

# Summary of changes: Criminal Law Tariff reform



## Phase 1

Current tariff	Change / reform	Action required
<b><i>Increased criminal law base tariff allocated for Summary, Indictable 1 and Indictable 2 offences.</i></b>		
<p>Current tariff allotment:</p> <p>Guilty pleas Summary: 6 hours</p> <p>Indictable 1 (preparation under 5 hours): 8.5 hours</p> <p>Indictable 1 (preparation over 5 hours): 13 hours</p> <p>Indictable 2: 13 hours</p> <p>Withdrawals Summary: 8.5 hours Indictable 1 and 2: 13 hours</p> <p>Contested matters Summary: 10.5 hours Indictable 1: 15 hours Indictable 2: 15 hours Indictable trials exceeding 10 days: 22 hours</p>	<p>New base tariff for all hourly matters regardless of the outcome:</p> <p>Guilty pleas Summary: 8 hours</p> <p>Indictable 1 (preparation under 5 hours): 13 hours</p> <p>Indictable 1: (preparation over 5 hours): 15 hours</p> <p>Indictable 2: 15 hours</p> <p>Withdrawals Summary: 10 hours Indictable 1 and 2: 15 hours</p> <p>Contested matters Summary: 15 hours Indictable 1: 17 hours Indictable 2: 22 hours Indictable trials exceeding 10 days: 27 hours</p>	<p>No action required from roster member.</p>

<b>Current tariff</b>	<b>Change / reform</b>	<b>Action required</b>
<b><i>Elimination of the 64-hour rule, section 7(1)(n) of Schedule 2.</i></b>		
Limits the tariff for preparation to a maximum of 64 hours (excluding attendance time, bail hearings, judicial pre-trials, and Charter motions).	No maximum preparation time.	No action required from roster member.
<b><i>Increased tariff for Charter applications</i></b>		
Two hours to prepare a Charter application. Court attendance time to argue the application is added when billing a contested trial.	Eight hours to prepare a Charter application. Court attendance time to argue the application is added when billing a contested trial (no maximum).	No action required from roster member.

## Phase 2

<b>Current tariff</b>	<b>Change / reform</b>	<b>Action required</b>
	*Block fee rates in this column include the five percent increase	
<b><i>Increased payments for section 524 bail applications</i></b>		
The tariff and block rates for section 524 applications were not increased as part of LAO's response to the pandemic and are currently paid at a rate less than the COVID-19 rate for regular bail hearings.	Increased block fee and tariff rates for section 524 applications. Five hours on hourly certificates and \$797.69 on block fee certificates	No action required from roster member.
<b><i>Maintain bail hearing coverage for block fees and the increased rate for bail hearings on both hourly and block fee certificates</i></b>		
Block fee coverage for bail hearings and increased bail hearing rates on both hourly and block fee certificates are already in place as COVID-19 measures.	Permanently maintain block-fee coverage for bail hearings and the increased rates for all bail hearings. Four hours on hourly certificates and \$638.15 on block fee certificates.	No action required from roster member.

<b>Current tariff</b>	<b>Change / reform</b>	<b>Action required</b>
<b><i>Coverage for second bail hearings where the Crown does not bring a section 524 application</i></b>		
<p>Where charges are added and ultimately resolved together, no coverage is provided for second bail hearings that take place separately unless the Crown brings a section 524 application. Roster members must request discretion for hourly matters. There is no additional payment in block fee matters.</p> <p>This issue can also occur where two separate certificates are issued and both sets of charges are set for trial (billed hourly), but they later resolve together. Roster members can only bill on one hourly tariff certificate and they are required to ask for discretion for the second non-section 524 bail.</p>	<p>Permit roster members to bill another “first bail” for charges resolved together where there are separately occurring bail hearings. Four hours on hourly certificates and \$638.15 on block fee certificates.</p>	<p>No action required from roster member.</p>
<b><i>Increased tariff and block fee for bail reviews</i></b>		
<p>Currently paid at a reduced rate introduced in 2019.</p>	<p>Increased block fee and tariff rates for bail reviews. 10 hours on hourly certificates and \$957.22 on block fee certificates.</p>	<p>Request authorization through the online portal as the roster member would for COVID-19 judicial pre-trials, etc.</p>
<b><i>Maintain coverage and increased rate for detention reviews (Myers)</i></b>		
<p>Coverage for detention reviews was introduced as a COVID-19 measure.</p>	<p>Maintain coverage for detention reviews. Increase the rates payable for detention reviews. Ten hours on hourly certificates and \$957.22 on block fee certificates.</p>	<p>Continue to request authorization through the online portal as the roster member would for bail reviews, etc.</p>

Current tariff	Change / reform	Action required
<b><i>Additional tariff and block fee for global resolutions</i></b>		
<p>Where there are separately occurring charges that resolved globally on one certificate, only one resolution block or tariff maximum is payable.</p>	<p>A new authorization will be available for global resolutions where all of the offences are covered under a certificate and they appear on separate informations (only one resolution payment is available):</p> <p>This authorization is not available where the only offence on the information is an administrative offence such as fail to appear, fail to comply, etc.</p> <p>This authorization will be available where additional charges appear on a separate certificate and are resolved on one certificate OR where additional charges are added to the original certificate and resolved together.</p> <p>Tariff authorization where the most serious offence is the following:</p> <ul style="list-style-type: none"> <li>• Summary: 2 hours</li> <li>• Indictable 1: 3 hours</li> <li>• Indictable 2: 4 hours</li> </ul> <p>Block fees</p> <ul style="list-style-type: none"> <li>• Summary: \$287.16</li> <li>• Indictable: \$335.01</li> </ul>	<p>Request authorization through the online portal as the roster member would for bail reviews, etc.</p>
<b><i>Increased tariff and block fee for Gladue submissions</i></b>		
<p>Three hours or block fee of \$273.49</p>	<p>Five hours or block fee of \$478.60</p>	<p>Request authorization through the online portal as the roster member would for bail reviews, etc.</p>

<b>Current tariff</b>	<b>Change / reform</b>	<b>Action required</b>
<b><i>Coverage for submissions on Impact of Race and Cultural Assessments (IRCAs)</i></b>		
No current tariff allotment.	Five hours or block fee of \$478.60 where an Impact of Race and Cultural Assessment report was used and submissions were made in relation to the report.	Request authorization through the online portal as the roster member would for bail reviews, etc.
<b><i>Block fee for fitness hearings</i></b>		
No current block fee.	<p>New fitness hearing block of \$287.16 for attendance and submissions made at a fitness hearing. Covers both preparation and attendance.</p> <p>Roster member can request multiple authorizations on the same certificate for multiple separate fitness hearings and continuations. Excludes adjournments, attendance at an assessment hearing that proceeds on consent, or for an attendance to conduct the “Taylor test.”</p>	Request authorization through the online portal as the roster member would for bail reviews, etc.
<b><i>Revised method of billing fitness hearings in hourly certificates</i></b>		
Fitness hearings must be billed after the matter has been resolved, as an additional attendance day.	<p>Three-hour tariff authorization for attendance and submissions made at a fitness hearing. Roster member can request multiple authorizations on the same certificate for multiple separate fitness hearings and continuations.</p> <p>Excludes adjournments, attendance at an assessment hearing that proceeds on consent or, for an attendance to conduct the “Taylor test.”</p>	Request authorization through the online portal as the roster member would for bail reviews, etc.

Current tariff	Change / reform	Action required
<b><i>New “mental health” enhancer on hourly certificates</i></b>		
Currently, no mental health enhancer in place for tariff matters.	Two-hour mental health tariff enhancer added when certificate is issued, or upon request to compensate roster members for the additional effort required to represent clients with mental health issues. The criteria for adding the authorization will be the same as that for obtaining the block fee.	If the enhancer does not appear on the certificate, the roster member may request authorization through the online portal.
<b><i>Simplified rules for billing contested trials</i></b>		
<p>The rules for billing attendance time and per diem preparation time is different, depending on the offence category the charge falls in:</p> <p><b>Summary</b> Ten and a half hours for preparation and attendance at the first day of trial <b>plus</b> 4 hours and actual hearing time for each additional day.</p> <p><b>Indictable 1</b> Fifteen hours for preparation and attendance at the first two half days of trial. Beyond one full day, or two half days paid retroactively at the Indictable 2 rate.</p> <p><b>Indictable 2</b> Fifteen hours plus actual attendance (for trials ten days or less) OR 22 hours (for trials more than 10 days) plus four hours preparation time for each day after the first day.</p>	Eliminates the distinction between how contested trials are billed between the offence categories. All contested trials will be billed in the manner that Indictable II trials are currently billed.	No action required from roster member.

Current tariff	Change / reform	Action required
<b><i>Elimination of the distinction between Indictable 1 “guilty plea” tariff rates</i></b>		
<p>Current tariff allotment:</p> <p><b>Indictable 1 guilty plea</b></p> <p>Where the amount of preparation is under five hours and hearing time is half a day or less: 8.5 hours</p> <p>Where preparation exceeds five hours or where the hearing time exceeds one half day: 13 hours</p> <p><b>Indictable 1 no plea</b></p> <p>Actual hours spent up to 8.5 hours</p>	<p>Eliminates the hearing time and preparation distinctions and pays all Indictable 1 guilty pleas at 15 hours.</p> <p>The no plea tariff is also increased to 15 hours to align with the new single rate for Indictable 1 guilty plea matters.</p>	<p>No action required from roster member.</p>
<b><i>Elimination of the payment distinction between Summary 1 and Summary 2 block fee payments</i></b>		
<p>Current block fee:</p> <p><b>Guilty pleas</b></p> <p>Summary 1: \$692.97 Summary 2: \$804.79</p> <p><b>Withdrawals</b></p> <p>Summary 1: \$910.55 Summary 2: \$1,055.19</p>	<p>Eliminates the pay distinction between Summary 1 and Summary 2 matters and pays all Summary block matters at one rate:</p> <p><b>Summary guilty pleas: \$845.03</b></p> <p><b>Summary withdrawals: \$1,107.95</b></p>	<p>No action required from roster member.</p>
<b><i>Expansion of criminal mid-level case management</i></b>		
<p>Currently a limited number of offences are available for criminal mid-level case management</p>	<p>Expansion of list of offences that are eligible for mid-level case management.</p>	<p>Written request required for entry to the mid-level case management stream</p>

Current tariff	Change / reform	Action required
<b><i>Change to the “set down for trial” question on the criminal account page</i></b>		
<p><b>Current question:</b> “Have any of these Charges been set down for a Contested Trial?” (yes/no radio buttons). Once yes is selected the account is paid hourly.</p> <p>Language determines whether the payment will be block or hourly based on when the account is submitted rather than when the service was provided.</p>	<p>Revised question will allow roster members to submit a block fee account for services provided before it was set down for trial but billed after it was set down for trial.</p> <p><b>Revised question:</b> “Were any of these Charges set down for a Contested Trial prior to the last date of service billed on this account?”</p>	<p>Select appropriate response to revised question to determine whether account will be paid hourly or by block fee.</p> <p>If the matter has been set down for trial and you have a block fee service to bill, which occurred prior to the matter being set down for trial, please ensure you bill that service as a block fee account prior to selecting “yes”.</p>
<b><i>Alignment of language regarding continuations for guilty pleas</i></b>		
<p>When attributing additional tariff for Summary and Indictable 1 guilty plea continuations, tables 4(2) and 5(4) of Schedule 2 use different language to describe what constitutes a full day.</p>	<p>Consistent language applied to Schedule 2 of the Legal Aid Services Rules. Both tables 4(2) and 5(4) include the phrase “the first full day or two half days” when referring to guilty plea continuations.</p>	<p>No action required from roster member.</p>
<b><i>Authorization for use of interpreters</i></b>		
<p>No current tariff allotment or block fee.</p>	<p>A two-hour tariff authorization or a \$191.44 block fee will be added automatically when an inherent interpreter disbursement is billed. This compensates roster members for time spent communicating through an interpreter.</p>	<p>If the enhancer does not appear on the certificate, the roster member may submit a written request through the online portal.</p>