



# The Case for Regulatory Reform in Ontario

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# Table of Contents

Executive Summary	4
Introduction	6
Red Tape vs. Justified Regulation	8
Excessive Government Regulation Harms Economic Performance	9
The Cost Regulation in Ontario	11
Ontario's Regulatory State	13
The Path Forward	16
Conclusion	18

# Executive Summary

- Ontario faces a number of competitive challenges, and chief among them is a heavy burden of government regulation on economic activity.
- Regulatory policy is not necessarily harmful to the economy. Regulation can actually support economic activity as well as advance important environmental, health and safety, and consumer protection objectives. But regulatory policy that is poorly designed, administratively complex, or ultimately unjustified according to the “precautionary principle” can produce negative economic effects with minimal or no social benefits.
- The available data suggest that Ontario has the heaviest regulatory burden in the country – including overlap and duplication with other levels of government and, indeed, among various provincial ministries. This needs to change, especially in light of competitive pressures from growth-oriented policy reforms pursued in the United States, particularly from competing manufacturing states.
- To free businesses and individuals in the province from red tape that stifles entrepreneurship, innovation, and the economy more generally, Ontario must build on the previous government’s reform efforts to modernize and streamline the province’s regulatory policy framework.
- This paper aims to contextualize possible regulatory reforms by establishing:
  - the role and limits of regulatory policy,
  - the benefits and costs of regulatory policy,
  - the current state of Ontario’s regulatory policy relative to other provinces and other jurisdictions, and
  - possible ideas for an effective regulatory reform agenda.

The path forward must involve stopping the proliferation of new regulations, streamlining existing ones, and aiming for greater overall efficiency in regulatory policy development, oversight, and enforcement. One key focus is the importance, wherever possible, of eliminating duplicative, overlapping, and inconsistent regulations.

- British Columbia’s successful experience with regulatory reform in the 2000s offers important lessons for Ontario today as it seeks to modernize and improve its regulatory policy.
  - Critical to effective and long-lasting reform is a basic need for government to establish and regularly report on a publicly available baseline for measuring the number of regulatory requirements and their estimated costs. This type of accountability, which is lacking in Ontario, is sorely needed to track whether or not progress is made.
  - Ensuring regulators have the proper incentives to effectively manage the regulatory process and identify new and better ways to enact and enforce regulatory policy is key.
  - Restoring the “precautionary principle” (or a risk management approach) in regulatory policymaking should be part of the agenda to reduce red tape and restore business confidence in Ontario.

# Introduction

Ontarians expect their province to maintain high standards with regards to the environment, health and safety, and consumer protection. When effective, government regulation of economic activity can work positively toward those ends. But in many cases, government regulations can impose significant economic costs and inefficiencies on firms, sectors, and the economy as a whole with minimal or no public benefits. Such excessive regulation – or red tape, as is it often called – can stifle entrepreneurship and innovation, and result in a major competitive drag on the economy.

Most Ontarians would be surprised by the magnitude, scope, and costs of the province’s regulatory burden. The Ontario government’s own count, which was performed back in 2012, pegs the number of regulatory requirements on businesses and individuals at over 386,000.<sup>2</sup> According to one analyst, that number is twice as many as the next closest province.<sup>3</sup>

The absolute number of regulations is hardly dispositive. Some regulatory policies can both enable economic activity or support other, non-economic objectives. But that Ontario seems to have a disproportionate regulatory burden (even when adjusting for the number of businesses in the province) would suggest that regulatory policy is an area requiring government attention. It is notable then that the Ontario government has not sought to consistently measure and track whether there has been any progress on reducing

the regulatory burden since the last count was performed six years ago.

This is especially important in light of evidence that the province is facing challenges with regards to economic competitiveness and business confidence. According to a recent Ontario Chamber of Commerce report, business confidence in the provincial economy has fallen precipitously in recent years and a key factor is the regulatory burden. More than half (53 percent) of those surveyed in the business community indicated that overregulation of the economy is a concern.<sup>4</sup> And while several factors contribute to a member company’s competitiveness, the ability to navigate regulations and red tape was singled out as the second most important factor among survey respondents.

These concerns are not limited to Ontario. The World Economic Forum’s research and analysis has pointed to red-tape issues across the country. According

<sup>2</sup> <https://www.ontario.ca/page/small-business-sector-meeting-report>

<sup>3</sup> <https://business.financialpost.com/opinion/philip-cross-ontarios-staggering-380000-regulations-are-warping-the-way-business-runs>

<sup>4</sup> <http://www.occ.ca/wp-content/uploads/2018-Ontario-Economic-Report-8.pdf>

to its latest competitiveness report, Canada as a whole ranked 38th on the burden of government regulation.<sup>5</sup> This accords with work conducted by the Canadian Federation of Independent Business (CFIB). A survey of its small business members also points to a regulatory problem.<sup>6</sup> For instance, 61 percent of small business owners surveyed feel that excessive government regulations discourage business growth while 68 percent believe excessive regulations significantly reduce productivity.

These sentiments are consistent with long-term data on business investment in Ontario. Annual business investment is still below pre-recession levels, and even that is distorted by the overheated real estate market, which has obscured weaknesses in other parts of the provincial economy.<sup>7</sup> This matters because business investment is a key indicator of a jurisdiction's long-term opportunity and prosperity. When businesses invest in new technologies, production processes, and overall expansion, it spurs economic growth and raises living standards for workers. Higher productivity and higher wages go hand in hand.

The impetus for regulatory reform in Ontario is thus clear. Additional competitive pressure stems from improvements in the tax and regulatory environment in the United States,<sup>8</sup> along with key labour regulation reforms in competing manufacturing states.<sup>9</sup> This means bold reforms in the province are needed now more than ever to give the province a competitiveness boost and economic shot in the arm.

This short paper aims to give policymakers, media, and the general public a sense of Ontario's regulatory burden and the costs imposed on the province's economy. In particular, it presents evidence from the academic literature on how some regulations can harm economic activity, provides statistics on how Ontario's regulatory burden compares to that of other provinces, discusses the current regulatory state in the province, and then suggests a path forward for reform. The broad goal is to give Ontarians a better sense of the size and cost of Ontario's regulatory state. With a better understanding of the problem, effective solutions can then be put forth.

<sup>5</sup> <http://www3.weforum.org/docs/GCR2017-2018/05FullReport/TheGlobalCompetitivenessReport2017%E2%80%932018.pdf>

<sup>6</sup> [https://www.cfib-fcei.ca/sites/default/files/2018-01/Cost-Red-Tape-Snapshot-2018\\_0.pdf](https://www.cfib-fcei.ca/sites/default/files/2018-01/Cost-Red-Tape-Snapshot-2018_0.pdf)

<sup>7</sup> <https://www.fraserinstitute.org/sites/default/files/ontarios-one-cylinder-economy-housing-in-toronto-and-weak-business-investment.pdf>

<sup>8</sup> For instance, the Trump administration began a regulatory budget process to place a cap on new regulations. <https://www.whitehouse.gov/presidential-actions/presidential-executive-order-reducing-regulation-controlling-regulatory-costs/>

<sup>9</sup> For instance, Michigan and Indiana have both enacted right-to-work legislation giving their workers more choice when it comes to opting out of full union dues.

# Red Tape vs. Justified Regulation

Before we go any further, there is an important distinction to draw between red tape (or excessive regulation) and justified regulation. As regulation policy expert and small-business advocate Laura Jones explains:<sup>10</sup>

Red tape refers to rules, policies, and poor government services that do little or nothing to serve the public interest while creating financial cost or frustration to producers and consumers alike. Red tape may include poorly designed laws, regulations, and policies; outdated rules that may have been justified at one time but are no longer; and rules intentionally designed to burden some businesses while favoring others. Red tape [...] stands in contrast to [justified regulation, which includes] government laws, regulations, rules, and policies that support an efficient and effective marketplace and provide citizens and businesses with the protections they need.

Put differently, justified regulations tend to deliver benefits to society that outweigh their costs. Red tape, on the other hand, creates little to no value but imposes significant inefficiencies, and compliance

and administration costs. Ontarians should want their government to maintain the former and minimize the latter.

<sup>10</sup><https://www.mercatus.org/system/files/Jones-Reg-Reform-British-Columbia.pdf>

# Excessive Government Regulation Harms Economic Performance

There is no doubt the relationship between regulation and economic performance is complex. Some regulations can help the economy by, for example, removing market failures. But others can hurt the economy by creating significant compliance costs, inefficiencies and distortions, or other unintended consequences. The overall impact of regulations on economic growth depends on which effect is larger and the particular cases under consideration.

That said, the case for regulatory reform in Ontario is supported by broader evidence in Canada and from around the world.<sup>11</sup> For instance, a recent study by a team of economists from the federal Department of Finance explored the potential economic gains to Canada from matching its regulatory framework to that of the United States.<sup>12</sup> The study used indicators from the Organisation for Economic Co-operation and Development (OECD) of product market regulations measuring the extent that regulations, laws, and other rules inhibit competition in product markets. It found that gross domestic product (GDP) per person, a proxy for living standards, could be up to about 2 percent higher in five years and about 5.3 percent higher after 20 years as a result of making Canada's

2013 regulatory framework related to foreign direct investment (FDI) as competitive as in the United States.

A 1997 international OECD study also found positive economic benefits from regulatory reform.<sup>13</sup> Using a macroeconomic model for various countries, the long-term effects of regulatory reform were found to substantially increase inflation-adjusted GDP, ranging from one percent in the United States to approximately five percent in Japan, Germany, and France. Significant positive effects on incomes were also found, although the increases were less than the effect on GDP.

Other scholars have similarly found that regulatory reform can be good for economic growth. In examining the link between business regulatory reforms and

<sup>11</sup>For a review of the literature, see [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/32107/12-821-impact-of-regulation-on-growth.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/32107/12-821-impact-of-regulation-on-growth.pdf). For criticism of current empirical methods, see [https://www.oecd.org/gov/regulatory-policy/3\\_Kirkpatrick%20Parker%20web.pdf](https://www.oecd.org/gov/regulatory-policy/3_Kirkpatrick%20Parker%20web.pdf).

<sup>12</sup><https://ideas.repec.org/a/sls/ipmsls/v34y20181.html>

<sup>13</sup><http://www.oecd.org/japan/2733617.pdf>

economic growth in 172 countries, Jamal Ibrahim Haidar found that, on average, each business regulatory reform is associated with a 0.15 percent increase in the growth rate of GDP.<sup>14</sup>

Of course, not all regulations are equal. According to regulation policy scholar James Broughel,<sup>15</sup> some regulations deserve more scrutiny by policymakers than others, given their larger effect on economic growth. In particular, Broughel draws special attention to those that impact new technologies, investment, trade, competition, worker skill levels, and the mobility of people. This is an important point. One should not paint all regulations with a single brush. It is certainly the case that some regulations are more damaging than others, and that is where policymakers should focus their reform efforts.

<sup>14</sup> [https://scholar.harvard.edu/files/haidar/files/jjie\\_0.pdf](https://scholar.harvard.edu/files/haidar/files/jjie_0.pdf)

<sup>15</sup> [https://www.mercatus.org/system/files/broughel\\_web\\_v1.pdf](https://www.mercatus.org/system/files/broughel_web_v1.pdf)

# The Cost of Regulation in Ontario

Quantifying the regulatory burden is challenging, in part because governments – including Ontario’s – tend not to regularly measure such things, neither in terms of sheer number nor cost. This is a problem because red tape can often become a hidden tax paid by those who comply with regulations and the customers they serve.

Indeed, one of most significant challenges in quantifying the regulatory burden is the lack of publicly available data collected by governments. The Ontario government did take a positive step in 2012 by publishing the total number of regulatory requirements imposed on businesses and individuals. At the time, a total of over 386,000 regulations were found.<sup>16</sup> According to one analyst, that number is twice as many as the next closest province.<sup>17</sup> Unfortunately, after having set this initial benchmark, the government does not appear to have maintained the accountability and transparency needed to track progress. This is a key challenge moving forward for effective regulatory reform. Open and transparent data, and consistent measurement, are needed to track success for a government interested in reducing red tape.

On the challenges of quantifying the regulatory burden, Jones, the regulation policy expert and small-business advocate, offers an important point:<sup>18</sup> “measuring the broad regulatory burden, and determining what portion of that burden

may constitute red tape, is a challenging and imperfect undertaking. However, measurement is also an essential part of effective red tape reduction. One of the difficulties that governments interested in effective red tape reduction face is finding a clear, credible measure they can be comfortable using in spite of its inevitable imperfections.”

Despite the lack of data from the Ontario government, the Canadian Federation of Independent Business (CFIB) has sought to quantify the cost of broad government regulation in Canada using a survey of its members. According to the CFIB’s latest calculations, the cost of the broad regulatory burden was estimated at approximately \$36 billion in 2017. This is just the estimated cost burden on businesses. It does not account for the costs imposed on individuals or the administrative costs borne by governments and their regulatory departments, agencies, and other bodies. Roughly \$10 billion, or 30 percent, of the \$36 billion is considered red tape or excessive regulation.<sup>19</sup> And, importantly, the cost and time spent complying

<sup>16</sup> <https://www.ontario.ca/page/small-business-sector-meeting-report>

<sup>17</sup> <https://business.financialpost.com/opinion/philip-cross-ontarios-staggering-380000-regulations-are-warping-the-way-business-runs>

<sup>18</sup> <https://www.mercatus.org/system/files/Jones-Reg-Reform-British-Columbia.pdf>

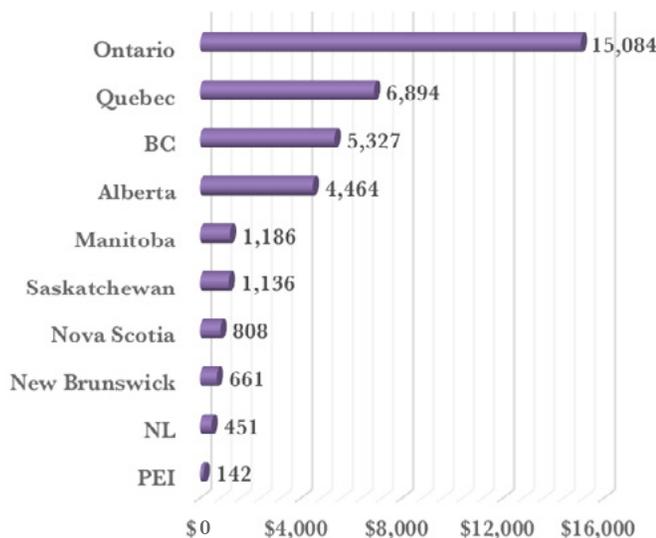
<sup>19</sup> [https://www.cfib-fcei.ca/sites/default/files/2018-01/Cost-Red-Tape-Snapshot-2018\\_0.pdf](https://www.cfib-fcei.ca/sites/default/files/2018-01/Cost-Red-Tape-Snapshot-2018_0.pdf)

with these regulations is much higher for small businesses than larger ones, meaning the cost of regulatory compliance is regressive.

Figure 1 provides a breakdown of the broad regulatory burden in Canada by province. Ontario stands out in a bad way as the province with highest cost of government regulation. In fact, the total cost of regulation estimated at \$15 billion, more than double the next-highest province, Quebec, whose costs totalled \$6.9 billion. Extrapolating from the CFIB’s estimate for Canada as a whole, this suggests roughly \$4.5 billion of Ontario’s regulatory burden on business is excessive.

Of course, Ontario is the country’s largest province. So an adjustment must be made to allow for a more apples-to-apples comparison with other provinces. Figure 2 does just that. It adjusts the cost of regulation by the number of active businesses (with employees) in each province. This ratio provides an overall cost of government regulation per business. Here, again, Ontario stands out negatively. At nearly \$33,000 per business, it has the highest regulatory cost of all provinces. Manitoba’s cost of government regulation per business is second highest, at just under \$29,000. These statistics reinforce the case that the Ontario government should pursue reform to bring its regulatory burden closer in line with other provinces – especially since it is difficult to argue that these other jurisdictions have markedly poorer outcomes with regards to environmental, health and safety, and consumer protection objectives.

**FIGURE 1: COST OF GOVERNMENT REGULATION BY PROVINCE (IN MILLIONS \$), 2017**



Source: CFIB’s 2018 “The Cost of Government Regulation on Canadian Business” [https://www.cfib-fcei.ca/sites/default/files/2018-01/Cost-Red-Tape-Snap-shot-2018\\_0.pdf](https://www.cfib-fcei.ca/sites/default/files/2018-01/Cost-Red-Tape-Snap-shot-2018_0.pdf)

**FIGURE 2: COST OF GOVERNMENT REGULATION PER BUSINESS BY PROVINCE, 2017**



Sources: CFIB’s 2018 “The Cost of Government Regulation on Canadian Business” [https://www.cfib-fcei.ca/sites/default/files/2018-01/Cost-Red-Tape-Snap-shot-2018\\_0.pdf](https://www.cfib-fcei.ca/sites/default/files/2018-01/Cost-Red-Tape-Snap-shot-2018_0.pdf); Statistics Canada. Table 33-10-0034-01 Canadian Business Counts, with employees, June 2017; calculations by authors

# Ontario's Regulatory State

When it comes to understanding Ontario's current regulatory state, it is important to briefly look back to the past. The previous government had an inconsistent track record on regulatory reform, although, to its credit, it did highlight the need for regulatory modernization<sup>20</sup> and introduce various bills (i.e. Bill 27 and Bill 154)<sup>21</sup> with the goal of cutting unnecessary red tape. For instance, a positive feature of Bill 154 "Cutting Unnecessary Red Tape Act, 2017" includes a measure "requiring all ministries to offset every dollar of new administrative costs to business by removing \$1.25 of old and unnecessary costs."<sup>22</sup> Likewise, Bill 27 "Burden Reduction Act, 2017" amended more than 50 statutes from 11 different ministries to reduce regulatory burdens, with total cost savings up to \$31 million per year for Ontario businesses. In addition, the government launched The Red Tape Challenge, an online platform to "identify and eliminate regulatory duplication, lessen compliance burdens, shorten response times, and make it easier for businesses and citizens to interact with government." These are generally positive initiatives.

All told, the previous government claimed that its regulatory burden reduction initiatives saved Ontario businesses a total of \$152 million since 2011. While positive, this number should be put into proper context. The estimated cumulative savings over six years is approximately one percent of the overall cost of government regulation in the province or less than 3.5 percent of the estimated share deemed excessive. The figure is also independent of any new or increasing regulatory costs imposed by the province over the past several years.

Despite some positive steps on regulatory reform, the progress to date has been underwhelming. The Ontario government still does not consistently count and measure the cost of regulatory requirements. This is a real gap. Doing so is crucial for being able to establish whether the overall regulatory burden is increasing or decreasing relative to some baseline.

<sup>20</sup> <https://www.ontario.ca/page/2017-burden-reduction-report>

<sup>21</sup> See <https://www.ontario.ca/laws/statute/S17002> and <https://www.ola.org/en/legislative-business/bills/parliament-41/session-2/bill-154>

<sup>22</sup> <https://news.ontario.ca/medg/en/2017/09/ontario-introduces-new-measures-to-help-businesses-save-time-and-money.html>

Moreover, as mentioned, other government policies have had the effect of offsetting regulatory reductions. One example is Bill 148 “Fair Workplaces, Better Jobs Act,”<sup>23</sup> which created significant new red tape challenges for business through changes to the Employment Standards Act – including large-scale increases to the minimum wage as well as significant changes to the labour regulation of scheduling, leaves, and vacation time. The changes also altered how part-time, casual, and seasonal staff are paid, requiring equal pay for all employees performing substantially the same job, regardless of employment status. The resulting increased labour costs and the lack of clarity about interpreting the legislation prompted angst among business owners and the business community more broadly. In response, Ontario’s new government recently vowed to repeal parts of Bill 148.<sup>25</sup> It has already revoked the previous administration’s cap-and-trade program, which was another source of major new regulations introduced in recent years.

There is no shortage of examples where red tape has real negative consequences on the lives of Ontarians. Consider regulations on the development of new housing, given skyrocketing housing prices in the Greater Toronto Area (GTA).<sup>26</sup> Both provincial and municipal regulations – including zoning regulations, various fees,

and development charges – have contributed to an affordability problem since those costs are ultimately borne by home buyers. A recent study prepared for the Building Industry and Land Development Association found that government fees and charges account for a sizeable portion of the cost of new homes in the GTA.<sup>27</sup> Specifically, the study estimates that the average government charges for each new, single, detached home to be roughly \$186,300 or 22 per cent of the average price for a new home. Similarly, a recent analysis from the C.D. Howe Institute estimated the average cost of government regulation on new single-family homes in the GTA to be around \$168,000.<sup>28</sup> This is a real-life case where poorly designed or unnecessarily high-cost regulatory policies can have considerable financial effects on Ontarians.

It is important to reiterate that while Ontario has enacted new major regulations on labour and carbon emissions – even if temporarily – the policy framework in competing U.S. states has tended toward fewer regulations. This is an important consideration because, as Paul Boothe and Alister Smith observe in their recent Ontario 360 paper, American jurisdictions already have various competitiveness advantages including (but hardly limited to) the recent tax reforms passed by the U.S. Congress.

<sup>23</sup> <https://www.ontario.ca/laws/statute/S17022>

<sup>24</sup> See <https://www.theglobeandmail.com/report-on-business/small-business/sb-managing/ontario-companies-worried-about-upcoming-changes-requiring-equal-pay-for-part-time-employees/article38349586/> and <http://www.occ.ca/mediareleases/occ-calls-for-bill-148-repeal/>

<sup>25</sup> <https://www.cbc.ca/news/canada/toronto/ford-vows-to-scrap-key-liberal-labour-reform-legislation-1.4847330>

<sup>26</sup> <https://www.newswire.ca/news-releases/government-fees-levies-and-regulatory-costs-driving-up-housing-prices-in-the-gta-507803281.html>

<sup>27</sup> [http://www.bildgta.ca/Assets/Bild/EducationalLibrary/BILD\\_Report.pdf](http://www.bildgta.ca/Assets/Bild/EducationalLibrary/BILD_Report.pdf)

<sup>28</sup> [https://www.cdhowe.org/sites/default/files/attachments/research\\_papers/mixed/Friday%20Commentary\\_513.pdf](https://www.cdhowe.org/sites/default/files/attachments/research_papers/mixed/Friday%20Commentary_513.pdf)

In addition to the major regulations discussed above, there are many less prominent examples of inefficient regulations in the province whereby several regulatory bodies (government agencies, crown corporations, and human rights tribunals) are involved in regulating the same issues.<sup>29</sup> Such cases cause enormous confusion, frustration, and financial costs for those affected. And there are smaller scale regulatory irritants that cause individual entrepreneurs and small business owners big problems and high costs. The CFIB and other business associations have actively documented particular cases of red tape that small businesses are dealing with in Ontario and other provinces.<sup>30</sup> The reality is that government regulations come in different forms – some are major and have the potential to widely impact economic and social life. Others, while more targeted in their application, are worthy of attention and reform – particularly when the regulations are outdated, inefficient, or ripe for modernization.

This is one of the reasons that previous Ontario 360 experts have recommended a “Who Does What” review whereby the province works with the federal and municipal governments to minimize duplication and overlap.<sup>31</sup>

One of us has recently written about the need for an intergovernmental disentanglement agenda that begins to address these instances of multi-jurisdictional regulatory policy.<sup>32</sup> Not only would such an agenda reduce the cost burden on individuals and businesses, it could also help reduce administrative costs for government. An outdated estimate from the early 1990s put the federal cost of intergovernmental overlap at \$5 billion alone.<sup>33</sup> There are no similar estimates for provincial or local governments, or for businesses and individuals who must navigate the different regimes. But it is fair to say that the cost is substantial, which is a key consideration in light of Ontario’s public finance challenges.

<sup>29</sup> [http://www.occ.ca/wp-content/uploads/RedTape\\_electronic2-1.pdf](http://www.occ.ca/wp-content/uploads/RedTape_electronic2-1.pdf)

<sup>30</sup> See [https://www.cfib-fcei.ca/sites/default/files/article/documents/RTAW2017\\_10redtape\\_en.pdf](https://www.cfib-fcei.ca/sites/default/files/article/documents/RTAW2017_10redtape_en.pdf) and [http://www.occ.ca/wp-content/uploads/RedTape\\_electronic2-1.pdf](http://www.occ.ca/wp-content/uploads/RedTape_electronic2-1.pdf)

<sup>31</sup> <http://on360.ca/30-30/municipal-affairs-transition-briefing/>

<sup>32</sup> [https://macdonaldlaurier.ca/files/pdf/MLI\\_GAI\\_Labour\\_FinalWeb.pdf](https://macdonaldlaurier.ca/files/pdf/MLI_GAI_Labour_FinalWeb.pdf)

<sup>33</sup> <http://publications.gc.ca/collections/Collection-R/LoPBdP/BP-e/bp321-e.pdf>

# The Path Forward

Any new regulatory reform should not be starting from scratch. It should build on the previous government's efforts, such as the information and ideas collected during the Red Tape Challenge.

Scholars Boothe and Smith have some helpful ideas for regulatory reform in their Ontario 360 essay, including recommendations to stop the proliferation of new regulations, streamline existing regulations, and make the approvals process more efficient. We agree with those ideas.

In addition, wherever possible, it is important for the government to eliminate duplication, overlap, inconsistencies, and contradictory rules across agencies and levels of government. Seeking ways to minimize the number of steps, decrease processing times, or make things more user friendly with the goal of cutting the time and cost of compliance and administration for Ontario businesses and individuals are obvious considerations. Digital technologies and data analytics<sup>34</sup> can help in this regard, as can regularly reviewing existing regulations (with input from citizens) to determine whether they are achieving the desired ends. The concept of a "Who Does What" review certainly seems relevant and timely. The result could be to not only reduce the regulatory burden on individuals and businesses, but also to identify administrative and fiscal savings for governments.

Ontario can also learn from British Columbia's successful reforms beginning in 2001 to dramatically cut red tape. Based on that experience, the path forward to achieving effective and long-lasting reform requires three basic ingredients.<sup>35</sup> First and foremost, political leadership is needed. If politicians are not fully on board, the reform will not happen or last. Fortunately, Ontario's current government seems willing. Second, the government must establish a publicly available baseline for measuring the number of regulatory requirements and their estimated costs, along with regularly reporting to the public on changes to the number and costs of provincial regulations. This type of accountability, which is presently lacking in Ontario, is sorely needed to track whether or not progress is made. Setting a specific goal helps. In the case of British Columbia, Gordon Campbell's government set out to reduce red tape by one-third (it actually reduced it by more than 40 percent, with a long-term commitment to a net-zero gain). A final key ingredient is placing constraints (i.e. regulatory caps) on regulators and giving them the appropriate incentives to manage and minimize the regulatory burden.

<sup>34</sup> [https://www.cdhowe.org/sites/default/files/attachments/research\\_papers/mixed/March%2027%20Commentary\\_507.pdf](https://www.cdhowe.org/sites/default/files/attachments/research_papers/mixed/March%2027%20Commentary_507.pdf)

<sup>35</sup> <https://www.cfib-fcei.ca/sites/default/files/pdf/rr3344.pdf>

One worthwhile option to consider is adopting a regulatory budgeting model, as enacted by the previous Liberal government in B.C. and at the federal level. A regulatory budget essentially requires that any new regulations need to be offset by reforming or eliminating existing regulations of an equivalent economic cost – using a standardized costing model to measure the economic costs of regulations across the government. Departments are therefore responsible for weighing the benefits and costs of new regulations against existing ones, and ultimately for setting out rules and regulations that minimize the cost burden on businesses and households.<sup>36</sup>

This is an important point: Regulatory budgeting is neutral on deregulation. It is principally about requiring greater prioritization and trade-offs than policymakers would otherwise consider. Think of it as much about creating the right institutional incentives and empowering officials to make smart, long-term choices as it is about deregulation. This is presumably why regulatory budgeting was enacted in B.C. by a Liberal government, has been maintained in Ottawa by the Trudeau government, and has some support among centre-left scholars in Washington.<sup>37</sup>

Finally, an important guide in regulatory reform and policymaking more generally is to recognize the crucial difference between zero risk and the precautionary principle. The precautionary principle is designed to assist policymakers with

decision making about regulatory intervention under uncertain conditions. As a European Commission study explains, “a precautionary approach captures the idea that regulatory intervention may still be legitimate, even if the supporting evidence is incomplete or speculative and the economic costs of regulation are high.”<sup>38</sup> In other words, it is about managing risk. The study goes on to note that the precautionary principle “ought only to be used if a risk is deemed to be plausible. Any regulatory measures introduced as a result of the precautionary principle should also be subject to review in light of new scientific data, and may have to be modified or abolished as new scientific data become available.” When governments stray away from the “precautionary principle” – as is likely the case in Ontario – there is the potential to impose significant costs on the economy for minimal regulatory upside. Restoring the “precautionary principle” in regulatory policymaking should therefore be part of an agenda to reduce red tape and restore business confidence in Ontario.

<sup>36</sup> <https://www.rstreet.org/wp-content/uploads/2016/03/RSTREET54.pdf>

<sup>37</sup> [https://www.brookings.edu/wp-content/uploads/2017/10/evaluatingtrumpregreform\\_gayerlitanwallach\\_102017.pdf](https://www.brookings.edu/wp-content/uploads/2017/10/evaluatingtrumpregreform_gayerlitanwallach_102017.pdf)

<sup>38</sup> [http://ec.europa.eu/environment/integration/research/newsalert/pdf/precautionary\\_principle\\_decision\\_making\\_under\\_uncertainty\\_FB18\\_en.pdf](http://ec.europa.eu/environment/integration/research/newsalert/pdf/precautionary_principle_decision_making_under_uncertainty_FB18_en.pdf)

## Conclusion

Ontario faces a number of competitive challenges, and chief among them is a heavy burden of government regulation on economic activity. The available data suggest that Ontario has the heaviest regulatory burden in the country. This needs to change, particularly as competitive pressures rise from pro-growth policy reforms pursued in the United States, particularly from competing manufacturing states.

To free businesses and individuals in the province from red tape that stifles entrepreneurship, innovation, and the economy more generally, Ontario must build on the previous government's reform efforts.

This paper offers ideas for an effective regulatory reform agenda. The path forward must involve stopping the proliferation of new regulations, streamlining existing ones, and aiming for greater overall efficiency. Wherever possible, it is important to eliminate duplicative, overlapping, and inconsistent regulations. British Columbia's successful experience with regulatory reform in the 2000s offers important lessons for Ontario today as

it seeks to modernize and improve its regulatory policy. Critical to effective and long-lasting reform is a basic need from government to establish and regularly report on a publicly available baseline for measuring the number of regulatory requirements and their estimated costs. This type of accountability, which is lacking in Ontario, is sorely needed to track whether or not progress is made. Finally, ensuring regulators have the proper incentives to effectively manage the regulatory process is key. Restoring the precautionary principle (or a risk management approach) in regulatory policymaking should be part of the agenda to reduce red tape and restore business confidence in Ontario.

# ONTARIO 360

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