

Appeals and Judicial Reviews Tariff



Legal
Services
Society

British Columbia
www.legalaid.bc.ca

Appeals and Judicial Reviews Tariff

General Tariff Information

This chapter of *LSS Tariffs* provides information about how LSS will compensate you for services provided to clients under an Appeals and Judicial Reviews referral. For general information about the terms of your contract with LSS, see *General Terms and Conditions*. For information about billing disbursement items, see *Disbursements*.

Scope of the appeals and judicial reviews referral

Specific authorization, required for each tariff item you bill for, is indicated on your referral.

A new application for legal aid is required for all appeals, judicial reviews, or submissions. Apply directly to the LSS Appeals Section at the Vancouver Regional Centre.

Although you may have clients who have been separately referred, if they were jointly charged on a single Information, they are considered co-accused for the purpose of the appeal. Individuals who are jointly charged remain co-accused through all sentencing and disposition review hearings, except bail matters on separate half days. Full legal fees are payable for the first client, and a maximum of a single half fee is payable for all additional co-accused, regardless of how many additional co-accused there are.

LSS must first grant authorization before you can proceed with a bail pending appeal.

Timekeeping

You are not required to produce timekeeping records when submitting accounts. However, you must keep timekeeping records for each referral and retain them for at least five years from the date of payment. LSS may ask you to produce these records as part of our audit process, or when considering requests for extra fees or Extended Services hours. If you prefer, you may use the timesheet provided on the LSS website under Lawyers — Forms and questionnaires. You can also view an example of a completed timesheet.



Billing Items

When billing items for appeals and judicial review referrals, always record the actual time spent (in total hours) as specified in your time records. Most items are billed in hourly increments accurate to 10ths of an hour unless noted otherwise.

Use the information in this section when billing online (“e-billing”) through the Lawyers e-services section of the LSS website.

Criminal appeals

Bail pending appeal/Stay of sentence

- Billable per hour when you prepare for a bail hearing or stay of sentence pending a summary conviction appeal.

Up to 3 hours

- Billable per hour when you prepare for a bail hearing or stay of sentence for:
 - release pending an appeal to the Court of Appeal or the Supreme Court of Canada
 - a contested extension of bail in the Court of Appeal
 - release pending a new trial

Up to 5 hours

- Billable per hour when you prepare for any bail variation or extension of bail upon consent in the Court of Appeal or Supreme Court of Canada.

Up to 1 hour

- Record the actual time spent as specified in your time records.

Caution

- ➔ This item requires prior authorization from the LSS Appeals Section at the Vancouver Regional Centre.



Extraordinary remedies, prerogative writs, and judicial review applications

- Billable per hour when you prepare for habeas corpus, certiorari, prohibition, other prerogative writs, judicial review applications, and submissions to the minister following committal for extradition.

Up to 10 hours

- Additional preparation time is allowed if you were not involved in the proceedings appealed from.

Up to 3 hours

- Bill court attendance under **Attendance at a summary conviction appeal to the BC Supreme Court.**

Caution

- ➔ A new lawyer in the same law firm or sharing office space with the previous lawyer cannot bill the additional preparation time for a new lawyer in the appeal.
Up to 10 hours

Applications for judicial review under section 745 of the Criminal Code

- Billable per hour when you prepare for an application.

Up to 25 hours

- Billable per hour when you attend the application.

Actual time

- Provide the hearing date and the time spent in court.
- Bill the actual time spent as specified in your time records, from the time the application was scheduled to begin to its conclusion, excluding meal breaks.



Preparation for a summary conviction appeal in the BC Supreme Court

- Billable per hour when you prepare for a summary conviction sentence appeal.
Up to 5 hours
- Billable per hour when you prepare for a summary conviction appeal.
Up to 12 hours
- Billable per hour when you prepare for a summary conviction and sentence appeal.
Up to 14 hours
- Additional preparation time is billable if you were not involved in the proceedings appealed from.
Up to 3 hours
- Record the actual time spent as specified in your time records.

Cautions

- A new lawyer in the same law firm or sharing office space with the previous lawyer cannot bill the additional preparation time for a new lawyer in the appeal.
- Preparation time includes time spent on applications to extend time.

Attendance at a summary conviction appeal in the BC Supreme Court

- Billable per hour when you appear in court for the appeal or application hearing.
- Provide the hearing date and the time spent in court.
- Bill the actual time spent as specified in your time records, from the time the hearing was scheduled to begin to its conclusion, excluding meal breaks.

Actual time

Cautions

- Applications to adjourn are not considered a hearing of the appeal. Bill the time you spend attending these under **Preparation**.



- If matters are scheduled on the same day for more than one client, distribute the waiting time in court equally between the clients. Do not bill waiting time more than once.

Preparation for a sentence appeal in the BC Court of Appeal

- Billable per hour for preparing a sentence appeal from a guilty plea.

Up to 8 hours

- Billable per hour for preparing a sentence appeal when the accused did not plead guilty.

Up to 10 hours

- Additional preparation time is billable if you were not involved in the proceedings appealed from.

Up to 3 hours

- Record the actual time spent as specified in your time records.

Cautions

- Bill dangerous and long-term offender appeals under **Preparation for a conviction appeal in the BC Court of Appeal**.
- A new lawyer in the same law firm or sharing office space with the previous lawyer cannot bill the additional preparation time for a new lawyer in the appeal.
- Preparation time includes time spent on applications to extend time.

Attendance at a sentence appeal in the BC Court of Appeal

- Billable per hour when you appear in court for the hearing of the appeal or application.
- Provide the hearing date and the time spent in court.
- Bill the actual time spent as specified in your time records, from the time the hearing was scheduled to begin to its conclusion, excluding meal breaks.

Actual time

Cautions

- ⊖ Applications to adjourn are not considered a hearing of the appeal. Bill the time you spend attending these under **Preparation**.
- ⊖ If matters are scheduled on the same day for more than one client, distribute the waiting time in court equally between the clients. Do not bill waiting time more than once.

Preparation for a conviction appeal in the BC Court of Appeal

- Billable per hour when you prepare for a conviction or extradition appeal, including preparation for any application for leave to appeal or to extend time.

Up to 40 hours

- Additional preparation time is billable for conviction and sentence appeals.

Up to 5 hours

- Additional preparation is billable for each additional 200 transcript pages you read, after the first 200 pages, up to a maximum of five additional hours for each 200 pages, provided you certify that you have read the additional pages by sending a letter to that effect with your account for this item.

Up to 5 hours for each additional 200 pages

- Additional preparation time is billable if you were not involved in the proceedings appealed from.

Up to 10 hours

- Bill dangerous and long-term offender appeals and YCJA transfer to adult court appeals under this item.
- Record the actual time spent as specified in your time records.

Cautions

- ⊖ Additional preparation for reading transcripts is billable only when you certify that you have read the transcript.
- ⊖ A new lawyer in the same law firm or sharing office space with the previous lawyer cannot bill the additional preparation time for a new lawyer in the appeal.
- ⊖ Preparation time includes time spent on applications to extend time.



Attendance at a conviction appeal in the BC Court of Appeal

- Billable per hour when you appear in court for the hearing of the appeal or application.
- Provide the hearing date and the time spent in court.
- Bill the actual time spent as specified in your time records, from the time the hearing was set to begin to its conclusion, excluding meal breaks.

Actual time

Cautions

- Applications to adjourn are not considered a hearing of the appeal. Bill the time you spend attending these under **Preparation**.
- If matters are scheduled on the same day for more than one client, distribute the waiting time in court equally between the clients. Do not bill waiting time more than once.

Applications under Rule 13(3) of the Criminal Appeal Rules

- Billable when you prepare for and attend a Rule 13(3) application set down in spite of your best efforts.
- Record the actual time spent as specified in your time records.

Up to 1 hour

Cautions

- This item requires prior authorization from the LSS Appeals section at the Vancouver Regional Centre.
- LSS will only reimburse you for appearing at Rule 13(3) hearings when the delay is entirely beyond your control (e.g., the transcripts were not prepared soon enough), and you have made every effort to advise the registrar of the delay and its causes.
- LSS will not pay any travel fees or disbursements for this application.

Preparation for an appeal in the Supreme Court of Canada

- Billable per hour when you prepare for the leave to appeal application.

Up to 25 hours



- Billable per hour when you prepare for the hearing of the appeal.

Up to 40 hours

- Additional preparation time is billable if you were not involved in the proceedings appealed from.

Up to 15 hours

- Record the actual time spent as specified in your time records.

Caution

- ⊖ A new lawyer in the same law firm or sharing office space with the previous lawyer cannot bill the additional preparation time for a new lawyer in the appeal.
- ⊖ Preparation time includes time spent on applications to extend time.

Attendance at an appeal in the Supreme Court of Canada

- Billable per hour when you appear in court for the appeal.
- Provide the hearing date and the time spent in court.
- Bill the actual time spent as specified in your time records, from the time the appeal was scheduled to begin to its conclusion, excluding meal breaks.

Actual time

Travel

- Billable per half day of travel to or from a hearing or to interview a client in custody if the trip exceeds 160 km per round trip.

\$180

- Billable for each half day you remain at the hearing location.

\$180

- Provide your destination and travel date.



Cautions

- To bill travel fees, you must have prior authorization. If “authorized” does not appear beside “Travel” under the “Conditions of Referral” on your referral form, apply to the LSS Appeals Section for authorization.
- The maximum travel and out-of-office fee on one date is \$360, unless you bill other services for the same day.
- The maximum travel and out-of-office fee for a day for which you bill other services is \$180.

Travel fees are paid per trip, not per client.

Visiting clients in custody

- Billable once per referral when you visit a client in custody at a correctional or detention facility other than a holding facility at a courthouse.
- Provide the visit date and the location where you visited the client.

\$90

Cautions

- Do not bill this item for the same date with any other tariff item except **Travel**.
- Bill this item only once for any one date and location regardless of how many clients you visited.

Family appeals, including CFCSA**General preparation**

- Billable per hour for general preparation or other work not specifically covered by another tariff item.
- Record the actual time spent as specified in your time records.

Up to 10 hours

Opinion letters

- Billable per hour for preparing an opinion on the merit of an appeal.



- Record the actual time spent as specified in your time records.

Up to 5 hours

Caution

- ⊖ This item applies only when the referral specifically requests an opinion and does not apply to the general information letters requested with every appeal.
- ⊖ This item must be authorized and may only be approved when the appeal lawyer is not the same as the trial lawyer.

Correspondence and communications

- Billable per hour for all correspondence and communications services you provide on family appeals.
- Record the actual time spent as specified in your time records.

Up to 5 hours

Preparation for an appeal in the BC Supreme Court

- Billable per hour for preparing all appeals and judicial review applications in the Supreme Court of BC.

Up to 25 hours

- Additional preparation time is billable if you were not involved in the proceedings appealed from.
- Record the actual time spent as specified in your time records.

Up to 6 hours

Caution

- ⊖ A new lawyer in the same law firm or sharing office space with the previous lawyer cannot bill the additional preparation time for a new lawyer in the appeal.
- ⊖ Preparation time includes time spent on applications to extend time.

Attendance at an appeal in the BC Supreme Court

- Billable per hour when you appear in court for the hearing of the appeal or application.
- Billable per hour when you appear in Provincial Court to stay an order pending the appeal or application.
- Provide the hearing date and the time spent in court.
- Bill the actual time spent as specified in your time records, from the time the hearing was scheduled to begin to its conclusion, excluding meal breaks.

Actual time

Cautions

- Applications to adjourn are not considered a hearing of the appeal. Bill the time you spend attending these under **General preparation**.
- If matters are scheduled on the same day for more than one client, distribute the waiting time in court equally between the clients. Do not bill waiting time more than once.

Preparation for proceedings in the BC Court of Appeal

- Billable per hour when you prepare for any proceeding in the BC Court of Appeal.
- Record the actual time spent as specified in your time records.
- Preparation time includes time spent on applications to extend time.

Up to 30 hours



Attendance at proceedings in the BC Court of Appeal

- Billable per hour when you appear in court for the hearing of the appeal or application.
- Provide the hearing date and the time spent in court.
- Bill the actual time spent as specified in your time records, from the time the hearing was scheduled to begin to its conclusion, excluding meal breaks.

Actual time

Cautions

- ☞ Applications to adjourn are not considered a hearing of the appeal. Bill the time you spend attending these under General preparation.
- ☞ If matters are scheduled on the same day for more than one client, distribute the waiting time in court equally between the clients. Do not bill waiting time more than once.

Preparation for an appeal in the Supreme Court of Canada

- Billable per hour when you prepare for a leave to appeal application.

Up to 20 hours

- Billable per hour when you prepare for the appeal hearing.

Up to 35 hours

- Record the actual time spent as specified in your time records.

Caution

- ☞ If the motion for leave to appeal and the hearing of the appeal are heard on the same day, bill preparation and attendance fees for the appeal only.
- ☞ Preparation time includes time spent on applications to extend time.

Attendance at an appeal in the Supreme Court of Canada

- Billable per hour when you appear in court for the hearing of the appeal or application.
- Provide the hearing date and the time spent in court.

- Bill the actual time spent as specified in your time records, from the time the hearing was scheduled to begin to its conclusion, excluding meal breaks.

Actual time

Travel

- Billable per half day of travel to or from a hearing or to interview a client in custody if the trip exceeds 160 km per round trip.

\$180

- Billable for each half day you remain at the hearing location.

\$180

- Provide your destination and travel date.

Cautions

- To bill travel fees, you must have prior authorization. If “authorized” does not appear beside “Travel” under the “Conditions of Referral” on your referral form, apply to the LSS Appeals Section for authorization.
- The maximum travel and out-of-office fee on one date is \$360, unless you bill other services for the same day.
- The maximum travel and out-of-office fee for a day for which you bill other services is \$180.

Travel fees are paid per trip, not per client.

Immigration appeals

Preparation for a hearing — non-refugee cases

- You must have a referral from the LSS Appeals Section at the Vancouver Regional Centre.
- Billable per hour for preparing for a non-refugee hearing at the Immigration and Refugee Board.
- Record the actual time spent as specified in your time records.

Up to 10 hours

Attendance — non-refugee cases

- You must have a referral from the LSS Appeals Section at the Vancouver Regional Centre.
- Billable per hour for attending hearings.
- Provide the attendance date.
- Bill the actual time spent as specified in your time records, from the time the hearing was scheduled to begin to its conclusion, excluding meal breaks.

Actual time

Preparation for a Refugee Appeal Division (RAD) hearing

RAD referrals are available for eligible clients who receive a negative decision at the Refugee Protection Division (RPD) hearing and require representation to prepare for a RAD appeal. LSS requires a copy of the BOC and a copy of, or a summary of, the RPD hearing decision and then considers merit and available budget.

- You must have a referral from the LSS Appeals Section at the Vancouver Regional Centre.
- Billable per hour for preparing for a RAD.
- Record the actual time spent as specified in your time records.

Up to 10 hours



Attendance at a Refugee Appeal Division (RAD) hearing

- You must have authorization from the LSS Appeals Section at the Vancouver Regional Centre to bill this item.
- Billable per hour for attending a RAD hearing.
- Provide the attendance date.
- Bill the actual time spent as specified in your time records, from the time the hearing was scheduled to begin to its conclusion, excluding meal breaks.

Actual time

Stay applications in Federal Court

- Billable per hour for preparing an application in Federal Court to stay a removal order.
- Record the actual time spent as specified in your time records.

Up to 15 hours

Preparation for a judicial review in the Federal Court or BC Supreme Court or an appeal in the Federal Court of Appeal

- Billable when you prepare applications for judicial review to the Federal Court or BC Supreme Court, or appeals to the Federal Court of Appeal.
- Billable per hour for preparing an opinion letter and notice of application for leave.

Up to 1 hour

- Billable per hour for preparing for leave to apply for judicial review.

Up to 20 hours

- Billable per hour for preparing for a judicial review when leave is granted.

Up to 10 hours

- Record the actual time spent as specified in your time records.

Caution

- ☞ You must have specific authorization to bill this item.



Attendance at a judicial review in the Federal Court or BC Supreme Court or an appeal in the Federal Court of Appeal

- Billable per hour for attending at the Federal Court or BC Supreme Court, or Federal Court of Appeal for the hearing of the appeal or application.
- Provide the hearing date and time spent in court.
- Bill the actual time spent as specified in your time records, from the time the hearing was scheduled to begin to its conclusion, excluding meal breaks.

Actual time

Application to reopen/reinstate a proceeding before the Immigration and Refugee Board (IRB)

- Billable per hour for an application to reopen or reinstate a proceeding before the IRB.
- Bill the actual time spent as specified in your time records.

Up to 5 hours

Submissions to Canada Immigration

- Billable per hour when you prepare submissions to the minister.
- Record the actual time spent as specified in your time records.

Up to 5 hours

Appeals in the Supreme Court of Canada

For appeals in the Supreme Court of Canada, please refer to the Family appeals section. You must have prior authorization from the LSS Appeals Section at the Vancouver Regional Centre.

Travel

- Billable per half day of travel to or from a hearing or to interview a client in custody if the trip exceeds 160 km per round trip.

\$180



- Billable for each half day you remain at the hearing location.

\$180

- Provide your destination and travel date.

Cautions

- To bill travel fees, you must have prior authorization. If “authorized” does not appear beside “Travel” under the “Conditions of Referral” on your referral form, apply to the LSS Appeals Section for authorization.
- The maximum travel and out-of-office fee on one date is \$360, unless you bill other services for the same day.
- The maximum travel and out-of-office fee for a day for which you bill other services is \$180.
- Travel fees are paid per trip, not per client.

Visiting clients in custody

- Billable once per referral when you visit a client in custody at a correctional or detention facility other than a holding facility at a courthouse.
- Provide the visit date and the location where you visited the client.

\$90

Cautions

- Do not bill this item for the same date with any other tariff item except **Travel**.
- Bill this item only once for any one date and location regardless of how many clients you visited.

