

# Rules amending the Legal Aid Services Rules (Fees and disbursements)



DRAFT DOCUMENT FOR CONSULTATION FEEDBACK - Published: June 2023

## Amendments

1 Table 1 of Schedule 2 to the *Legal Aid Services Rules* is revoked and the following substituted:

Table 1

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

Areas other than Northern Areas			
Description	Hourly rate for legal aid services (Effective TBD 2023)	Hourly rate for legal aid services (Effective TBD 2024)	Hourly rate for legal aid services (Effective TBD 2025)
Tier 1	\$114.60	\$120.33	\$126.34
Tier 2	\$128.92	\$135.37	\$142.14
Tier 3	\$143.25	\$150.41	\$157.93
Complex case rate	\$169.10	\$177.56	\$186.44
Law clerks and investigators in the employ of the roster member	\$33.99	\$35.69	\$37.47
Articling students	\$67.98	\$71.38	\$74.94

<b>Northern Areas</b>			
Tier 1	\$126.06	\$132.36	\$138.98
Tier 2	\$141.81	\$148.90	\$156.35
Tier 3	\$157.57	\$165.45	\$173.72
Complex rate case	\$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	\$74.77	\$78.51	\$82.44

**2 Subsections 2 (2) to (4) of Schedule 2 to the Rules are revoked and the following substituted:**

(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.

**3 Subsection 4(3) of Schedule 2 to the Rules is revoked and the following substituted:**

(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 TBD 2023;
- (b) \$1,303.12, effective TBD 2024;
- (c) \$1,368.27, effective TBD 2025.

**4 Table 2 of Schedule 2 to the Rules is revoked and the following substituted:**

**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

**5 Clause 7(1)(n) of Schedule 2 to the Rules is revoked.**

**6 Table 3 of Schedule 2 to the Rules is amended**

**(a) by revoking the portion of item 1 before clause (a) and substituting the following:**

1	For all services rendered in connection with a plea of guilty or the withdrawal of one or more charges that occur before the commencement of a contested trial, including but not limited to the following:	15
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**(b) by revoking item 2 and substituting the following:**

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

**7 Table 4 of Schedule 2 to the Rules is amended**

**(a) by revoking item 1 and substituting the following:**

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> <p>(a) all preparation, pre-trial conferences with the Crown, waiting time, correspondence, communications, document preparation;</p> <p>(b) judicial interim release hearings, variations, judicial pre-trials not otherwise provided for in Table 6;</p> <p>(c) adjournments and remands;</p> <p>(d) hearing time for the first half day, or two half days.</p>	15
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**(b) by revoking items 3 and 4 and substituting the following:**

3	<p>For all services rendered in connection with a contested trial, including but not limited to the following:</p> <p>(a) all preparation, pre-trial conferences with the Crown, waiting time, correspondence, communications, document preparation;</p> <p>(b) judicial interim release hearings, variations, judicial pre-trials not otherwise provided for in Table 6;</p> <p>(c) adjournments and remands.</p>	17
4	Actual time spent in attendance at a proceeding described in item 3 when evidence is heard or submissions made	No maximum
5	Preparation for each additional day of court attendance after the first day for a proceeding described in item 3	4

**8 Table 5 of Schedule 2 to the Rules is revoked and the following substituted:**

**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	<p>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,</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; and</li> <li>(d) attendance at court.</li> </ul>	8	5
2	<p>For all services rendered when one or more charges are withdrawn before the commencement of a contested trial including, but not limited to,</p> <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, (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; and (c) adjournments and remands.	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 at a proceeding described in item 3 when evidence is heard or submissions made, excluding waiting time	No maximum	No maximum
	(b) per diem preparation for each additional day of court attendance after the first day	4	4

**9 Table 6 of Schedule 2 to the Rules is revoked and the following substituted:**

**Table 6**

**Maximum Billable Hours for Ancillary Criminal Proceedings**

<b>Item</b>	<b>Description of services</b>	<b>Maximum hours allowed</b>
	<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	4
2	For all preparation and conduct of 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.	5
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>	
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
5	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>	
6	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>	
7	For the preparation or delivery of <i>Gladue</i> submissions at a bail hearing, or sentencing when a publicly funded <i>Gladue</i> report has been prepared for the specific offence or a recently prepared report was used	5
	<b>Impact of Race and Culture Assessment</b>	
<b>Item</b>	<b>Description of services</b>	<b>Maximum hours allowed</b>
8	For the preparation or delivery of an Impact of Race and Culture Assessment (IRCA) submission at a sentencing when a publicly funded IRCA report has been prepared for the specific offence or a recently prepared report was used	5
	<b>Bail Review</b>	
9	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.	10
10	For all services for an application to the Superior Court of Justice pursuant to section 525 of the <i>Criminal Code</i> (Canada) to determine whether or not an accused should be released from custody.	10
	<b>Mental Health</b>	
11	For preparation and for each day of actual attendance at a fitness hearing	3



12	For preparation and for each day of actual attendance at a fitness hearing	2
	<b>Offences Resolved Together</b>	
13	For substantive offences contained on a separate information and resolved at the same time in accordance with clause 7(1)(i), whether added to an existing certificate or contained on a separate certificate:	
	(a) when the most serious offence in the added information is an offence included in Table 3	4
	(b) when the most serious offence in the added information is an offence included in Table 4	3
	(c) when the most serious offence in the added information is an offence included in Table 5	2
	<b>Interpreter services</b>	
14	For all services related to the use of an interpreter when interviewing a client or reviewing documents with a client, when the services are billed as a disbursement	2

**10 Table 7 of Schedule 2 to the Rules is amended by adding the following after item 15:**

	<b>Interpreter Services</b>	
16	For all services related to the use of an interpreter when interviewing a client or reviewing documents with a client, when the services are billed as a disbursement	2

**11 The definitions “summary 1 charge” and “summary 2 charge” in section 12 of the Rules are revoked and the following substituted:**

“summary charge” means a charge under any of the following:

- (a) an offence under an Act of Ontario,
- (b) an offence under an Act of Parliament other than under the CCC,
- (c) a summary conviction offence under the CCC or a hybrid offence when the Crown elects to proceed by way of summary conviction. (*“accusation d’infraction punissable sur déclaration de culpabilité par procédure sommaire”*)

**12 Section 15 is revoked and the following substituted:**

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.

**13 Table 8 of Schedule 2 to the Rules is revoked and the following substituted:**

**Table 8**

**Criminal Block Fees**

Areas other than Northern Areas					
Item	Block fee type	Type of charge	Block fee rate		
			Rate effective TDB 2023	Rate effective TBD 2024	Rate effective TDB 2025
	<b>Resolution block fee</b>				
1	Guilty plea to all charges --	Summary	\$845.03	\$887.28	\$931.65
	Conduct and complete services rendered in connection with a guilty plea, including sentencing	Indictable	\$1,424.46	\$1,495.68	\$1,570.47

2	<p>One or more charges withdrawn or stayed --</p> <p>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</p> <p>The withdrawal fee is not payable if a charge is withdrawn pursuant to the Kienapple principle</p>	Summary	\$1,107.95	\$1,163.35	\$1,221.51
		Indictable	\$1,543.16	\$1,620.32	\$1,701.34
	<b>Block fees for ancillary services</b>				
3	<p><b>Judicial pre-trial</b></p> <p>Conduct and complete one judicial pre-trial</p>	Summary or Indictable	\$319.07	\$335.03	\$351.78
4	<p><b>Judicial interim release</b></p> <p>Conduct and complete the first application for a judicial interim release order, whether contested or on consent</p>	Summary or Indictable	\$638.15	\$670.06	\$703.56
5	<p><b>2nd bail hearing</b></p> <p>Conduct and complete a 2nd bail hearing under subsection 524(4) of the CCC</p>	Summary or Indictable	\$797.69	\$837.57	\$879.45
6	<p><b>Bail variation</b></p> <p>Prepare and a file an application for bail variation under section 519.1 of the CCC</p>	Summary or Indictable	\$159.542	\$167.51	\$175.89

7	<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 or Indictable	\$957.22	\$1,005.08	\$1,055.34
8	<p><b>Detention review</b></p> <p>For all services for an application to the Superior Court of Justice under section 525 of the CCC to determine whether or not the accused should be released from custody</p>	Summary or Indictable	\$957.22	\$1,005.08	\$1,055.34
9	<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 or Indictable	\$239.31	\$251.27	\$263.83

10	<b>Fitness Hearing</b>  For preparation and attendance at a fitness hearing	Summary or Indictable	\$287.16	\$301.52	\$316.60
11	<b>Gladue</b>  For the preparation or delivery, or both, of a Gladue submission at a bail hearing or at sentencing:  (a) when a publicly funded Gladue report is prepared for the specific charge; or  (b) when a recently prepared report is used.	Summary or Indictable	\$478.60	\$502.53	\$527.66
12	<b>Impact of Race and Culture Assessment (IRCA)</b>  For the preparation or delivery, or both, of an IRCA submission at sentencing  (a) when a publicly funded IRCA report is prepared for the specific charge; or  (b) when a recently prepared report is used	Summary or Indictable	\$478.60	\$502.53	\$527.66

13	<b>Offences Resolved Together</b>  For substantive offences contained on a separate information resolved at the same time in accordance with clause 7(1)(i), whether added to an existing certificate or contained on a separate certificate				
	When the election on the most serious offence was:	Summary	\$287.16	\$301.52	\$316.60
		Indictable	\$335.01	\$351.76	\$369.35
14	<b>Interpreter services</b>  For all services related to the use of an interpreter when interviewing a client or reviewing documents with a client, when the services are billed as a disbursement	Summary or Indictable	\$191.44	\$201.01	\$211.06
<b>Northern Areas</b>					
<b>Item</b>	<b>Block fee type</b>	<b>Type of charge</b>	<b>Rate effective TBD 2023</b>	<b>Rate effective TBD 2024</b>	<b>Rate effective TBD 2025</b>
	<b>Resolution block fee</b>				
15	Guilty plea to all charges- Conduct and complete services rendered in connection with a guilty plea, including sentencing.	Summary	\$929.53	\$976.01	\$1,024.81
		Indictable	\$1,556.91	\$1,645.25	\$1,727.52
16	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.	Summary	\$1,218.74	\$1,279.68	\$1,343.67
		Indictable	\$1,697.48	\$1,782.35	\$1,871.47

	<p>Unless some of the charges are being heard separately pursuant to clause 7 (1) (h) in Part B</p> <p>The withdrawal fee is not payable if a charge is withdrawn pursuant to the Kienapple principle.</p>				
	<b>Block fees for ancillary services</b>				
17	<p><b>Judicial pre-trial</b></p> <p>Conduct and complete one judicial pre-trial</p>	Summary or Indictable	\$350.98	\$368.53	\$386.96
18	<p><b>Judicial interim release</b></p> <p>Conduct and complete the first application for a judicial interim release order, whether contested or on consent</p>	Summary or Indictable	\$701.96	\$737.06	\$773.91
19	<p><b>2nd bail hearing</b></p> <p>Conduct and complete a 2nd bail hearing under subsection 524(4) of the CCC</p>	Summary or Indictable	\$877.45	\$921.33	\$967.39
20	<p><b>Bail variation</b></p> <p>Prepare and a file an application for bail variation under section 519.1 of the CCC</p>	Summary or Indictable	\$175.49	\$184.27	\$193.48

21	<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 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 or Indictable	\$1,052.94	\$1,105.59	\$1,160.87
22	<p><b>Detention review</b></p> <p>For all services for an application to the Superior Court of Justice under section 525 of the CCC to determine whether or not the accused should be released from custody</p>	Summary or Indictable	\$1,052.94	\$1,105.59	\$1,160.87
23	<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 or Indictable	\$263.24	\$276.40	\$290.22



24	<b>Fitness Hearing</b>  For preparation and attendance at a fitness hearing	Summary or Indictable	\$315.88	\$331.67	\$348.26
25	<b>Gladue</b>  For the preparation or delivery, or both, of a Gladue submission at a bail hearing or at sentencing:  (a) when a publicly funded Gladue report is prepared for the specific charge; or (b) when a recently prepared report is used.	Summary or Indictable	\$526.46	\$552.78	\$580.42
26	<b>Impact of Race and Culture Assessment (IRCA)</b>  For the preparation or delivery, or both, of an IRCA submission at sentencing  (a) when a publicly funded IRCA report is prepared for the specific charge; or (b) when a recently prepared report is used	Summary or Indictable	\$526.46	\$552.78	\$580.42
27	<b>Offences Resolved Together</b>  For substantive offences contained on a separate information resolved at the same time in accordance with clause 7(1)(i), whether added to an existing certificate or contained on a separate certificate				

	When the election on the most serious offence was:	Summary	\$315.88	\$331.67	\$348.26
		Indictable	\$368.51	\$386.94	\$406.29
28	<b>Interpreter services</b>  For all services related to the use of an interpreter when interviewing a client or reviewing documents with a client, when the services are billed as a disbursement	Summary or Indictable	\$210.58	\$221.11	\$232.16

**14 Table 9 of Schedule 2 to the Rules is amended**

**(a) by revoking items 1, 2 and 11 and substituting the following:**

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</i> (Canada), 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
11	For preparation for and attendance, including negotiations with opposing counsel, at each conference under Rule 17 of the Family Law Rules and at each Legal Aid Settlement conference	5

**(b) by revoking items 12 and 17;**

**(c) by adding the following immediately after item 19:**

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

**(d) by adding the following after item 31:**

31.1	In matters involving complex CYFSA matters that involve third parties	4
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**(e) by revoking item 64 and substituting the following:**

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
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**(f) by adding the following after item 86:**

86.1	For all services related to the use of an interpreter in civil matters provided for in items 1 to 86, when interviewing a client or reviewing documents with a client, when the services are billed as a disbursement	2
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**(g) by revoking items 89 and 90 and substituting the following:**

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

**(h) by adding the following items in numerical order:**

90.1	For items 89 and 90, when a claimant who is covered on the certificate requires their own BOC narrative	3
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
101.1	For preparation for a subsequent sitting of the Refugee Appeal Division when a first sitting has begun but not concluded	2

**(i) by revoking items 103 and 104 and substituting the following:**

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 no 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
	(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 sub-section 115 (2) of the Immigration and <i>Refugee Protection Act</i> (Canada);	6
	(j) submissions to the Minister in order to defer removal by the Canada Border Services Agency.	10

**(j) by adding the following items in numerical order:**

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
109.1	For preparation for a subsequent sitting of the Immigration Appeal Division when a first sitting has begun but not concluded	2

## Application

15 (1) Schedule 2, as it read before the day on which sections 1 to 4 come into force, continues to apply to legal aid services provided on or after that day under a certificate issued before that day.

(2) Sections 5 to 14 of these Rules apply to certificates issued on or after TBD 2023.

## Coming into force

16 These Rules come into force on TBD 2023.