I/5234265/2022

GOVERNMENT OF KERALA

No:SC1/55/2022/Home
Home (SC) Department
Thiruvananthapuram,
Dated:07-04-2022

U.O NOTE

Sub: Home- India Code Portal -uploading of Acts -reg.

Ref:U.O (Note) No.PS/197/2021/Home dated 10.03.2022.

Attention of Home (PS) Department may be drawn to the reference cited and a copy of the Kerala Banning of Unregulated Deposit Schemes Rules, 2021 may be forwarded to that Department for further necessary action.

AJIKUMAR G
UNDER SECRETARY

To:

Home (PS) Department

Forwarded / By order,
Section Officer.

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Regn.No. KERBIL/2012/45073 dated 05-09-2012 with RNI
Reg No.KL/TV(N)/634/2021-2023

ആധികാരികമായി പ്രസിദ്ധപ്പെടുത്തുന്നത്
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GOVERNMENT OF KERALA

Home (SC) Department.

NOTIFICATION

G.O.(P) No. 76/2021/Home.

S. R. O. No. 871/2021

Dated, Thiruvananthapuram, *25 th November, 2021*

10 th Vrischikam, 1197

4th Agrahayana, 1943.

In exercise of the powers conferred by section 38 of the Banning of Unregulated Deposit Schemes Act, 2019 (Central Act 21 of 2019), the Government of Kerala, in consultation with the Central Government, hereby make the following rules, namely:-

RULES

1. ***Short title and commencement.***- (1) These rules may be called the Kerala Banning of Unregulated Deposit Schemes Rules, 2021 .

(2) It shall come into force at once .

2. Definitions.- (1) In these rules, unless the context otherwise requires,-

(a)"Act" means the Banning of Unregulated Deposit Schemes Act, 2019 (Central Act 21 of 2019);

(b)"application" means an application filed by the Competent Authority under section 14 of the Act;

(c)"Competent Authority" means an authority appointed by the Government under section 7 of the Act;

(d)" Complaint" means a representation or allegation made in writing or through electronic means containing information on the promotion or operation of an Unregulated Deposit Scheme or any advertisement, inducing a person to invest in or become a member of the Unregulated Deposit Scheme;

(e)"Designated Court" means a Court constituted by the Government under sub-section (1) of section 8 of the Act;

(f) "Form" means a form appended to these rules;

(g) " Government" means the Government of Kerala;

(h) " State" means the State of Kerala .

(2) The words and expressions used and not defined in these rules, shall have the same meaning as assigned to them in the Act.

3. Ceiling for self-help groups.- Where periodic payments or any amount made by the members of self help groups operating with ceiling, the ceiling per transaction of member of self help groups for deposit shall be Rs.7,00,000/- (Rupees Seven Lakhs Only) per annum.

4. Manner of provisional attachment and administration of attached property.- (1) Where the Competent Authority have reason to believe that any deposit taker is soliciting deposits in

contravention of section 3 of the Act, the Competent Authority shall pass an interim order of the provisional attachment of the deposits held by the deposit taker and the money or other property acquired either in the name of the deposit taker or in the name of any other person on behalf of the deposit taker under sub-section (3) of section 7 of the Act in

Form No.1. to that effect mentioning the details of the property to be attached .

(2) A copy of the order of provisional attachment shall be served to the owner of the property or any person who claims to be in possession of the property or any other person who has an interest in the said property.

(3) After passing the provisional attachment order under sub-rule (1), the Competent Authority shall direct the officers appointed under sub-section (2) of section 7 of the Act, to prepare and maintain details of the properties so attached and the expenditure incurred in this regard in

Form No. 2.

(4) The officers appointed under sub-section (2) of section 7 of the Act, may seek assistance of Police, other officials of the Government, Central Government, financial institutions, society or body for the purpose of taking possession of the property so attached.

(5) The order of provisional attachment shall be published in a leading newspaper both in Malayalam and in English having wide circulation in the area or jurisdiction in which the deposit taker is located.

(6) The Competent Authority shall send a copy of the order of provisional attachment to the officials concerned of Revenue, Tax, or any other officials required in this regard to place incumberance on the said movable or immovable property, which shall be removed only on the written instruction from the Competent Authority to that effect.

(7) Where the Competent Authority is not able to serve the order of provisional attachment to a person specified in sub-rule (2), then such person shall be deemed to be served the order by the publication of the order in the manner prescribed under sub- rule (5).

(8) The officers appointed under sub-section (2) of section 7 of the Act, shall take possession of the immovable property by affixing the order of provisional attachment at a conspicuous place of such immovable property.

(9) Where the property to be attached is a movable property, the officers appointed under sub-section (2) of section 7 shall take actual possession of such property and retain it in his custody.

(10) The officers appointed under sub-section (2) of section 7 shall assess assets and liabilities of the deposit taker and prepare a complete record of depositors from whom the deposit taker has collected deposits pursuant to an Unregulated Deposit Scheme.

(11) The officers appointed under sub-section (2) of section 7, may appoint a valuer for the purpose of assessing assets and liabilities of the deposit taker under sub-rule(10).

(12) Where any property of which possession has been taken is of a perishable or hazardous nature, the officers appointed under sub-section (2) of section 7 of the Act, may dispose of such property keeping in mind the best interest of the depositors.

(13) The notice details and proceeds of sale under sub-rule (12) shall also be entered separately in

Form 3.

5. Impounding and retention of records.- (1) The person from whose custody records are taken under sub-section (8) of section 7 of the Act may make copies thereof, or take extracts therefrom, in the presence of an officer authorised by the Competent Authority, at such place and time as the Competent Authority may appoint in this behalf.

(2) The officer appointed under sub-section (2) of section 7 shall retain such records in his custody without taking approval from the Competent Authority for a period upto three months, and if the records are necessary to be retained beyond the said period, approval of the Competent Authority shall be obtained.

(3) If the person from whose custody records are impounded objects for any reason to the records being impounded, he may make an application to the Competent Authority stating the reasons for such objection and requesting for the return of the records, and the Competent Authority may, after giving the applicant an opportunity of being heard, pass such orders as he thinks fit.

(4) The officer shall ensure the safe custody of the records impounded and retained in his custody.

6 . ***Powers of Civil Court conferred on the Competent Authority.-*** (1) Apart from the powers conferred on the Competent Authority under sub-section (4) of section 7 of the Act, the Competent Authority shall have the powers of a Civil Court under the Code of Civil Procedure, 1908 (Central Act 5 of 1908) while conducting investigation or inquiry in respect of the following matters, namely:-

(a) issue commission for local inspection;

(b) to pass, during the pendency of any complaint, any interim order, as may appear to the Competent Authority to be just and fair to meet the ends of justice;

(c) to dismiss a complaint for default or being frivolous.

***8. Authorization for search and seizure*.-** For the purpose of an investigation into any offence under the Act, the officer in charge of a Police Station may, with the authorization in

Form 5, search for the following records namely:-

(a) any record, whether physical or electronic, which is used, intended to be used, or suspected to be used, in connection with the promotion or operation of an Unregulated Deposit Scheme;

(b) any books of account maintained in connection with an Unregulated Deposit Scheme;

(c) any deposits acquired or suspected to be acquired in connection with the promotion or operation of an Unregulated Deposit Scheme;

(d) any valuable securities maintained or suspected to be maintained in connection with the promotion or operation of an Unregulated Deposit Scheme;

(e) record of any property, whether movable or immovable, acquired either in the name of the deposit taker or in the name of any other person on behalf of the deposit taker, which is suspected to be acquired in connection with an Unregulated Deposit Scheme;

(f) record of any account with a bank, financial institution, society, body or similar nature market establishment, which is suspected to be used in connection with an Unregulated Deposit Scheme;

(g) any other thing which is suspected to be used in connection with an Unregulated Deposit Scheme.

Form 1

[see Rule 4(1)]

Reference No.....

To

Name

Address

(Bank/Post Office/Financial Institution/Immovable Property registering authority)

Provisional attachment of property under section 7(3)

This is to inform that M/s.....(Name) is a deposit taker and Proceedings have been lodged against M/s.....(Name) under sub-section (3) of section 7 of the Banning of Unregulated Deposit Schemes Act, 2019 (Central Act 21 of 2019) on receiving information that the aforesaid person is soliciting deposits in contravention of section 3 of the said Act.

The order to protect the interests of depositors and in exercise of the powers conferred under sub-section (3) of section 7 of the said Act, I.....……...

(name), ...(designation) hereby provisionally attach the aforesaid account/property.

The property mentioned above shall not be allowed to be disposed of without the prior permission of the under signed.

Copy to .....

Signature:

Name:

Designation:

FORM 2

[See Rule 4 (3)]

NOTICE OF ATTACHMENT OF MOVABLE AND IMMOVABLE PROPERTY

Office of
the.....….....
.....

To

….....

….....

Whereas you have failed to pay the deposit of Rs..... payable by you in respect of …..... for the period from..... to..... and the interest of Rs.....…. payable thereon and process fee of Rs.....

It is ordered that as you have failed to pay the said amount and you are hereby prohibited and restrained until further order of the undersigned, from transferring or charging the undermentioned property in any way and that all persons be, and that they are hereby prohibited from taking any benefit under such transfer or charge.

It is hereby further ordered that unless the said amount with interest thereon and the cost of process fee be paid within..... the movable and immovable property specified below will be brought to sale in due course of law.

SPECIFICATION OF PROPERTY

Given under my hand and seal at..... this..... day of.....

(Seal) District Collector

FORM 3

[See Rule 4 (13)]

NOTICE OF SALE OF IMMOVABLE PROPERTY

Office of the.....

….....

Whereas the movable and immovable properties belonging to Shri.

(defaulter) and mentioned in the Schedule below have been attached for the recovery of arrears amounting to Rs..... which sum is recoverable together with interest at….....for the period commencing immediately after the due and the costs, charges and expenses of the proceedings for the recovery thereof;

And whereas the undersigned has ordered the sale of the attached property mentioned in the annexed Schedule in satisfaction of the said arrears, costs, charges and expenses; And whereas on the …..... day of..... (the date fixed for the sale) there will be due thereunder a sum of Rs..... including costs and interest;

Notice is hereby given that in the absence of any order of postponement the said property shall be sold by..... in public auction at.....a.m/p.m on the said.....day of..... at...(place)

The sale will be of the property of the defaulter above named as mentioned in the Schedule below; and the liabilities and claims attaching to the said property, so far as they have been ascertained, are those specified in the Schedule against each lot.

The property will be put up for sale in the lots specified in the Schedule. If the amount to be realised by sale is satisfied by sale of a portion of the property, the sale shall immediately be stopped with respect to the remainder. The sale will also be stopped if, before any lot is knocked down the arrears mentioned, interest payable and costs (including the costs of the sale) are tendered to the officer conducting the sale or proof is given to his satisfaction that the amount of such arrears, interest and costs has been paid to the undersigned.

At the sale, the public generally are invited to bid either personally or by duly authorized agent. No officer or other person having any duty to perform in connection with this sale shall, however either directly or indirectly bid or, acquire any interest in the property sold.

The sale shall be subject to the following further conditions:-

(i) The particulars specified in the annexed Schedule have been stated to the best of the information of the undersigned, but the undersigned shall not be answerable for any error, misstatement or omission in this notice.

(ii) The amounts by which the biddings are to be increased shall be determined by the officer conducting the sale. In the event of any dispute arising as to the amount of bid, or as to the bidder, the lot shall at once again be put up to auction.

(iii) The highest bidder shall be declared to be the purchaser of any lot provided always that he is legally qualified to bid, and it shall be in the discretion of the undersigned to declain acceptance of the highest bid when the bid is less than the reserve price, if any, fixed or when the price offered appear so clearly inadequate as to make it advisable to do so.

(iv) The person declared to be the purchaser shall pay immediately after such declaration a deposit of fifteen percent on the amount of his purchase money to the officer conducting the sale and in default of such deposit, the property shall be put up again and resold. The full amount of the purchase money payable shall be paid by the purchaser to the undersigned on or before the 30th day from the date of the sale of the property, exclusive of such day or if the 30th day is a sunday or other holiday then on the first office day after the 30th day. In default of payment within the period mentioned above, the property shall be resold after the issue of afresh notice of sale. The deposit, after defraying the expenses of the sale shall be liable to be forfeited to the Government and defaulting purchaser shall forfeit all claims to the property or to any part of the sum of which it may subsequently be sold.

SCHEDULE I [IMMOVABLE PROPERTY]

Taluk	Village	Name of defaulter	The position and extent of the land and of its building and other known improvements thereon	The amount of revenue assessed on the land or upon its different sections	Amount for the recovery of which the sale is ordered
1	2	3	4	5	6

SCHEDULE II [MOVABLE PROPERTY]

Sl No.	Item	Specification Item	Value assessed	Amount for which the sale is ordered

Authenticity may be verified through https://compose.kerala.gov.in/

FORM 4

[See Rule 7]

FORM OF SUMMONS

Summons to appear in person and /or to produce documents

To

Whereas your attendance is necessary to give evidence/whereas the following documents (here describe the documents in sufficient detail to permit their identification with reasonable certainty) ..... with reference to an enquiry under the Banning of Unregulated Deposit Schemes Act, 2019 (Central Act 21 of 2019)

(here enter briefly the subject of enquiry) ....

....

..... now pending before me.

You are hereby summoned to appear in person/.....or/to produce/or cause to be produced the said documents before me on the ..... day of ..... 2 0 . ..... at..... O'clock at .....(place) and not to depart thence until permitted by me. Given under my hand and the seal this day .....

(Seal) Signature

Designation.

Form 5

[See Rule 8]

AUTHORIZATION

To

(Officer to whom issued)

Whereas on consideration of information furnished before me I am satisfied that a search of ..... (specify particulars) of the residential buildings or premises is required. This is to authorize you (name and designation of the Police Officer) ..... to enter and search the said residential buildings or premises with the assistance of such police or other officers of the Government, as you consider necessary.

(seal)

Signature

Superintendent of Police

By order of the Governor,

K. R. Jyothilal

Principal Secretary to Government.

Explanatory Note

(This does not form part of the notification, but is intended to indicate its general purport.) Sub-section (1) of section 38 of the Banning of Unregulated Deposit Schemes Act, 2019 (Central Act 21 of 2019) provides that the State Government, shall in consultation with the Central Government, by notification, make rules for carrying out the provisions of the said Act.Government have decided to make rules under the said section of the Act.

The notification is intended to achieve the above object.

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