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LEGISLATIVE SUMMARY



Bill C-21: An Act to control the administrative burden that regulations impose on businesses

Publication No. 41-2-C21-E
6 February 2014

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Any substantive changes in this Legislative Summary that have been made since the preceding issue are indicated in **bold print**.

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(Legislative Summary)

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Ce document est également publié en français.

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LEGISLATIVE SUMMARY OF BILL C-21: AN ACT TO CONTROL THE ADMINISTRATIVE BURDEN THAT REGULATIONS IMPOSE ON BUSINESSES

1 BACKGROUND

Bill C-21, An Act to control the administrative burden that regulations impose on businesses (short title: Red Tape Reduction Act), was introduced and received first reading in the House of Commons on 29 January 2014.¹

The bill introduces a new statute that establishes rules for federal departments and agencies with respect to the amendment or the introduction of regulations so as to control the administrative cost to businesses of complying with regulations. The time and resources spent by a business to show compliance with regulatory requirements are known collectively as “administrative burden.”²

The bill enshrines in legislation a Treasury Board rule that has been in force since 1 April 2012. Canada would be the first country to legislate such a rule.³

1.1 THE RED TAPE REDUCTION ACTION PLAN

In January 2011, the federal government launched the Red Tape Reduction Commission with a mandate to

identify irritants to business that stem from federal regulatory requirements and review how those requirements are administered in order to reduce the compliance burden for businesses, especially small businesses.⁴

The Commission included parliamentarians and representatives from the private sector.

In January 2012, the Commission released its report, entitled *Cutting Red Tape ... Freeing Business to Grow*.⁵ The Commission made 15 recommendations to the federal government aimed at:

- reducing seemingly unnecessary bureaucratic procedures that appear to cause delays and expense;
- lessening the cumulative cost for businesses caused by such procedures;
- improving the service offered by the government to businesses;
- improving regulatory design and governance; and
- ensuring accountability for progress in these areas.

The Commission also made 90 recommendations that applied to specific federal government departments.

In response to the Commission's report, the federal government released its Red Tape Reduction Action Plan in October 2012.⁶ The Plan outlined the following six systemic changes to government regulation:

- require departments and agencies to publish interpretation bulletins for their regulations;
- require departments and agencies to provide forward regulatory plans⁷ that outline proposed regulatory changes;
- introduce service standards for regulatory authorizations for departments and agencies;
- implement a “small business lens” to take into account the impact of regulatory changes on small businesses;
- implement the “one-for-one” rule (discussed in section 1.2), which would reduce the administrative burden of regulations on businesses; and
- publish an annual “scorecard” report that would assess the government's progress in implementing various provisions in the Plan.

1.2 THE ONE-FOR-ONE RULE

Following the release of the Red Tape Reduction Commission's report in January 2012, the federal government announced that it would implement the one-for-one rule recommended by the Commission. The rule, which came into effect on 1 April 2012, has two requirements:

- that departments and agencies offset the cost of any new administrative burden introduced as a result of a regulatory change by removing an equal amount of administrative burden from the existing regulations; and
- that departments and agencies remove an existing regulation each time a new regulation that institutes a new administrative burden is enacted.

Departments and agencies have two years after the introduction of a new administrative requirement to meet the stipulations of the rule.

The cost of an administrative burden is calculated using the Standard Cost Model, an internationally accepted method used by several European countries and the Organisation for Economic Co-operation and Development to estimate the cost of administrative burden imposed on businesses resulting from obligations included in a regulation.⁸

The first scorecard report was released by the Treasury Board on 28 January 2014.⁹ The report stated that, during its first fiscal year of implementation in 2012–2013, the one-for-one rule reduced businesses' overall regulatory burden by \$3 million and eliminated six regulations. The report indicated that, as of 12 December 2013, the cumulative reduction in administration burden under the rule was valued at approximately \$20 million, with 19 regulations eliminated.

2 DESCRIPTION AND ANALYSIS

Bill C-21 contains 11 clauses.

Clause 1 indicates that the short title of the bill is the Red Tape Reduction Act.

Relevant definitions are provided in clause 2. This clause defines “administrative burden” to be anything that is required to demonstrate compliance with a regulation; this can include the collection, processing, reporting and retention of information and the completion of forms. As well, the clause defines “business” to be a person or entity that engages in commercial activities in Canada, but not for a public purpose. Lastly, the clause defines “regulation” as an instrument that is registered as a regulation under section 6 of the *Statutory Instruments Act*.

According to clause 3, the bill applies to regulations made by or with the approval of the Governor in Council, the Treasury Board or a minister of the Crown. Clause 4 outlines the bill’s purpose: to control the administrative burden that regulations impose on businesses.

The one-for-one rule for controlling the administrative burden is described in clause 5. According to clause 5(1), if a regulation is made that imposes a new administrative burden on a business, one or more existing regulations must be amended or repealed to offset the cost of the new burden. Clause 5(2) adds that, where the new regulation does not simply amend an existing regulation, an existing regulation must be repealed, unless a regulation has already been repealed in accordance with clause 5(1).

Clause 6 states that the President of the Treasury Board may establish policies or directives for the manner in which clause 5 will be applied.

Clause 7 provides that the Governor in Council may make regulations regarding the application of clause 5 for:

- the manner of calculating the cost of an administrative burden;
- the period for compliance with clause 5;
- the taking into account of regulations that are amended or repealed before a new administrative burden is imposed;
- the application of clause 5 to any regulation that was made, amended or repealed on or after 1 April 2012, which is the date on which the one-for-one rule came into force; and
- the regulations that the Treasury Board may exempt from the application of clause 5 and the circumstances in which an exemption can be granted.

Clause 8(1) states that the Crown has immunity from legal proceedings under the legislation. According to clause 8(2), if a department or agency does not comply with this Act, a regulation will not be considered invalid for that reason alone.

Clause 9 provides that, each year, a report on the application of clause 5 must be prepared and made public by the President of the Treasury Board. Under clause 10, the Governor in Council may make regulations regarding the information that is to be included in and the form of the report.

Lastly, clause 11 provides that the President of the Treasury Board must ensure that the legislation is reviewed five years after the day on which the Act comes into force.

NOTES

1. [Bill C-21: An Act to control the administrative burden that regulations impose on businesses](#), 2nd Session, 41st Parliament (first reading version, 29 January 2014).
2. Organisation for Economic Co-operation and Development, "[Summary](#)," *Cutting Red Tape: National Strategies for Administrative Simplification*, 2006.
3. Treasury Board of Canada Secretariat, "[Backgrounder – Legislating the One-for-One Rule](#)."
4. Government of Canada, Red Tape Reduction Commission, [Cutting Red Tape ... Freeing Business to Grow: Recommendations Report](#), January 2012, p. 1.
5. Ibid.
6. Government of Canada, [Red Tape Reduction Action Plan](#), 2012.
7. Treasury Board of Canada Secretariat, [Forward Regulatory Plan](#).
8. Standard Cost Model Network, [Step 2: Measuring Administrative Burdens](#).
9. Treasury Board of Canada Secretariat, [The 2012–2013 Scorecard Report: Implementing the Red Tape Reduction Action Plan](#), January 2014.