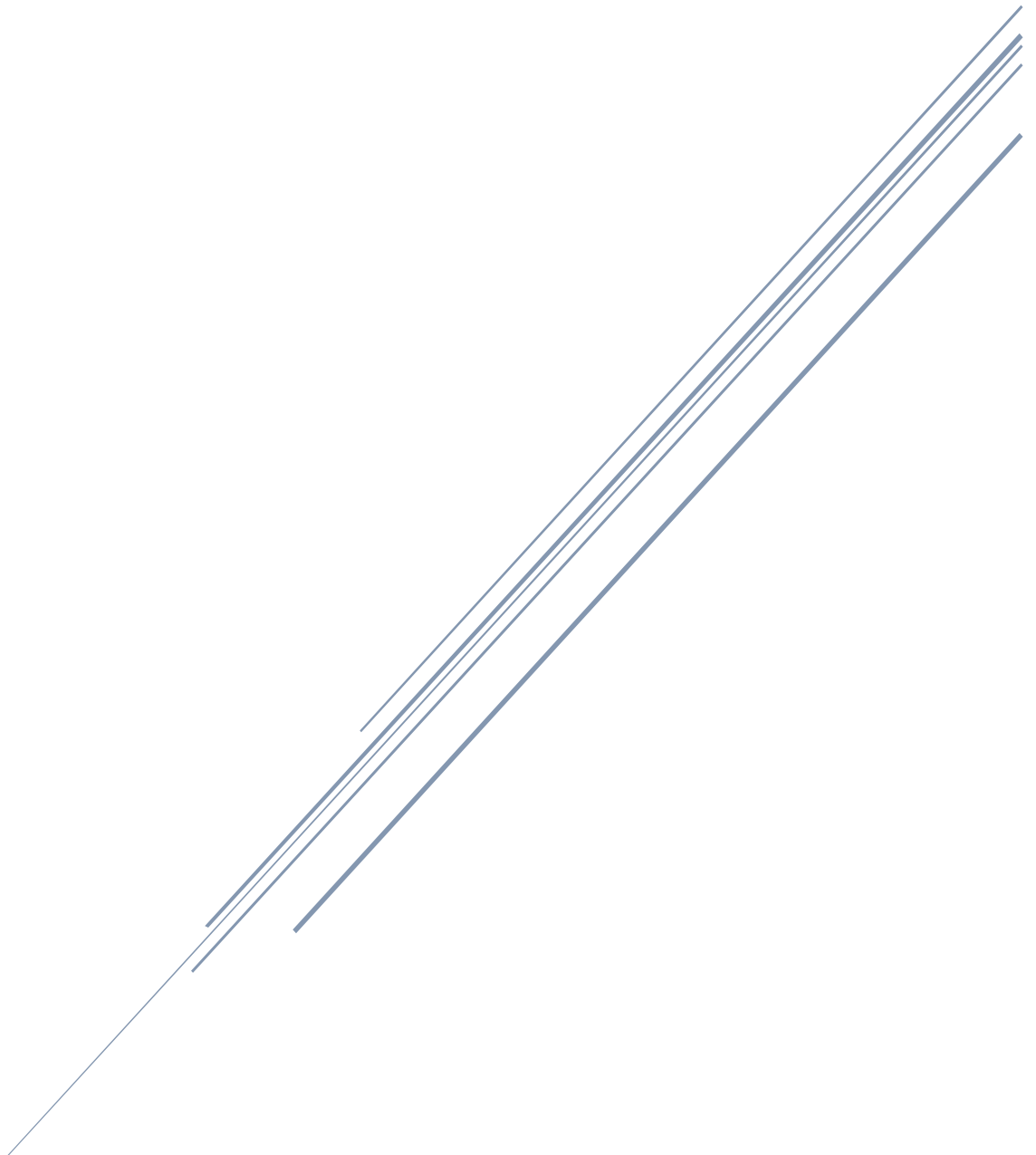


The Pakistan National Single Window Act, 2019

Zero Draft



Federal Board of Revenue
ISLAMABAD

PREFACE

Pakistan has ratified the WTO's Agreement on Trade Facilitation on 27th October, 2015 and as such under its Article 10.4 has committed herself to the establishment of a 'National Single Window' (NSW) as a 'Category C' commitment with an implementation timeline of five years with effect from 22nd February, 2017. National Single Window is a platform that allows parties involved in trade and transport to lodge standardized information and documents using a single-entry point to fulfil all import, export and transit related regulatory requirements.

The lack of Information Communication Technology (ICT) based coordination and decision making among various regulatory authorities and Customs has led to increasing cost, time and complication for undertaking cross border trade in Pakistan. In order to improve the governance of their cross-border trade regimes other economies have relied upon developing NSW systems. As part of its trade facilitation and regional connectivity agenda, Pakistan is committed to reforming, modernizing, upgrading, and automating its cross-border trade infrastructure thereby contributing towards e-governance.

The Prime Minister's Office has designated Pakistan Customs in FBR as the Lead Agency in October, 2017 for implementation of ICT based trade related NSW in Pakistan keeping in view the global practice, Customs central position in management of cross-border trade and its record of successfully designing and implementing automation based trade facilitation initiatives. The main objective of the establishment of Pakistan National Single Window (PNSW) is to enable traders to clear goods through a single submission of data via electronic processing and issuance of authorizations by all the regulatory agencies involved in issuing permits, licenses, certificates and clearances for import, export and transit of goods and related transport.

Accordingly, Customs Wing in FBR through a dedicated Program Management Office has initiated consultative process with all stakeholders to develop PNSW in a timely and structured manner. The PMO has successfully undertaken various preparatory studies for PNSW implementation with the help of development partners and Pakistan Customs besides pursuing an advocacy plan to reach out to all relevant stakeholders in the public and private sectors. Based on the *NSW Implementation Blueprint* prepared after situation analysis of 44 different regulatory authorities by PMO, with help of international experts, the Prime Minister has constituted a high level Steering Committee under the chairmanship of the Minister for Finance, Revenue and Economic Affairs in May, 2018 to oversee implementation of the PNSW. Moreover, to ensure broader collaboration, six working groups have been notified in September, 2018 by FBR, for all key components of NSW, with representatives from all relevant public & private sector stakeholders

Due to involvement of numerous stakeholders and its very nature the implementation and operation of the PNSW requires specific legislation to be enacted through the Parliament. The PMO after conducting legal gap analysis, with the help of experts and after examining other similar statutes has prepared the following draft PNSW Act to provide the needed legislative framework for establishment of PNSW. It may be noted that this PNSW Act, 2019 is at draft stage which will be updated based on the feedback received from public and private sector

stakeholders. Feedback from working groups and experts engaged by PMO as well as the outcome of various studies currently underway will also be considered to update this draft law.

Keeping in view the significance of the PNSW, the PMO is looking forward to valuable feedback/comments/observations/suggestions on the following draft PNSW Act from for all the stakeholders involved with the cross border movement of goods including imports, exports and transit trade. The contact details in the PMO of Customs Wing, FBR, Islamabad for receiving your valuable feedback are as below:

Sr. No.	Name	Designation	Contact No.	Email
1	Mr. Agha Saeed Ahmad	Additional Director	0322-2224418	agha.saeed@gmail.com
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The Pakistan National Single Window Act, 2019

A

Bill

to make provisions for the establishment of Pakistan National Single Window

Whereas Pakistan has ratified the Trade Facilitation Agreement of the World Trade Organization which *inter alia* stipulates the establishment of a National Single Window for managing Pakistan's External Trade;

And whereas to ensure lawful and unhindered enjoyment of the right to lawful trade as enshrined in Article 18 of the Constitution of the Islamic Republic of Pakistan, it is necessary that a separate autonomous body be established to simplify cross border trade processes, reduce cost of doing business and facilitate trade on national and international level;

And whereas it is necessary to establish and operate a single point of submission and receipt of trade data and information for enabling synchronized processing of data and information; standardization of documents; electronic transactions for international trade and removing legal, regulatory, and operational barriers to electronic transactions in relation to external trade; facilitating coordination and partnership among all the relevant trade regulatory agencies and stakeholders dealing with the international trade and trade facilitation, and for matters connected therewith or ancillary thereto;

Notwithstanding anything contained in any law for the time being in force, it is hereby enacted as follows;

1. Short Title, Extent and Commencement. -

- (1) This Act may be called Pakistan National Single Window Act, 2019.
- (2) This Act shall extend to the whole of Pakistan.
- (3) This Act shall come into force from such date as the Federal Government may by a notification, in the official Gazette, appoint.

2. Definitions. - (1) In this Act, unless there is anything repugnant in the context or subject,

- a) "Act" means the Pakistan National Single Window Act, 2019;
- b) "Assembly" means the National Assembly of Pakistan;
- c) Chairperson means the Chairperson of the Governing Council established under the Act;
- d) "Committee" means the Committee established by the Governing Council and includes any sub-committee of the same;
- e) "Governing Council" means the Pakistan National Single Window Governing Council established under section 4 of this Act;
- f) "Lead agency" means the Lead Agency as appointed by the Federal Government under section 5 this Act;
- g) "Member" means a Member of the Governing Council and includes its Chairperson;
- h) "Operating Entity" means the entity created by the Lead Agency under the Companies Act, 2017 for establishing, operating, maintaining and upgrading the Pakistan National Single Window;

- i) “Other Government Agencies” hereinafter referred to as OGAs means any of the regulatory authorities other than Customs listed in First Schedule to this act whether referred to jointly or severally;
- j) “Program Management Office” means an office established by the Lead Agency for development, and implementation, of the Pakistan National Single Window prior to operationalization of operating entity;
- k) “National Single Window” means an Information and Communication Technology based facility that allows parties involved in trade and transport to lodge standardized information and documents with a single-entry point to fulfill all import, export, and transit-related regulatory requirements;
- l) “Rules” means rules, regulations and procedures framed and issued under this Act;
- m) “Trade Facilitation Agreement” means the Trade Facilitation Agreement of the World Trade Organization as ratified by Pakistan;
- n) “Trade Bodies” means any of the recognized Chambers of Commerce and Industry, their representatives, registered professional associations, trade unions *et al*;
- o) Member Customs (Operations) means a Member of the Federal Board of Revenue appointed under the Federal Board of Revenue Act, 2007;
- p) “Secretariat” means the Secretariat to the Governing Council established under the Act; and
- q) “Secretary to the Governing Council” means the Secretary to the Pakistan National Single Window Governing Council.

(2) Unless the context provides otherwise, any other expression used in this Act or rules made thereunder but not defined in this Act, shall have the same meanings assigned to the expressions in the respective laws and or/rules.

3. Establishment of the Pakistan National Single Window. -(1) Under the provisions of this Act, the Federal Government shall establish an Information and Communication Technology based Pakistan National Single Window system, hereinafter referred to as the PNSW, for trade and transport to enable swift, smooth and hassle-free international trade including imports, exports, and international transit across Pakistan’s national territory and notified international borders.

(2) The Federal Government may provide financial, human and administrative resources as it may deem necessary, for the establishment, operation, maintenance and, in case of exigency or technological advancements, the succession and replacement of PNSW.

(3) All government agencies that require documentation for clearing or licensing the importation, exportation, and transit of goods and associated transport shall participate in the PNSW.

Provided that the Governing Council may waive, in whole or in part, the requirement for participation for any OGA based on the vital national interest of the Islamic Republic of Pakistan.

(4) All government agencies shall give effect to the changes in their respective laws, rules and procedures related to regulation of cross border trade with prior consultation of the Operating Entity so that the PNSW system is accordingly aligned.

4. Pakistan National Single Window Governing Council. - (1) The Government may by a notification in the official Gazette, establish a PNSW Governing Council comprising of a Chairperson and such members as the Federal Government may specify;

(2) The Council shall be a body corporate with perpetual succession and a common seal and may sue or be sued in its own name and may enter into contracts and acquire, purchase, take, hold and enjoy moveable or immovable property of every description;

(3) No act or proceedings of the Council shall be invalid by reason only of the existence of a vacancy in or defect in the constitution of the Council;

(4) The Federal Minister for Finance, Revenue & Economic Affairs shall be the Chairperson of the Governing Council;

(5) The Chairperson may delegate, powers to convene and chair meetings of the Governing Council in case of necessity to any of the Members of the Governing Council;

(6) The Council may constitute Committees comprising two or more of its Members for any task(s) that the council may specify;

(7) The Governing Council may invite any persons or representative of the trade or professional bodies or organization to participate in its deliberations, make recommendations, submit reports and provide any assistance as the Governing Council may deem appropriate;

(8) The Office of the Governing Council may be established at such place as the Federal Government may prescribe;

(9) The Governing Council including its Chairperson shall perform such functions as the Federal Government may by rules prescribe which may *inter alia* include establishing the strategic direction, principles and policies of the PNSW, monitoring and oversight of strategic objectives and policies with respect to the PNSW; serving as interface and collaborator between all relevant government agencies involved in PNSW to ensure smooth and timely implementation of the NSW; and establish, manage, and monitor the performance contract with the Lead Agency and Operating Entity to ensure achievement of the anticipated outcomes from PNSW;

(10) The Federal Government may by a notification in the Official Gazette establish a Secretariat of the PNSW which shall perform such functions as the government may specify; and

(11) The Member Customs (Operations) of the Federal Board of Revenue shall act as *ex officio* Secretary of the Governing Council who shall convene the meetings of the Governing Council with the prior approval of the Chairperson after giving a notice to the Members of the Governing Council, maintain records of the proceedings of the Governing Council and timely communicate the same to the relevant authorities, individuals and entities.

5. PNSW Lead Agency. - (1) Pakistan Customs shall be the Lead Agency for developing, operating, maintaining and up-grading the PNSW.

(2) The Lead Agency shall be responsible for creating appropriate governance and implementation structure including the establishment of a Program Management Office and an Operating Entity for the development, acquisition, roll out, operations, maintenance, upgrading, enhancements and marketing of the PNSW and its allied systems, as it may deem fit for maximizing the benefits of the PNSW for the trade, regulatory authorities, and other related stakeholders.

(3) The Federal Government may on its motion or upon the recommendation of the Governing Council, by a notification in the Official Gazette, change the Lead Agency due to non-performance, or failure in achieving performance benchmarks as reported in performance audit reports consistently for three consecutive years.

6. PNSW Operating Entity. -(1) The Lead Agency shall establish an Operating Entity under the provisions of the Companies Act, 2017, comprising of a Board of Directors, a Chief Executive Officer and any such Officers as the Board of Directors may from time to time appoint to develop, roll out, operate, maintain, expand, enhance and market PNSW and its allied systems.

(2) The Governing Council upon the recommendation of the Lead Agency may allow change of the Operating Entity due to non-performance, or failure in achieving performance benchmarks as reported in performance audit reports consistently for three consecutive years.

(3) Government officers from Customs and the OGAs may be seconded to the Operating Entity through a competitive process to provide domain level knowledge and expertise to support harmonization and standardization of data elements, business process re-engineering, back-end automation, system integration and interface, integrated risks management, and legal, regulatory and procedural changes resulting from implementation of the PNSW;

Provided that during the period of their secondment with the Operating Entity, the government officers shall receive special PNSW allowance, as notified by the Lead Agency, in addition to the regular government pay and admissible allowances.

Provided further that retention or extension in the secondment period of the government officers shall be subject to objective performance assessment by the Operating Entity as per its HR policy.

(4) The Operating Entity may enter into partnerships or itself develop or acquire fully or partly the needed software, hardware and infrastructure to effectively run the PNSW

(5) The Operating Entity shall be entrusted with such functions and responsibilities as its Memorandum of Association may specify.

7. Grants, Funds, Budget and Accounts of the Governing Council. -(1) The Federal Government may, from time to time, place annual grants at the disposal of the Council for the smooth discharge of its affairs and for defraying of all expenditures incurred by the Governing Council through the Secretariat.

(2) In respect of each financial year, the Council shall submit for approval of the Federal Government, by such date and in such form as may be specified by the Federal Government, a statement showing the estimated receipts and expenditure and the sums which are likely to be required from the Federal Government during the next financial year.

(3) The Secretariat on behalf of the Council may open accounts with the State Bank of Pakistan or with any scheduled bank in Pakistan. The accounts of the Council shall be maintained in such form and manner as the Federal Government may, in consultation with the Auditor-General of Pakistan, determine. The accounts of the Council shall be audited every year by the office of the Auditor-General of Pakistan.

(4) Subject to the provisions of financial laws and regulations for the time being in place, accounts of the Council may be expended for the purposes which shall include but not limited to the following: -

- a) paying any expenditure lawfully incurred by it including the allowances of the Chairperson, the Members, Secretary or any other person hired for any activity or function under this Act;
- b) paying for expenditure incurred on marketing, publicity, seminars and conferences;
- c) paying rent, purchasing or hiring equipment and any other materials, acquiring land, erecting buildings and conducting other work and undertakings in the performance of its functions or the exercise of its powers under the Act; and
- d) Paying any other expenses, costs or expenditure properly incurred or accepted by the Council in the performance of its functions or the exercise of its powers or performance of its functions as may be prescribed by the rules.

8. Sources of Funding - (1) For the purpose of establishment of PNSW the Federal Government will allocate needed funds to the Lead Agency besides it may also utilize funding from other sources including grants in aid.

(2) For the purpose of meeting operating expanses of the PNSW the Federal Government may, by notification in the official Gazette, upon the recommendation of the Lead Agency, subject to such conditions, limitations or restrictions as it may deem fit to impose, levy fee and service charges for any of the services or control mechanism provided by or on behalf of the PNSW, at such rates as may be specified in the notification. The Federal Government upon recommendation of the Governing Council will allocate funds to the lead agency in case the income from service fee is insufficient to meet the operating expenses.

(3) The Lead Agency may notify rules for spending funds allocated or collected under section 8 (1) and (2) through the Operating Entity, with prior approval of the Governing Council.

9. Data Retention, Electronic Submission of documents and other requirements.-(1) The provisions of Chapter-XVI-A of the Customs Act, 1969(IV of 1969) and Chapter 1-3 of the Electronic Transaction Ordinance 2002 shall *mutatis mutandis* apply to electronic submission of documents, data retention or storage, copyrights, legal recognition and presumption, certification, notarization, registration, etc. inasmuch as they are relevant to the stated intent, objectives, and operations under this Act and shall be deemed to have so applied from the date of its commencement.

(2) Any offence committed in relation to the electronic systems of the PNSW shall be deemed to have been an offence under the Prevention of Electronic Crimes Act, 2016(Act XL of 2016) and provisions of the said Act shall apply in the same manner as specified therein.

10. Power to Make Rules. - (1) Notwithstanding anything contained in any other law for the time being in force, the Governing Council may make rules under this Act, and issue statutory rules, and orders, regulations, procedures; and enter into contracts, agreements and commitments for establishing, operating and up-grading PNSW.

(2) Rules issued under section 10 (1) shall be placed before the Assembly within one hundred and twenty days of issuance.

Provided that the Governing Council may re-issue such rules for another one hundred and twenty days. Upon expiry of such extended period, the rules shall invariably be placed before the National Assembly.

(3) Rules framed under section 10 (1) shall be placed in Second Schedule to this Act.

11. Removal of Difficulties. - (1) Notwithstanding anything contained in any other law for the time being in force, the Federal Government may by a notification in the official Gazette suspend any procedures, notifications, rules and regulations or provisions thereof, that might impinge on the implementation of this Act or rules made hereunder.

Any notification issued under section 11 (1) above having bearing on any regulations shall be placed before the Assembly not later than thirty days of the issuance of such notification.

12. Provision of Services, Sale of Software and IT Systems etc.- (1) The Operating Entity with prior approval of the Lead Agency may provide services to foreign governments, organizations, companies or any other entities etc. for development, deployment, up-gradation, maintenance or replacement of their respective single windows or electronic systems or sell software or IT Systems for a consideration:

Provided that any such services provided, or systems developed shall in no way have any bearing on security of the Systems being operated in Pakistan nor shall it compromise the security of trade data.

13. Indemnity. -No suit, prosecution or other legal proceedings shall lie against the Council, Chairperson, Members, officers associated in any capacity with the PNSW or Operating Entity which is done in good faith or intended to be done in good faith under this Act, or any rules and regulations made under this Act.

THE PAKISTAN NATIONAL SINGLE WINDOW ACT, 2019

[THE FIRST SCHEDULE]

{See Section 2 (i)}

Sr. No.	Organization / Department / Ministry
1.	State Bank of Pakistan
2.	Department of Plant Protection
3.	Pakistan Standards & Quality Control Authority
4.	Inland Revenue
5.	Animal Quarantine Department
6.	Live Stock Wing
7.	Mercantile Marine Department
8.	APTMA
9.	Sialkot Material Testing Laboratory
10.	Drug Regulatory Authority of Pakistan
11.	Ministry of Commerce
12.	Ministry of Interior
13.	Ministry of National Health Services, Regulations & Coordination
14.	Ministry of Foreign Affairs
15.	Pakistan Electronic Media Regulatory Authority
16.	Narcotics Control Division
17.	Federal Seed Certification & Registration Department
18.	Ministry of Climate Change
19.	Provincial Environmental Protection Agencies
20.	Directorate General of Immigration & Passport
21.	Engineering Development Board
22.	Trade Development Authority of Pakistan
23.	OGRA/ Hydrocarbon Institute of Pakistan
24.	Pakistan Nuclear Regulatory Authority

25.	Pakistan Engineering Council
26.	PTV/Ministry of Information & Broadcasting
27.	Pakistan Telecommunication Authority
28.	NCCW (CITES)
29.	Department of Explosives
30.	Chief Inspector of Boilers
31.	Pakistan Cotton Standard Institute
32.	Pakistan Tobacco Board
33.	Aviation Division
34.	National Ozone Unit
35.	Fisheries Development Board
36.	Textile Division
37.	Intellectual Property Organization
38.	Trading Corporation of Pakistan
39.	National Tariff Commission
40.	Export Processing Zones
41.	Pakistan Gems & Jewelry Development Corporation
42.	Provincial Revenue Authorities
43.	Motor Registration Authorities
44.	Forestry Wing