b>	<b>Rate effective April 1, 2024</b>	<b>Rate effective April 1, 2025</b>

	<b>Resolution block fee</b>				
7	Guilty plea to all charges-	Summary I	\$800.38	\$976.01	\$1,024.81
	Conduct and complete services rendered in connection with a guilty plea, including sentencing.	Summary II	\$929.54	\$976.01	\$1,024.81
		Indictable	\$1,566.91	\$1,645.25	\$1,727.52
8	One or more charges withdrawn or stayed-	Summary I	\$1,051.69	\$1,279.68	\$1,343.67
	Conduct and complete a withdrawal or stay proceeding, including if a guilty plea occurs on a different day.	Summary II	\$1,218.74	\$1,279.68	\$1,343.67
	Unless some of the charges are being heard separately pursuant to clause 7 (1) (h) in Part B	Indictable	\$1,697.48	\$1,782.35	\$1,871.47
	The withdrawal fee is not payable if a charge is withdrawn pursuant to the Kienapple principle.				
	<b>Block fees for ancillary services</b>				
9	<b>Judicial pre-trial</b> Conduct and complete one judicial pre-trial	Summary I or II or Indictable	\$350.98	\$368.53	\$386.96
10	<b>Bail review</b> For all services for an application to the Superior Court of Justice for a review of an order made under section 515 of the CCC  Payable when the roster member conducted a bail review or the Crown consented to a release after materials were prepared and filed  All other services provided are included in the block fee payment.	Summary I or II or Indictable	\$526.47	\$1,105.59	\$1,160.87
11	<b>Mental health</b>	Summary I or II or Indictable	\$263.24	\$276.40	\$290.22

	<p>The mental health block fee is authorized based on the accused having an identifiable history of mental health issues and is only available on certificates when the matter has not been set down for trial.</p> <p>The mental health block fee may only be billed on a final account or supplementary account following a resolution of the charges.</p>				
12	<p><b>Gladue</b></p> <p>For the preparation or delivery, or both, of a Gladue submission at a bail hearing or at sentencing:</p> <p>(a) when a publicly funded Gladue report is prepared for the specific charge; or</p> <p>(b) when a recently prepared report is used.</p>	Summary I or II or Indictable	\$315.88	\$552.78	\$580.42

## PART D

### CIVIL MATTERS

**17** This Part applies to the following matters:

- (a) family law matters, including advising complainants in family violence criminal matters;
- (b) child protection matters under the *Child, Youth and Family Services Act, 2017*;
- (c) matters before administrative boards and tribunals;
- (d) other civil matters.

**18** If a roster member represents two or more persons in the same proceeding or represents one person in two or more proceedings and, in either case, if the trials, hearings or appeals are heard in the same court or forum at approximately the same time, for the purposes of this Part, the roster member is entitled to fees as for one client on one proceeding and such additional fees as may be appropriate in accordance with section 70 of these Rules unless for valid reasons the roster member demonstrates that a separate tariff for each proceeding is appropriate and the roster member satisfies the Corporation that the course of action taken by the roster member was appropriate.

**19** Coverage for uncontested (no issue) divorces is available when there are exceptional circumstances giving rise to a compelling need for a divorce. If authorization is granted, no legal fees are payable and coverage shall be limited to disbursements only.

**20** Coverage for contested divorces is only provided for corollary issues when an applicant is served with a divorce petition claiming corollary relief; or the applicant has been served with a no issue divorce petition and wishes to respond raising corollary issues.

MAXIMUM HOURS ALLOWED IN CIVIL MATTERS

**21** Table 9 sets out the maximum hours for services provided in respect of civil matters.

**Table 9**

**Maximum Hours Allowed in Civil Matters**

Item	Description of services	Maximum hours allowed
	<b>FAMILY LAW</b>	
1	The maximums provided for family law include all services including interviews, correspondence, communications, pleadings, preparation of financial statements, discovery, production, disclosure, case management meetings with a judge, procedural or non-complex motions, adjournments, waiting time, reporting and billing (with billing being allowed to a maximum of 0.2 hours).	
2	For applications and proceedings under the <i>Divorce Act (Canada)</i> , the <i>Family Law Act</i> and the <i>Children's Law Reform Act</i> and for the negotiation of domestic contracts under the <i>Family Law Act</i>	16
3	For matters in which decision-making responsibility and parenting time and contact are in issue, an additional	15
4	For matters in which parenting time and contact are in issue, an additional	7.5
5	For matters in which support of a child, support of a person who has lived in a conjugal relationship within or outside marriage, or both is in issue, an additional	9
6	For matters in which any of possession, ownership, entitlement, identification or calculation of net family property or equalization payment is in issue, an additional	8
7	For matters in which an order restraining contact between persons who have lived together in a conjugal relationship within or outside marriage is sought or is in issue, an additional	4
8	For interviews and advice to complainant in a family violence criminal matter	2
9	Domestic violence – for initiating or responding to a motion to change an order or agreement, excluding proceedings to vary support only, for all services before the first pre-trial conference.	12

Item	Description of services	Maximum hours allowed
10	Domestic violence – for representation in a motion to change support only, including all services before the first pre-trial conference	7.5
11	For preparation for and attendance, including negotiations with opposing counsel, at each conference under Rule 17 of the <i>Family Law Rules</i> and at each Legal Aid Settlement conference	5
12 to 17	[Revoked by Rule 2023/2, clause 12(b)]	
18	Preparation for, and attendance at, a default hearing in the Ontario Court of Justice or the Family Court	2
19	Family law case management discussion with the Corporation	0.5
19.1	Preparation for an eligible complex motion	8
19.2	Actual attendance at an eligible complex motion, excluding waiting time and adjournments	No maximum
<b>CHILD PROTECTION</b>		
20	The maximums provided for child protection matters include all services including interviews, correspondence, communications, pleadings, preparation for and attendance at status review hearings, adjournments, waiting time reporting and billing (with billing being allowed a maximum of 0.2 hours).	
21	All proceedings under the <i>Child, Youth and Family Services Act, 2017</i> for all services when a supervision order is in issue, or to negotiate a voluntary care agreement	19
22	In proceedings under the <i>Child, Youth and Family Services Act, 2017</i> when a children's aid society is seeking an order for extended society care	45
23	Representation in proceedings under the <i>Child, Youth and Family Services Act, 2017</i> when a children's aid society is seeking an order for interim society care	45
24	For all services to prepare for a motion for temporary care and custody	6
25	Actual attendance at a motion for temporary care and custody	No maximum
26	For preparation for and attendance at a status review hearing – uncontested	10

Item	Description of services	Maximum hours allowed
27	For all preparation for and attendance at a status review hearing – contested	25
28	For all preparation for defending a motion for Summary Judgment	8
29	Actual attendance at a motion for Summary Judgment	No maximum
30	For preparation and attendance at each subsequent conference after the first, including negotiations with opposing counsel, under Rule 17 of the <i>Family Law Rules</i> and at each subsequent Legal Aid Settlement conference	5
31	In matters involving complex CYFSA matters that involve third parties.	4
32	Non-litigation advice and negotiation of a customary care, special needs or temporary care agreement or for participation in an Aboriginal ADR process, for all hours in advance of a <i>Child, Youth and Family Services Act, 2017</i> application. Discretion not available under section 70 of these Rules.	10
33	For all preparation for proceedings under the <i>Child, Youth and Family Services Act, 2017</i> on an Openness Application. Discretion not available under section 70 of these Rules.	10
34	Actual attendance on an openness application	No maximum
35	Preparation for an application under Part VII (Secure Treatment) of the <i>Child, Youth and Family Services Act, 2017</i> before the first day of hearing	8
36	Preparation for an application under Part VII (Secure Treatment) of the <i>Child, Youth and Family Services Act 2017</i> for each day of the hearing after the first day	2
37	Opinion as to the merits of application for prerogative remedy.	3
38	Attendance at hearing of application under Part VII (Secure Treatment) of the <i>Child, Youth and Family Services Act, 2017</i>	No maximum
39	Preparation for an application for prerogative remedy	16
40	Attendance at hearing of application for prerogative remedy	No maximum
	<b>LITIGATION</b>	
41	Trials, References and Hearings	

Item	Description of services	Maximum hours allowed
	In family law and child protection (both fees and disbursements), the Corporation may authorize trial and matters subsequent to trial. The Corporation's authorization for trial gives rise to additional tariff maximums as set out below.	
42	For setting the action or application down for trial, preparing and delivering notice of trial, attendance at assignment court, trial scheduling or trial audit, adjournments, waiting time and all preparation for a trial, reference or hearing of an application and preparation during the trial, reference or hearing,	
	(a) after the final pre-trial conference and before the first day of attendance at a trial, reference or hearing;	15
	(b) for all necessary matters subsequent to a trial, reference or hearing of an application, including signing and entering judgment but excluding matters provided for in Items 46, 47, 48 and 49;	3
	(c) for each day of attendance at a trial, reference or hearing after the first day (excluding extended society care/Crown wardship and interim society care/society wardship);	4
	(d) for each day of attendance at a trial, reference or hearing after the first day for extended society care/Crown wardship and interim society care/society wardship.	6
43	For actual attendance at a trial, reference or hearing of an application	No maximum
44	For <i>Children's Law Reform Act</i> and <i>Family Law Act</i> matters not involving domestic violence, preparation for attendance at one trial management conference	2
45	For attendance at the trial management conference on <i>Children's Law Reform Act</i> and <i>Family Law Act</i> matters not involving domestic violence	No maximum
	<b>Matters Subsequent to Trial, Reference or Hearing</b>	
46	For all preparation for and attendance on assessment of bill of costs, obtaining assignment of costs and filing execution	3
47	For all preparation for and attendance on examination in aid of execution	2



Item	Description of services	Maximum hours allowed
48	For all preparation for and attendance at a default hearing in the Ontario Court of Justice or the Family Court of the Superior Court of Justice	2
49	For all other necessary matters including preparation and filing request to enforce and preparing and issuing notice of garnishment	2
	<b>APPEALS</b>	
50	The Corporation will determine if authorization will be granted for appeal proceedings based on an opinion on the merits of an appeal.	
51	For an opinion as to the merits or appeal/judicial review to the Superior Court and/or Divisional Court, and to file notice of appeal in the client's name only, including motion to extend time if necessary	3
	<b>Appeals Combined with Motion for Leave</b>	
52	If a motion for leave to appeal and the hearing of the appeal are heard at approximately the same time, the roster member is entitled to fees for the appeal only.	
	<b>The following apply to appeals to the Supreme Court of Canada:</b>	
53	For all preparation for leave to appeal	17
54	For actual attendance on application for leave to appeal	No maximum
55	For all preparation for appeal	37
56	For actual attendance on appeal	No maximum
	<b>The following apply to appeals to the Ontario Court of Appeal and the Federal Court of Appeal:</b>	
57	For all preparation of motion for leave to appeal	12
58	For actual attendance on motion for leave to appeal	No maximum
59	For all preparation for appeal	27
60	For actual attendance on appeal	No maximum
	<b>The following apply to appeals to the Superior Court of Justice and the Divisional Court:</b>	
61	Preparation on motion for leave to appeal to the Superior Court of Justice and the Divisional Court from the disposition of a motion	2

Item	Description of services	Maximum hours allowed
62	Actual attendance at hearing of a motion for leave to appeal to the Superior Court Justice from the disposition of a motion	No maximum
63	For all preparation, including drawing and filing notice of appeal and appeal books	16
64	For all preparation, including drawing and filing notice of appeal and appeal books on appeal from a decision of the Consent and Capacity Board	35
65	For actual attendance on appeal	No maximum
<b>MENTAL HEALTH</b>		
66	The following apply to proceedings before the Consent and Capacity Board.	
67	For all services provided before the first day of hearing	10
68	For all services provided before each subsequent day of hearing	2
69	When there is more than one issue in dispute, preparation for all separate issues arising under different statutory provisions	3
70	Actual attendance at hearing	No maximum
71	For all services provided in connection with the post hearing consultation (billed as attendance time)	1
72	For all services in connection with representation before the Superior Court of Justice for proceedings under section 3 or 20.3 of the <i>Substitute Decisions Act, 1992</i> brought by the person subject to the guardianship	15
73	For actual attendance at the hearing	No maximum
74	For all services in connection with representation before the Consent and Capacity Board for proceedings pursuant to a Form G application (including by emergency injunction)	25
75	For actual attendance at the hearing	No maximum
76	For all services in connection with representation before the Consent and Capacity Board pursuant to a Form 18 application under the <i>Substitute Decisions Act, 1992</i> (s. 20.2 (1))	15
77	For actual attendance at the hearing	No maximum
<b>OTHER ADMINISTRATIVE BOARDS AND TRIBUNALS</b>		

Item	Description of services	Maximum hours allowed
78	The following apply to hearings before the Ontario Parole Board or the Federal Parole Board or a disciplinary hearing in respect of an incarcerated person	
79	For all services before the first day of hearing	5
80	For all services before each subsequent day of hearing	2
81	For actual attendance at the hearing	No maximum
	<b>The following apply to hearings before other quasi-judicial or administrative boards or tribunals</b>	
82	For all services before the first day of hearing	8
83	For all services before each subsequent day of hearing	2
84	For actual attendance at the hearing	No maximum
	<b>OTHER CIVIL MATTERS</b>	
85	For all services on an application for third party records All services including interviews, advice, obtaining disclosure, drafting of documents, correspondence, communications, negotiations, preparation for hearing	16
86	For actual attendance at the hearing	No maximum
	<b>IMMIGRATION AND REFUGEE MATTERS</b>	
87	The following apply to proceedings before the Refugee Protection Division of the Immigration and Refugee Board.	
88	For consultation regarding immigration issues and an opinion to the Corporation as to recommended procedures	3
89	For preparation and filing of a Basis of Claim form (BOC) and refugee portal application for a claimant from a country or claim type not subject to the Immigration and Refugee Board (IRB) expedited process	9
90	For preparation and filing of a BOC, refugee portal application and client disclosure in accordance with the IRB expedited process for a claimant from a country or claim type subject to the IRB expedited process	12
90.1	For items 89 and 90, when a claimant who is covered on the certificate requires their own BOC narrative	3

Item	Description of services	Maximum hours allowed
91	For all services pertaining to representation before the Refugee Protection Division of the Immigration and Refugee Board, including all preparation and adjournments, but excluding attendance, for claimants from countries and claim types not subject to the Immigration and Refugee Board expedited process	9
92	For all services pertaining to representation before the Refugee Protection Division of the Immigration and Refugee Board, including all preparation and adjournments, but excluding attendance for claimants from countries and claim types subject to the Immigration and Refugee Board expedited process following referral to a full hearing	6
93	For all services in relation to Cessation/Vacation proceedings before the Refugee Protection Division, excluding hearing time	16
94	<p>For actual attendance at the hearing or prehearing, referred to in items 91, 92 and 93:</p> <ul style="list-style-type: none"> <li>(a) attendance time is billable from the time the member arrives in the hearing room and goes on record to commence the hearing or to discuss pre-hearing matters. Attendance time concludes when the member goes off record at the end of the hearing;</li> <li>(b) breaks taken during a hearing may be included in attendance time with the exception of a lunch break; a lunch break during a full day hearing may not be included as hearing attendance time;</li> <li>(c) excludes wait time and adjournments.</li> </ul>	No maximum
95	For preparation for a subsequent sitting of the Refugee Protection Division when a first sitting has begun but not concluded	2
96	For preparation of written submissions on request by a member of the Refugee Protection Division	2
96.1	For services related to Minister's interventions or issues of exclusion	3
96.2	For services related to working with a designated representative when the claimant has an inability to appreciate the nature of the proceedings	3
97	The following applies to appeals before the Refugee Appeal Division of the Immigration and Refugee Board of negative decisions of the Refugee Protection Division.	
98	For all services provided in preparation of an assessment as to the merits of filing an appeal in the client's name only	4

Item	Description of services	Maximum hours allowed
99	For all services in preparation and filing of submissions to review negative decisions of the Refugee Protection Division	16
100	For all services in preparation for oral hearing to review a negative decision of the Refugee Protection Division excluding wait time and adjournments	4
101	For actual attendance at the hearing	No maximum
101.1	For preparation for a subsequent sitting of the Refugee Appeal Division when a first sitting has begun but not concluded	2
102	Applications to reopen a matter before the Refugee Protection Division, Refugee Appeal Division, or Immigration Appeal Division of the Immigration and Refugee Board	Varies
103	The following apply to a review of reasons for a detention order:	
	(a) for all preparation;	3
	(b) for all preparation for each subsequent detention review;	3
	(c) for actual attendance at the hearing, excluding waiting time and adjournments;	No maximum
	(d) for all preparation for a subsequent sitting of the Immigration Division for a detention review when a first sitting has begun but not concluded.	2
104	For the following services relating to applications and submissions to the Federal Minister:	
	(a) in Canada applications for permanent residence on humanitarian and compassionate grounds when no opinion certificate was granted;	16
	(b) in Canada applications for permanent residence on humanitarian and compassionate grounds when an opinion certificate was granted;	13
	(c) all services related to representing the client after first-stage approval has been granted in a humanitarian and compassionate grounds application;	10
	(d) submissions on danger to the public in a deportation matter;	20
	(e) applications for a pre-removal risk assessment when no opinion certificate was granted;	10

Item	Description of services	Maximum hours allowed
	(f) applications for a pre-removal risk assessment when an opinion certificate was granted;	7
	(g) preparation for attendance at a pre-removal risk assessment hearing;	6
	(h) actual attendance at a pre-removal risk assessment hearing;	No maximum
	(i) submissions in support of risk balancing under subsection 115 (2) of the <i>Immigration and Refugee Protection Act</i> (Canada);	6
	(j) submissions to the Minister in order to defer removal by the Canada Border Services Agency.	10
105	For all services in preparation for complex and contested admissibility hearings before the Immigration Division of the Immigration and Refugee Board	16
106	Actual attendance at admissibility hearings	No maximum
106.1	For preparation for a subsequent sitting of the Immigration Division for an admissibility hearing when a first sitting has begun but not concluded	2
107	For all services in preparation for complex and contested interviews with Immigration, Refugees and Citizenship Canada, Canada Border Services Agency or Canadian Security Intelligence Service	16
108	Actual attendance at contested interviews	No maximum
109	Appeals to the Immigration Appeals Division of the Immigration and Refugee Board	
	(a) for all services provided with respect to appeals from a deportation order;	16
	(b) for all services provided with respect to appeals from a decision to refuse a sponsorship application;	16
	(c) actual attendance on the appeals referred to in clauses (a) and (b).	No maximum
109.1	For preparation for a subsequent sitting of the Immigration Appeal Division when a first sitting has begun but not concluded	2
110	For applications in the Federal Court for judicial review	
	(a) for preparation of an assessment as to the merits of seeking leave, and filing the Notice of Application in the client's name only;	4
	(b) for all preparation for the application for leave;	15

Item	Description of services	Maximum hours allowed
	(c) for all preparation for the application (on granting of leave);	12
	(d) for actual attendance on the application.	No maximum
111	For appeals to the Federal Court of Appeal	
112	For motions in Federal Court to stay deportation,	
	(a) for all preparation;	15
	(b) for actual attendance on the stay application.	No maximum

## PART E

### DISBURSEMENTS

**22** (1) If a disbursement requires an authorization under this Part in advance of incurring the expense, a request for authorization must

- (a) be made in the form and manner specified by the Corporation;
- (b) be made in advance of incurring the expense; and
- (c) contain sufficient information to support the request.

(2) A request may be approved on a retroactive basis if the Corporation is satisfied that the request would have been granted if the request had been made in advance of incurring the expense and that the client was eligible for the legal aid services at the time the disbursement was incurred.

(3) If the request is refused in whole or in part, the roster member may request that the decision be reconsidered.

(4) A request for reconsideration must be made in the form and manner specified by the Corporation and must include the following information:

- (a) sufficient information to support the request;
- (b) the circumstance why the authorization could not have been requested in advance; and
- (c) any other information specified by the Corporation.

(5) When a disbursement requires an authorization under this Part in advance of the disbursement being incurred, a roster member is not entitled to the payment for the disbursement unless the disbursement is so authorized.

**23** A deposit or other advance payment that is necessary to produce a transcript or secure the services of a third-party provider may be authorized if approval is obtained from the Corporation in advance of making the deposit or advance payment.

**24** (1) The following disbursements and their limits, if applicable, do not require authorization in advance of incurring the expense:

- (a) faxes (\$0.25 per page);
- (b) in-office photocopies (\$0.10 per page);
- (c) postage;

- (d) courier services;
- (e) process servers;
- (f) long-distance telephone charges;
- (g) binding of documents;
- (h) any other disbursement specified by the Corporation and published on the Corporation's website.

(2) A disbursement not otherwise referred to in subsection (1) requires authorization in advance of the disbursement being incurred.



## **SCHEDULE 3**

(Section 27)

### **MINIMUM EXPERIENCE REQUIREMENTS TO BE AUTHORIZED TO PROVIDE LEGAL AID SERVICES BY AREA OF LAW**

#### **PART 1**

#### **PURPOSE AND SCOPE**

##### **Purpose**

**1** This Schedule sets out the minimum experience requirements for a roster member to be authorized to provide certificate services and duty counsel services in specific areas of law.

##### **Authorizations**

**2** (1) To be authorized to provide certificate services or duty counsel services in a particular area of law, a roster member must

- (a) satisfy the Corporation that they meet all applicable criteria for that area of law; and
- (b) certify that they are qualified to provide high-quality, effective and efficient legal services in the specified area of law.

(2) A roster member may hold authorization in more than one area of law.

(3) An authorization to provide certificate services or duty counsel services does not guarantee a minimum number of certificates or duty counsel shifts.

(4) For greater clarity, experience as described in this Schedule consists of experience obtained practising law in the Province of Ontario.

##### **Conditional authorizations**

**3** (1) If a roster member who applies under section 27 of the Rules for authorization to provide legal aid services in an area of law does not meet the minimum experience requirements set out in this Schedule for that area of law, the Corporation may grant a conditional authorization for up to 24 months.

(2) A conditional authorization is revoked on its expiry unless it is renewed in accordance with subsection (3).

(3) On the request of the roster member, the Corporation may renew the conditional authorization for up to a further 12 months, at the end of which period the conditional authorization is revoked.

(4) When a conditional authorization is revoked under subsection (2) or (3), the roster member may not apply for another authorization in the same area of law until three years have elapsed since the revocation, unless the roster member can demonstrate that they meet the minimum experience requirements for that area of law.

## PART 2

### CRIMINAL LAW

#### DIVISION 1

#### CRIMINAL LAW — GENERAL

##### Minimum experience

4 (1) To be authorized to provide certificate services in general criminal law, a roster member must have completed at least 20 criminal law files within the last three years before applying for authorization, including at least three contested trials, preliminary inquiries or appeals or any combination of them.

(2) A roster member who has been certified as a specialist in criminal law by the Law Society of Ontario is considered to have met the minimum experience requirements.

(3) The roster member must

- (a) review the materials listed in the document entitled *Material for review by roster members authorized to provide legal aid services in general criminal law matters* published on the Corporation's website; and
- (b) in their application, attest that they have reviewed those materials.

#### DIVISION 2

#### CRIMINAL LAW — EXTREMELY SERIOUS MATTERS

##### Definition of “extremely serious matter”

5 (1) In this Part, “extremely serious matter” means

- (a) a youth or adult trial or appeal in relation to any of the following offences:
  - (i) any offence of culpable homicide,
  - (ii) any offence for which the *Criminal Code* provides a mandatory minimum sentence of four years or more,
  - (iii) any offence related to terrorism set out in Part II.1 of the *Criminal Code*;
- (b) a dangerous offender application; or
- (c) an extradition hearing in relation to anything listed in clause (a) or (b). (“affaire extrêmement grave”)

(2) To be authorized to provide certificate services in extremely serious matters, a roster member must be authorized in accordance with section 4 to provide certificate services in general criminal law, without having had any conditions or requirements imposed on their authorization under subsection 27(5) of the Rules.

(3) A roster member whose authorization is conditional within the meaning of section 3 may not provide certificate services in extremely serious matters.

(4) Despite subsection (3), a roster member whose authorization is conditional may be authorized to provide certificate services in extremely serious matters if the Corporation determines that it is necessary for the roster member to be so authorized in order to meet the Corporation's operational needs or the needs of the district or part of a district where the services are to be provided.

#### **Minimum experience**

6 (1) A roster member must have the following minimum experience before applying for authorization to provide certificate services in extremely serious matters:

- (a) at least five years of practice restricted to criminal law;
- (b) all of the following experience:
  - (i) conducted 100 days of contested trials or contested preliminary inquiries,
  - (ii) acted as counsel, co-counsel or junior counsel on at least one jury trial,
  - (iii) conducted at least five voir dires with issues of similar fact, statements, hearsay or expert evidence,
  - (iv) conducted at least five contested Charter applications related to disclosure, search and seizure, detention or arrest, right to counsel, section 11(b) or abuse of process.

(2) A roster member who has been certified as a specialist in criminal law by the Law Society of Ontario is considered have met the minimum experience requirements.

(3) The roster member must

- (a) review the materials listed in the document entitled *Material for review by roster members authorized to provide legal aid services in extremely serious criminal law matters* published on the Corporation's website; and
- (b) in their application, attest that they have reviewed those materials.

### **DIVISION 3**

#### **GLADUE SERVICES**

##### **Definition of "Gladue services"**

7 In this Division, "Gladue services" means certificate services in general criminal law provided to clients who self-identify as Indigenous. ("services Gladue")

##### **Minimum experience**

8 (1) To be authorized to provide Gladue services, a roster member must be authorized in accordance with section 4 to provide certificate services in general criminal law.

(2) The roster member must satisfy the Corporation in their application that they are familiar with the resources available for Indigenous clients in the local area where the authorized Gladue services are to be provided.

(3) The roster member must

- (a) review the materials listed in the document entitled *Material for review by roster members authorized to provide legal aid services in Gladue matters* published on the Corporation's website; and
- (b) in their application, attest that they have reviewed those materials.

**Note: Divisions 4 and 5 of Part 2 of Schedule 3, enacted by section 4 of Rule 2022/1, are not yet in force. They come into force on January 1, 2024. The original coming to force date of June 1, 2023 was amended by Rule 2023/1.**

## **DIVISION 4**

### **YOUTH CRIMINAL LAW MATTERS**

#### **Minimum experience**

**9** (1) A roster member must have completed at least six youth criminal law matters within the last year, or have at least six such matters ongoing in that same period, before applying for authorization to provide certificate services in youth criminal law matters.

(2) To be authorized to provide certificate services in youth criminal law matters, a roster member must be authorized in accordance with section 4 to provide certificate services in general criminal law.

(3) A roster member must satisfy the Corporation in their application that they are familiar with the resources available for youth criminal clients in the district or specified part of a district where the roster member is authorized.

(4) The roster member must

- (a) review the materials listed in the document entitled *Material for review by roster members authorized to provide legal aid services in youth criminal law matters* published on the Corporation's website; and
- (b) in their application, attest that they have reviewed those materials.

## **DIVISION 5**

### **CRIMINAL MENTAL HEALTH MATTERS**

#### **Definition of "criminal mental health matter"**

**10** In this Division, "criminal mental health matter" means the following:

- (a) a proceeding in mental health court;
- (b) a fitness hearing;
- (c) a proceeding before the Ontario Review Board;
- (d) a Not Criminally Responsible proceeding;
- (e) an Amicus appointment;
- (f) an assignment of counsel in circumstances in which an individual seeking legal aid services cannot complete an application for legal aid due to mental illness. ("affaire criminelle liée à la santé mentale")

#### **Minimum experience**

**11** (1) To be authorized to provide certificate services in criminal mental health matters, a roster member must be authorized to provide certificate services

- (a) in general criminal law in accordance with section 4; or
- (b) in health law – consent and capacity in accordance with section 18.

(2) A roster member must have the minimum experience set out in either paragraph (a) or (b), as follows, before applying for authorization:

- (a) five completed Ontario Review Board proceedings or appeals from such proceedings within the last four years; or
- (b) five of the following types of proceedings, in any combination that includes at least two of the three types, completed within the last four years:
  - (i) a fitness hearing, with expert evidence or report,
  - (ii) a Not Criminally Responsible hearing,
  - (iii) a criminal proceeding for which a mental health block under Schedule 2 was approved.

(3) The roster member must

- (a) review the materials listed in the document entitled *Material for review by roster members authorized to provide legal aid services in criminal mental health matters* published on the Corporation's website; and
- (b) in their application, attest that they have reviewed those materials.

### **PART 3**

## **FAMILY LAW AND CHILD PROTECTION LAW**

### **DIVISION 1**

### **FAMILY LAW**

#### **Minimum experience**

**12 (1)** To be authorized to provide certificate services in family law, a roster member must have completed the following minimum experience within the last two years before applying for authorization:

- (a) substantial involvement in 10 family law proceedings, including matters of decision-making responsibility, parenting time, child and spousal support, property or divorce or any combination of such matters;
- (b) participation in at least three of any of the following:
  - (i) a case conference,
  - (ii) a contested motion,
  - (iii) a settlement conference,
  - (iv) a trial management conference,
  - (v) a summary judgment motion,
  - (vi) a focused hearing or trial,
  - (vii) an arbitration or appeal;
- (c) participation in at least three of any of the following types of consensual dispute resolution processes, at least one of which achieved resolution:
  - (i) a mediation,
  - (ii) the negotiation of a separation agreement,

- (iii) an arbitration,
  - (iv) a Legal Aid Settlement Conference,
  - (v) a collaborative, alternative or Indigenous family law dispute resolution process.
- (2) The roster member must
- (a) review the materials listed in the document entitled *Material for review by roster members authorized to provide legal aid services in family law* published on the Corporation's website; and
  - (b) in their application, attest that they have reviewed those materials.

## **DIVISION 2**

### **CHILD PROTECTION LAW**

#### **Minimum experience**

**13** (1) In this Division, "CYFSA" means *the Child, Youth and Family Services Act, 2017*. ("LSEJF")

(2) To be authorized to provide certificate services in a matter under the CYFSA, a roster member must have had substantial involvement in at least 15 of the following proceedings or matters under that Act, completed within the last three years before applying for authorization, either representing parents or as counsel for the Office of the Children's Lawyer or for the Children's Aid Society:

- (a) a child protection conference, including a case conference, settlement conference or trial management conference;
  - (b) a temporary care and custody hearing;
  - (c) a motion for access;
  - (d) a motion for summary judgment;
  - (e) a child protection trial;
  - (f) the negotiation of a customary care, voluntary care or temporary care agreement;
  - (g) an Indigenous alternative dispute resolution process.
- (3) The roster member must
- (a) review the materials listed in the document entitled *Material for review by roster members authorized to provide legal aid services in child protection law matters* published on the Corporation's website; and
  - (b) in their application, attest that they have reviewed those materials.

## **PART 4**

### **IMMIGRATION AND REFUGEE LAW**

#### **DIVISION 1**

#### **IMMIGRATION AND REFUGEE LAW — GENERAL**

#### **Immigration and refugee law – General**

**14** This Division applies to all immigration and refugee certificate services, with the exception of those set out in section 16.

**Minimum experience**

**15 (1)** To be authorized to provide certificate services in general immigration and refugee law, a roster member must have completed at least 10 of the following matters, or any combination of such matters, within the last two years before applying for authorization:

- (a) a Refugee Protection claim before the Refugee Protection Division of the Immigration and Refugee Board;
  - (b) a Cessation or Vacation application before the Refugee Protection Division of the Immigration and Refugee Board;
  - (c) a Pre-removal Risk Assessment (PRRA) submission;
  - (d) a Danger Opinion submission;
  - (e) a Humanitarian and Compassionate Grounds application;
  - (f) an appeal before the Immigration Appeal Division of the Immigration and Refugee Board in respect of any matter for which the Corporation provides coverage;
  - (g) a detention review hearing.
- (2) The roster member must
- (a) review the materials listed in the document entitled *Material for review by roster members authorized to provide legal aid services in general immigration and refugee law* published on the Corporation's website; and
  - (b) in their application, attest that they have reviewed those materials.

**DIVISION 2**

**IMMIGRATION AND REFUGEE LAW — APPELLATE**

**Immigration and refugee law – Appellate**

**16** This Division applies to the following immigration and refugee services:

- (a) appeals before the Refugee Appeal Division of the Immigration and Refugee Board;
- (b) judicial reviews before the Federal Court;
- (c) appeals before the Federal Court of Appeal;
- (d) appeals before the Supreme Court of Canada;
- (e) applications before the Superior Court for a writ of habeas corpus;
- (f) applications to the Canada Border Services Agency for a deferral of removal, and motions for a stay of removal before the Federal Court.

**Minimum experience**

**17 (1)** To be authorized to provide certificate services in appellate immigration and refugee law, a roster member must be authorized in accordance with section 15 to provide certificate services in general immigration and refugee law.

(2) To be authorized to provide certificate services in appellate immigration and refugee law, a roster member must have completed at least 10 of the following matters, or any combination of such matters, within the last two years before applying for authorization:

- (a) an appeal before the Refugee Appeal Division of the Immigration and Refugee Board;
  - (b) a perfected Federal Court application for leave or for judicial review of any of the following:
    - (i) a decision of the Refugee Protection Division or Refugee Appeal Division of the Immigration and Refugee Board,
    - (ii) a Pre-removal Risk Assessment or Danger Opinion decision,
    - (iii) a decision regarding a Humanitarian and Compassionate Grounds application;
  - (c) a motion in Federal Court to stay removal;
  - (d) a judicial review hearing in Federal Court in respect of a decision referred to in paragraph (b);
  - (e) an appeal before the Federal Court of Appeal in respect of any immigration or refugee law matter.
- (3) The roster member must
- (a) review the materials listed in the document entitled *Material for review by roster members authorized to provide legal aid services in appellate immigration and refugee law* published on the Corporation's website; and
  - (b) in their application, attest that they have reviewed those materials.

## PART 5

### HEALTH LAW — CONSENT AND CAPACITY

#### Minimum experience

**18** (1) To be authorized to provide certificate services in health law – consent and capacity, a roster member must have had carriage of at least three matters under retainer for proceedings before the Consent and Capacity Board within the last two years before applying for authorization.

- (2) The roster member must
- (a) review the materials listed in the document entitled *Material for review by roster members authorized to provide legal aid services in health law consent and capacity matters* published on the Corporation's website; and
  - (b) in their application, attest that they have reviewed those materials.

## PART 6

### DUTY COUNSEL

#### DIVISION 1

### DUTY COUNSEL AUTHORIZATIONS — GENERAL

#### Validity period

**19** (1) An authorization to provide duty counsel services is valid for 24 months from the day on which it is approved.

- (2) On request of the roster member, the Corporation may renew the authorization on its expiry for a further 24 months.



- (3) If the roster member does not request the renewal of their authorization before it expires, the authorization is revoked.
- (4) The Corporation may revoke an authorization at any time during the provisional period described in section 21.
- (5) Before an authorization is renewed under subsection (2) or revoked under subsection (3) or (4), the Corporation may carry out an evaluation of the roster member's performance during the period of the authorization, in accordance with section 22.
- (6) A roster member whose authorization is revoked under subsection (3) or (4) may only reapply for a further authorization to provide duty counsel services if at least 12 months have elapsed since the revocation.

#### **Factors for refusal**

**20** (1) Notwithstanding that a roster member meets the minimum experience requirements set out in Division 2 or 3, the Corporation may refuse to grant an authorization to provide duty counsel services, or to renew such an authorization, if the Corporation has determined that there is already a sufficient number of authorized roster members to meet local demands.

- (2) In making its decision to grant or renew an authorization, the Corporation may consider other related factors, including but not limited to the following:
  - (a) the local conditions, including overall staffing and the per-diem requirements of the particular Court;
  - (b) the needs of the clients in the district or part of a district;
  - (c) budgetary or financial factors.

#### **Provisional period**

**21** A roster member's authorization to provide duty counsel services in an area of law is subject to a provisional period of at least four months, or until such time as the roster member has completed five duty counsel shifts in that area of law, whichever is longer, in either of the following circumstances:

- (a) it is the first time that the roster member is authorized to provide duty counsel services in that area of law;
- (b) the roster member was previously authorized to provide duty counsel services in that area of law but did not receive a successful evaluation at the time their previous authorization was revoked under subsection 19(3) or (4).

#### **Evaluation**

**22** The Corporation may evaluate a roster member's performance by taking the following factors into account in its decision to renew or revoke the roster member's authorization, including but not limited to the following factors:

- (a) the roster member's ability to provide high-quality duty counsel services, including their knowledge of substantive law, legal procedure and the specific needs of legally aided clients;
- (b) the roster member's conduct as duty counsel, including their compliance with the Corporation's policies, procedures and administrative requirements;
- (c) the roster member's ability to manage a high volume of clients, their client relations and the quality of service they provided;
- (d) the roster member's punctuality and availability to provide duty counsel services;

- (e) the roster member's ability to utilize the Corporation's data management and other software;
- (f) the roster member's conduct when providing certificate services, including their history in respect of compliance, investigations, audits and complaints.

## **DIVISION 2**

### **DUTY COUNSEL**

#### **Minimum experience – Criminal Court (Adult) and Criminal Court (Youth) Duty Counsel**

**23** To be authorized to provide legal aid services as duty counsel in criminal court (adult) and criminal court (youth), a roster member must be authorized in accordance with Division 1 of Part 2 to provide certificate services in general criminal law and must have completed the following minimum experience within the last three years before applying for the authorization:

- (a) three contested judicial interim release hearings;
- (b) three guilty pleas or criminal trials;
- (c) three criminal sentencing hearings;
- (d) six hours of Continuing Professional Development in criminal law.

#### **Minimum experience – Family Court Duty Counsel and Advice Lawyer**

**24** To be authorized to provide legal aid services as duty counsel and advice lawyer in family court, a roster member must be authorized in accordance with Division 1 of Part 3 to provide certificate services in family law and must have completed the following minimum experience within the last three years before applying for the authorization:

- (a) representation at two or more family law trials or contested family law matters;
- (b) representation at two or more child protection hearings;
- (c) representation at two or more *Family Responsibility and Support Arrears Enforcement Act, 1996* enforcement proceedings;
- (d) preparation of two or more family law motions, applications or pleadings or any combination of them;
- (e) representation at two or more family law motions;
- (f) negotiation of two or more family matters to settlement, including drafting of Minutes of Settlement;
- (g) representation of clients who face domestic violence, including by representation of such clients in five family law matters in which the client has disclosed domestic violence;
- (h) six hours of Continuing Professional Development in family law.

## **DIVISION 3**

### **DUTY COUNSEL — ADVICE LAWYERS**

#### **Minimum requirements – domestic violence advice lawyer**

**25** To be authorized to provide legal aid services as a domestic violence advice lawyer, a roster member must meet the following minimum requirements within the last three years before applying for the authorization:

- (a) be authorized to provide certificate services
  - (i) in family law in accordance with Division 1 of Part 3, or
  - (ii) in general immigration and refugee law in accordance with Division 1 of Part 4;
- (b) have represented clients in five family law matters or five general immigration and refugee law matters, as applicable, in which the client has disclosed domestic violence.

[*Rule 2022/1, s. 4*]