

THE OFFICIAL GAZETTE 12TH JUNE, 2019
LEGAL SUPPLEMENT — A



ACT NO. 15 OF 2019

CUSTOMS AND TRADE SINGLE WINDOW SYSTEM ACT 2019

I assent



David Granger,
President.

2019.06.12

ARRANGEMENT OF SECTIONS

SECTION

PART I
PRELIMINARY

1. Short title and commencement.
2. Interpretation.

PART II**CUSTOMS AND TRADE SINGLE WINDOW SYSTEM**

3. Establishment of the Single Window System.
4. Technical aspects of the Single Window System.
5. Security of the Single Window System.
6. Registration of users.
7. Measures to enable payment.
8. Inter-linking with regional and other international single window systems.

PART III**MANAGEMENT AND IMPLEMENTATION
OF THE SINGLE WINDOW SYSTEM**

9. Revenue Authority to manage and implement the Single Window System.
10. Functions of the Revenue Authority.
11. Customs and Trade Single Window Unit and staff of the Unit
12. Finance of the Single Window System.

PART IV**PARTICIPATING AGENCIES**

13. Memoranda of Understanding.
14. Implementation.
15. Confidentiality and security of data.
16. Information sharing and exchange of information.
17. Registration and authentication of private sector users.

PART V**OVERSIGHT COMMITTEE**

18. Establishment of the Oversight Committee.
19. Functions of the Committee.
20. Term of office of the Committee.
21. Annual report of the Committee.

PART VI**MISCELLANEOUS**

22. Protection of action taken in good faith
23. Protection from loss.
24. Confidentiality.
25. General offence.
26. Regulations.
27. Act binds the State.

AN ACT to establish the Customs and Trade Single Window System to facilitate trade and for connected matters.

A.D. 2019 Enacted by the Parliament of Guyana:-

PART I
PRELIMINARY

Short title and commencement.

1. This Act may be cited as the Customs and Trade Single Window System Act 2019 and shall come into operation on a date to be appointed by the Minister by order.

Interpretation.

Cap. 79:04

2. In this Act –
“Commissioner-General” means the Commissioner-General of the Revenue Authority established under the Revenue Authority Act;
“communication” includes any statement, declaration, demand, notice, request, offer or the acceptance of an offer, that a Participating Agency is required to make or choose to make in connection with the formation or performance of a contract;
“consumer” means any person who enters or intends to enter into an electronic transaction with a provider as the end user of the goods or services offered by the provider;
“electronic” includes electrical, digital, magnetic, wireless, optical, electro-magnetic, biometric, photonic and similar capabilities;
“electronic communication” means information which is communicated, processed, recorded, displayed, created, stored, generated, received or transmitted by electronic means;
“electronic record” means a record generated, communicated, received or stored by electronic means in an information system, or for transmission from one information system to another;

“information” includes data, text, documents, images, sounds, codes, computer programmes, software and databases;

“information system” means a system for generating, sending, receiving, storing or otherwise processing electronic records;

“Minister” means the Minister responsible for finance;

“Participating Agency” means a Government or parastatal agency or private entity which is involved in the Single Window System;

“services” includes the grant or issue of permissions, approvals, clearances, certificates, registrations, or licences or other compliances by the Revenue Authority or any Participating Agency to facilitate trade;

“Single Window System” means the Customs and Trade Single Window System, established under section 3, a web-portal that permits the parties involved in trade to submit information and standardised documents through a single point of entry with the object of complying with all the procedural steps related to export and import operations under the applicable laws;

“transaction” means an action or set of actions relating to the conduct of business, consumer or commercial affairs between two or more persons including the sale, lease, exchange, licensing, or other disposition of movable property, including goods, and intangible interests in immovable property, services or any combination of any of these acts; and

“Unit” means the Customs and Trade Single Window Unit referred to in section 11.

PART II

CUSTOMS AND TRADE SINGLE WINDOW SYSTEM

Establishment of
the Single Window
System.

3. (1) There is established a Single Window System known as the Customs and Trade Single Window System which shall be managed by the Revenue Authority.

(2) The Single Window System shall be the single decision-making facility for customs inspection, clearance and release of cargo, enabling electronically –

- (a) a single submission of data and information; and
- (b) a single and synchronous processing of data and information.

(3) The Single Window System shall serve as a single entry point for parties involved in trade to –

- (a) lodge documents electronically, for processing and approval; and
- (b) make payments electronically for fees, levies, duties, and taxes due to the Government, on goods which are imported or exported.

Technical aspects
of the Single
Window System.

4. (1) The Revenue Authority shall adopt relevant internationally accepted standards, procedures, documents, technical details and formalities for the effective implementation of the Single Window System.

(2) All processes and technical aspects of the Single Window System shall conform to the following principles –

- (a) transparency in relation to procedures being undertaken through the System;
- (b) security of trade data information exchange;
- (c) simplicity and accessibility;
- (d) confidentiality and privacy;
- (e) reliability, trust and consistency;
- (f) scalability and interoperability; and
- (g) efficiency.

Security of the
Single Window
System.

5. (1) The Revenue Authority shall be responsible for—
- (a) the security of data in the Single Window System;
 - (b) ensuring that information is confidential and is used only for the purpose for which it is intended;
 - (c) taking precautions to ensure that electronic systems are secure from unauthorised access; and
 - (d) requiring System users to comply with all applicable policies and laws governing data protection.

(2) Whenever there is any interruption in the method of payment and the submission of import data, the Revenue Authority shall immediately notify the users and end users and provide an alternative mode of payment and submission of import data.

Registration of
users.

6. (1) Any person intending to engage in the import and export of goods shall apply to the Revenue Authority for registration as a user of the Single Window System.

(2) An application for registration as a user of the Single Window System shall be in the prescribed form.

(3) The Revenue Authority shall keep and maintain an electronic register of the registered users of the Single Window System and issue a notification of registration to a user of the System.

(4) The Minister shall, in consultation with the Revenue Authority, make regulations prescribing the procedures for registration, registrable particulars and other details necessary to give effect to this section.

Measures to enable payment.

7. (1) The Revenue Authority shall put in place measures to enable payment in the prescribed manner by –

- (a) credit card where an electronic interface for online payment has been made available;
- (b) debit card where an electronic interface for online payment has been made available;
- (c) mobile money transfer;
- (d) debiting an e-wallet account;
- (e) cash deposit into any specified account of a designated bank;
- (f) electronic funds transfer;
- (g) real-time gross settlement;
- (h) online banking; or
- (i) any other authorised electronic payment system.

(2) A person making payment under subsection (1) shall do so in the prescribed manner.

Inter-linking with regional and other international single window systems.

8. The Revenue Authority shall put in place a suitable gateway model for purposes of inter-linking with regional and other international single window systems.

PART III

MANAGEMENT AND IMPLEMENTATION

OF THE SINGLE WINDOW SYSTEM

Revenue Authority to manage and implement the Single Window System.

9. The Revenue Authority shall be responsible for the management and implementation of the Single Window System.

Functions of the Revenue Authority.

10. The functions of the Revenue Authority shall be to –

- (a) implement, in consultation with the Minister, policies relating to the Single Window System;

- (b) integrate electronic systems of public and private entities involved in receipting, processing and approving documents relating to international trade transactions;
- (c) develop, manage and promote interchange of electronic data for facilitation of trade;
- (d) promote public confidence in the integrity and reliability of electronic records and electronic transactions conducted through the Single Window System;
- (e) develop sound frameworks to minimise the incidence of forged electronic records and fraud in electronic commerce and other electronic transactions conducted through the Single Window System;
- (f) enter into association with such other institutions, persons, bodies or organisations as the Revenue Authority may consider desirable or appropriate in furtherance of the purposes for which the Single Window System is established;
- (g) plan, develop, monitor and evaluate training programmes for all stakeholders to ensure conformity with international best practices;
- (h) impose fees and charges for the use of any services provided in connection with the Single Window System; and
- (i) provide for End User Licence Agreements or Terms of Use Agreements.

Customs and Trade
Single Window
Unit and staff of
the Unit.

11. (1) The Revenue Authority shall establish a unit to be known as the Customs and Trade Single Window Unit within the Department of Customs.

(2) The functions of the Unit shall be to –

- (a) manage the day-to-day functioning of the Single Window System;
- (b) facilitate electronic transactions conducted through the Single Window System by ensuring the use of reliable electronic records;
- (c) ensure data privacy and overall security in conformity with established laws and regulations;
- (d) maintain an electronic database of imported and exported goods and the levies, fees, duties and taxes charged on imported or exported goods;
- (e) collect trade statistics;
- (f) maintain and upgrade the system to provide e-commerce solutions in trade;
- (g) maintain performance information of the Single Window System for evaluating effectiveness;
- (h) undertake and co-ordinate research and surveys in electronic commerce aimed at simplifying and harmonising trade documentation;
- (i) assist users with training and respond to user problems; and
- (j) any other function determined by the Revenue Authority.

(3) The Unit shall be headed by a director appointed by the Revenue Authority.

(4) The Unit shall comprise such staff as the Revenue Authority considers qualified and capable to discharge the functions of the Unit including persons with knowledge and experience in information technology, who are capable of addressing technical issues, including programming issues that are specific to the Single Window System and

any issue that may arise between the Single Window System and a Participating Agency's information technology systems.

Finance of the
Single Window
System.

12. (1) The Revenue Authority shall –

- (a) administer assets and funds allocated to the Revenue Authority in connection with the Single Window System;
- (b) receive grants, donations or other moneys in connection with the Single Window System.

(2) Funding for the Single Window System shall be included in the annual estimates of revenue and expenditure of the Revenue Authority.

PART IV PARTICIPATING AGENCIES

Memoranda of
Understanding.

13. (1) The Revenue Authority shall establish Memoranda of Understanding with Participating Agencies involved in the creation and operation of the Single Window System that define the expected roles, responsibilities and obligations of each Participating Agency.

(2) These Memoranda of Understanding shall contain provisions relating to the sharing of information between the Revenue Authority and Participating Agencies, as well as between two or more Participating Agencies, in order to promote efficient information sharing.

Implementation.

14. (1) Each Participating Agency shall, subject to the terms of the Memorandum of Understanding as well as any applicable legal and

regulatory framework, agree to provide technical and legal personnel as may be required to carry out its duties in relation to the Single Window System.

(2) Each Participating Agency shall agree to recruit technical personnel with knowledge and experience in information technology, who are capable of addressing any technical issues specific to the Participating Agency's information technology systems and who shall co-operate with the technical staff of the Unit if necessary to resolve any issue that may arise between the Single Window System and a Participating Agency's information technology systems.

(3) Each Participating Agency shall, in the implementation of the Single Window System, use –

- (a) data in electronic format that is functionally equivalent to paper-based documents; and
- (b) established standardised business and other processes.

Confidentiality and security of data.

15. (1) Each Participating Agency shall undertake to observe the confidentiality and secrecy of documents, information and the other data received from the other party or supplied to the Participating Agency for the duration of the agreement.

(2) A Participating Agency shall not –

- (a) directly or indirectly disclose any confidential information provided by the other party; or
- (b) use confidential information provided by another party for any purpose other than for those specified in the agreement without the prior written authorisation of such party and the private stakeholder concerned.

(3) Each Participating Agency shall be responsible for protecting the security and privacy of the data in its information systems, including data transmitted by other Participating Agencies.

Information sharing and exchange of information.

16. (1) Each Participating Agency shall follow the policies and regulations established in its Memorandum of Understanding for the sharing, use and dissemination of data and information and the mutual recognition of such data and information from other Participating Agencies being communicated within the Single Window System.

(2) Limitations on sharing of data and information may be established in agreements between any of the Participating Agencies, if necessary.

Registration and authentication of private sector users.

17. (1) Each Participating Agency shall register all non-governmental and governmental entities, including individuals, companies and organisations, that will be permitted to have access to the Single Window System for purposes of providing or receiving information and documents to or from the Single Window System, and shall establish authentication procedures to ensure that only fully authorised entities will be allowed to transact business with a Participating Agency through the Single Window System.

(2) Each Participating Agency shall maintain a secure and updated registry listing of all authorised registered users.

(3) Authorised registered users of the Single Window System shall not be permitted access to information or data other than those information or data for which access has been authorised by legal and regulatory framework.

PART V
OVERSIGHT COMMITTEE

Establishment of the Oversight Committee.

18. There is established an Oversight Committee comprising the Minister of Business or his appointee, who shall be the Chairperson, the Minister or his appointee, the Commissioner-General, the Director of the Unit and the heads of the Participating Agencies.

Functions of the Committee.

19. The functions of the Committee shall be to monitor the Revenue Authority's progress in implementing the Single Window System and to resolve any disputes among Participating Agencies in the implementation of the Single Window System.

Term of office of the Committee

20. The Committee shall discontinue its functions one year after the Single Window System has been implemented and in operation.

Annual report of the Committee.

21. (1) The Committee shall prepare an annual report for presentation by the Minister of Business to the National Assembly on the steps that the Revenue Authority has taken to implement the Single Window System.

(2) The report shall provide a list of any outstanding issues hindering the implementation of the Single Window System and the Committee's recommendations to resolve the issues.

PART VI
MISCELLANEOUS

Protection of action taken in good faith.

22. No matter or thing done by the Commissioner-General or any officer, employee or agent of the Revenue Authority shall, if the matter or thing is done in good faith for the purposes of executing any

provisions of this Act, render the Commissioner-General or any officer, employee or agent of the Revenue Authority personally liable to any suit, prosecution or legal proceedings.

Protection from loss.

23. The Revenue Authority shall not be liable for any loss arising from a technical malfunction of the system.

Confidentiality.

24. (1) An officer, employee or agent of the Revenue Authority shall not disclose to any other person or use any confidential information obtained as a result of his connection or dealings with the Single Window System except so far as it is required or permitted in the exercise of his official duties or under any written law.

(2) A person who wilfully discloses or uses confidential information in contravention of subsection (1) commits an offence and is liable on summary conviction to a fine of five hundred thousand dollars and to imprisonment for six months.

General offence.
Cap.82:01

25. Where an offence under the Customs Act or its Regulations is capable of being committed by a person through the use of the Single Window System or an electronic system of a Participating Agency the Act or Regulations shall be deemed to provide that the offence may be committed by a person through the use of the Single Window System or an electronic system of a Participating Agency and a person who commits the offence through the system shall be liable to the same penalty provided by that law.

Regulations.


26. (1) The Minister may, in consultation with the Revenue Authority and other relevant agencies or institutions, make Regulations for the purpose of giving effect to the provisions of this Act.

(2) Without limiting the generality of subsection (1), the Minister in consultation with the Revenue Authority and other relevant agencies or institutions, may make Regulations to prescribe –

- (a) administrative measures relating to the use of the Single Window System;
- (b) for the integration of paperless customs with other regulatory bodies issuing trade, import, export, and transit-related permits and certificates;
- (c) for the extension of the Single Window System to serve the entire trade and logistics communities within the airports, seaports, and dry ports;
- (d) for the creation of an integrated national logistics platform interlinking the customs administrator, trading companies, and the service sectors to better manage the entire chain of import-export operations;
- (e) timelines for processing applications;
- (f) the conditions that must be complied with by users of the Single Window System;
- (g) for matters relating to the sale of goods or services by a person using electronic communications;
- (h) fees for using the Single Window System;
- (i) any other matter that is required to be prescribed under this Act.

(3) Regulations made under this section may provide that a contravention of a specified provision shall be a summary offence and may provide penalties of a fine not exceeding one million dollars and imprisonment not exceeding twelve months.

Passed by the National Assembly on 15th May, 2019


S.E. Isaacs,
Clerk of the National Assembly

(Bill No. 3/2019)