



KHYBER PAKHTUNKHWA

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PROVINCIAL ASSEMBLY SECRETARIAT KHYBER PAKHTUNKHWA

NOTIFICATION

Dated Peshawar, the 25th August, 2020.

No. PA/Khyber Pakhtunkhwa/Bills-113/2020/4642.— The Khyber Pakhtunkhwa Co-operative Societies (Amendment) Bill, 2020 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 11th August, 2020 and assented to by the Governor of the Khyber Pakhtunkhwa on 20th August, 2020 is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

THE KHYBER PAKHTUNKHWA CO-OPERATIVE SOCIETIES (AMENDMENT) ACT, 2020. (KHYBER PAKHTUNKHWA ACT NO. XXXIV OF 2020)

*(First published after having received the assent of the Governor of the
Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa.
(Extraordinary), dated the 25th August, 2020).*

AN ACT

further to amend the Co-operative Societies Act, 1925.

WHEREAS, it is expedient further to amend the Co-operative Societies Act, 1925 (Act No. VII of 1925), for the purposes hereinafter appearing:

It is hereby enacted by the Provincial Assembly of Khyber Pakhtunkhwa as follows:

1. **Short title and commencement.**---(1) This Act may be called the Khyber Pakhtunkhwa Co-operative Societies (Amendment) Act, 2020.
(2) It shall come into force at once.
2. **Amendment of section 3 of Act No. VII of 1925.**--- In the Co-operative Societies Act, 1925 (Act No. VII of 1925), hereinafter referred to as the said Act, in section 3,—
 - (i) clause (a) shall be renumbered as clause (ab), and before clause (ab), as so renumbered, the following new clause shall be inserted, namely:

- “(a) “beneficial owner” means a natural person who ultimately owns or controls a Society, whether directly or indirectly or voting rights or by exercising effective control in that Society through such other means as may be prescribed.”;
- (ii) after clause (ab), the following new clause shall be inserted, namely:
 - “(ac) “competent authority” means the regulators, oversight bodies for Self-Regulatory Bodies, the Financial Monitoring Unit and the investigating or prosecuting agency as defined in the Anti-Money Laundering Act, 2010 (Act No. VII of 2010);”
- (iii) after clause (bb), the following new clause shall be inserted, namely:
 - “(bb-i) “Government” means the Government of Khyber Pakhtunkhwa.”;
- (iv) after clause (d), the following new clause shall be inserted, namely:
 - “(da) “prescribed” means prescribed by rules made under this Act.”;
 - and
- (v) after clause (h), the following new clause shall be added, namely:
 - “(ha) “Secretary” means the Secretary to Government, Agriculture, Livestock, Fisheries and Cooperative Department.”.

3. Amendment of section 5 of Act No. VII of 1925.--- In the said Act, in section 5,-

- (i) in sub-section (1), for the words “economic interest of its members” the words “economic interest and other interests such as social interest, technical interest or productive interest of its members and general community” shall be substituted; and
- (ii) in sub-section (2), the words “and of which majority of the members are agriculturists” shall be deleted.

4. Amendment of section 10 of Act No. VII of 1925.--- In said Act, the existing provision of section 10 shall be renumbered as sub-section (1) and thereafter, the following new sub-section shall be added, namely:

“(2) Notwithstanding anything contained in the bye-laws of the Society, the Registrar may determine the period of tenure of the office bearers of the Society and may impose any restrictions on the re-election of the concerned office bearers for the next tenure.”.

5. Insertion of section 16-A to Act No. VII of 1925.--- In the said Act, after section 16, the following new section shall be inserted, namely:

"16-A Power of the Registrar to amend by-laws.--- (1) If the Registrar is satisfied that the bye-laws of the Society are inconsistent with any law for the time being in force, or it is necessary in the interest of the Society and its members to make amendments in such bye-laws, he may, by means of a notice in writing, giving reasons, bring the fact to the notice of the Society and direct the Society to make the amendments within a period of sixty days.

(2) If the Society fails to make such amendments within the time specified in sub-section (1), the Registrar may, after giving the Society an opportunity of being heard, register such amendments as he may decide and issue to the Society a copy of the amendment registered by him.

(3) An appeal shall lie to the Secretary from an order of the Registrar passed under sub-section (2) within sixty days of the date of communication of the order".

6. Insertion of new sections 20-A, 20-B, 20-C and 20-D to Act No. VII of 1925.--- In the said Act, after section 20, the following new sections shall be inserted, namely:

"20-A. Director of the Society.---(1) Where a Society is a member of another Society, that Society shall nominate any of its member to serve as a director of the Society of which it is a member:

(2) The director of a Society who is nominated in accordance with sub-section (1), shall be a natural person and provide prescribed information to the Society to which he is nominated as director.

(3) The secretary of a Society shall keep an updated record of any nominated directors, as well as provide prescribed information of the nominated directors to the Registrar both annually and from time to time when changes occur.

(4) The Registrar shall keep an updated record of the nominated directors of all Societies in the prescribed manner.

(5) No director shall nominate on his behalf a member or director to perform the membership rights on his behalf.

20-B Transfer of interest in a Society.---A member of a Society shall cease to be member of the Society in case all his interests in the movable and immovable property in the Society are transferred in favor of any other person by sale, inheritance, gift or otherwise, and the person acquiring such interests shall subject to rules be admitted as a member:

Provided that where more than one person acquire such interests, one of such persons with mutual consent, failing which the person older in age shall be admitted as a member having rights of membership:

Provided further that where a minor or a mentally/physically disabled person, acquires such interests, the natural or legal guardian of the minor or, as the case be, the person who maintains the disabled person shall be admitted as a member and such membership shall stand transferred to the minor as soon as he acquires the age of eighteen years, and in case of mental or physical disabled person as soon as his disability is removed.

20-C. Provision of information.--- (1) The secretary of the Society shall provide information to the Registrar both annually and from time to time when any change occur in such Society in the prescribed manner.

(2) The secretary of the Society shall provide to the competent authority at any time upon request, the required information, including but not limited to beneficial owners, members, nominees of the members, officers, employees of the Society and Committee in the prescribed manner.

(3) The Registrar may, at any time by his own motion or through a person authorized by him, require any information pertaining to the Society from the secretary of the Society.

20-D. Provision of information by the Registrar.--- The Registrar shall provide information to the competent authority upon their request in writing, regarding the members and beneficial owners, officers, employees of the Society, assets or shares held by the members in the Society, their addresses, and nominees of the members, properties, and financial condition of the Society.”.

7. Amendment of section 21 of Act No. VII of 1925.--- In the said Act, in section 21, in clause (c), the word “and” occurring at the end shall be deleted and in clause (d), the full stop appearing at the end shall be replaced by a semi colon and the word “and” and thereafter the following new clauses shall be added, namely:

“(e) an up to date register of its beneficial owners; and

(f) such other information as may, from time to time be required, by the Registrar.”.

8. Insertion of new section 21-A to Act No. VII of 1925.--- In the said Act, after section 21, as so amended, the following new section shall be inserted, namely:

“21-A. Updating of records of the Societies.--- (1) The Registrar shall keep the record up to date in the prescribed manner of all the beneficial owners, members, nominees of the members, directors, Committee, officers and employees of the Societies.

(2) After the commencement of the Khyber Pakhtunkhwa Co-operative Societies (Amendment) Act, 2020, every Society shall provide the information about its beneficial owners within three months to the Registrar.

(3) If a Society fails to provide the information within the time specified under sub-section (2), the Registrar shall cancel the registration of such Society.”.

9. Insertion of new section 22-B to Act No. VII of 1925.--- In the said Act, after section 22-A, the following new section shall be inserted, namely:

“22-B. Internal audit committee.---(1) Before the due date of external audit, a Society, in addition to the audit of accounts under section 22, shall also get the accounts audited by an internal audit committee comprising at last three members of the Society other than the members of its Committee as may be appointed by the general body or by Chartered Accountant appointed by the Society with the consent of the Registrar.

(2) The report of the internal audit committee or the Chartered Accountant shall be submitted to Registrar within one month.”.

10. Insertion of new section 34-A to Act No. VII of 1925.--- In the said Act, after section 34, the following new section shall be inserted, namely:

“34-A. Restrictions on issuance of bearer shares, warrants, etc.--- No Society shall allot, issue, sell, transfer or assign any bearer shares, bearer share warrants or any other equity or debt security of a bearer nature, by whatever name called, and any allotment, issue, sale, transfer, assignment or other disposition of any bearer shares or bearer share warrants or any other equity or debt security of a bearer nature, shall be void.”.

11. Amendment of section 37 of Act No. VII of 1925.--- In the said Act, the existing provision of section 37 shall be renumbered as sub-section (1) and thereafter the following new sub-section shall be added, namely:

“(2) No Society shall dispose off or lease out its immoveable property except with the previous sanction of the Registrar.”.

12. Amendment of section 38 of Act No. VII of 1925.--- In the said Act, in section 38, for the figure “10”, the figure “20” shall be substituted.

13. Insertion of new section 43-A to Act No. VII of 1925.--- In the said Act, after section 43, the following new section shall be inserted, namely:

“43-A. Power to remove officers.--- (1) An officer or employee of a Society by whatever name called may be removed by the Registrar, on an inquiry, if he is satisfied that the said officer-

- (a) acts in manner prejudicial to the interest of the Society or its members; or

- (b) has incurred any of the disqualifications or has ceased to process any qualification for being an officer provided by this Act, rules or by laws; or
- (c) has committed an act in respect of which the Registrar is empowered to take action under section 50-A.

(2) An order under sub-section (1) shall not be passed without giving to the concerned officer a reasonable opportunity of being heard.

(3) On being removed, the officer shall not perform any function as such in relation to the Society.

(4) An officer aggrieved by an order under sub-section (1) may, within a period of seven days from the date of the order of his removal, prefer an appeal to Secretary and the decision of the Secretary shall be final.

(5) The Registrar may suspend, for a period not exceeding three months, a member of the Committee of a Society, against whom an inquiry is pending under this Act or there are reasons to believe that any such member has committed any irregularity, illegality, breach of trust or act prejudicial to the interests of the Society.”.

14. Amendment of section 44 of Act No. VII of 1925.--- In said Act, in section 44, in sub-section (1), after the word Registrar, occurring for the first time, the words “ may on his own motion or” shall be inserted.

15. Insertion of new sections 44-AA to Act No. VII of 1925.--- In the said Act, after section 44-A, the following new sections shall be inserted, namely:

“44-AA Inspection of books and properties.--- The Registrar, or any of his authorized representative, shall have the right to inspect the books, accounts, cash, documents, properties and securities” of a Society and very employee, previous or existing of the Society, as the case may be, shall be bound to produce the same and furnish such information with regard to the transactions and working of the Society, as the person making such inspection may require.”.

16. Insertion of new sections 44-C and 44-D to Act No. VII of 1925.--- In the said Act, after section 44-B, the following new sections shall be inserted, namely:

“44-C. Power of Registrar to give directions.--- (1) Where the Registrar is satisfied that in the public interest or to prevent the affairs of any Society from being conducted in a manner detrimental to the interest of its members or depositors or the Society or to secure the proper management of any Society generally, if it is necessary, to issue directions to the Societies generally or to any Society in particular, he may issue necessary directions, and the Societies or as the case may be, the Society shall be bound to comply with such directions.

(2) The Registrar may on his own motion or on a representation made to him, modify or cancel any direction issued under sub-section (1) and in so modifying or cancelling any direction, impose such conditions, as he may think fit, subject to which the modification shall have effect.

44-D. Special measures.--- If it appears to the Registrar that in the interest of the members of a Society or its depositors it is necessary that the moneys received and other assets of the Society, whether held in the name of the Society or any other person, are protected and preserved, the Registrar or any other person authorized by him, may without prejudice to any other action or proceedings which may be taken against the Society under any law for the time being in force:

- (i) enter and search any premises and seize books of account or other documents or records;
- (ii) take in his custody all moneys, cash, securities, title deeds, properties, whether movable or immovable, belonging to such Society including those being held on behalf of or in the name of any officer, employee or agent of the Society, beneficiary or transferee of such Society or other person or their dependents in the prescribed manner;
- (iii) direct any bank, financial institution or person to freeze all moneys deposited with it or him on behalf of the Society or of any officer, employee, agent, beneficiary or transferee of such Society;
- (iv) take all necessary steps and measures for identifying assets and property of the Society and for realization, protection and preservation thereof;
- (v) restrain any Society or officer, employee, agent, beneficiary or transferee of such Society or any person deriving or claiming title through any of them from alienating, transferring, selling, assigning, disposing of or parting with possession of any property, movable or immovable, or deriving any benefit, rent or income there from; and
- (vi) make such order for realization, protection and preservation of deposits of money and other assets and property of the Society as he may deem fit.”.

17. Amendment of section 47 of Act No. VII of 1925.--- In the said Act, in section 47, the words, abbreviation and figures “or possesses shares or members deposits not exceeding Rs. 500” shall be deleted.

18. Insertion of new section 47-A to Act No. VII of 1925.--- In the said Act, after section 47, as so amended, the following new section shall be inserted, namely:

“47-A. Power of modification and annulment etc of an order of windingup of a Society.--- The Registrar, may at any time, modify, withdraw, annul or reverse an order of windingup of a cooperative Society, in any case where, in its/his opinion, the Society ought to continue to exist.”.

19. Insertion of new section 49-A to Act No. VII of 1925.--- In the said Act, after section 49, the following new section inserted, namely:

“49-A. Records of the Society whose registration has been cancelled.--- (1) The Registrar shall keep all the records of a Society along with proceeding of liquidation completed whose registration has been cancelled for a period not less than five years.

(2) The secretary of the Society shall keep the records of the Society whose registration has been cancelled for a period not less than five (5) years:

Provided that the Society shall dispose of its record after five (5) years after the approval of the Registrar.”.

20. Amendment of section 60 of Act No. VII of 1925.--- In the said Act, in section 60, in clause (d), the full stop appearing in the end shall be replaced by a semi column and the word “or” and there after the following new clause shall be added, namely:

“(e) Failure to provide information.--- If a member, employee, director, officer or secretary of the Society or the Society itself does not furnish information under sub-sections (2) and (3) of 20-A, sub-sections (1) and (2) of section 20-C and clauses (e) and (f) of section 21, or does not comply with section 34-A and sub-section (2) of 49-A or if the Society fails to comply with any other provision of this Act, shall be an offence under this Act.”.

21. Amendments of section 61 of Act No. VII of 1925.--- In the said Act, in section 61, after the word “exceeding”, the words, rupees ten million or imprisonment not exceeding three years or with both.

22. Insertion of new section 61-A to Act No. VII of 1925.--- In the said Act, after section 61, as so amended, the following new section shall be inserted, namely:

“61-A. Penalty for offences committed under clause (e) of section 60.--- (1) Any member, employee, director, officer or secretary of the Society found guilty under clause (e) of section 60 shall be punished with an imprisonment of not less than three years and upto a maximum of five years or with fine upto rupees two million or with both.

(2) Whereas, if a Society is found guilty under clause (e) section 60 shall be liable to a fine up to a maximum of one fourth of its working capital or to a fine not exceeding rupees ten million.”.

BY ORDER OF MR. SPEAKER
PROVINCIAL ASSEMBLY OF KHYBER
PAKHTUNKHWA

(NASRULLAH KHAN KHATTAK)
Secretary
Provincial Assembly of Khyber Pakhtunkhwa