



GOVERNMENT OF KERALA

Home (SC) Department

No.SC3/204/2022/Home

Thiruvananthapuram, Dated: 20-06-2023

CIRCULAR

Sub: Home Department - Banning of Unregulated Deposit Schemes Act, 2019 - Procedure to be adopted on complaints against Unregulated Deposit Schemes - Instructions issued.

The Banning of Unregulated Deposit Schemes Act, 2019 was enacted to provide for a comprehensive mechanism to ban the Unregulated Deposit Schemes and to protect the interest of the depositors. Subsequently, the Kerala State Banning of Unregulated Deposit Schemes Rules, 2021 was issued under notification S.R.O No. 871/2021 to implement the provisions of the Banning of Unregulated Deposit Schemes Act in the State. Unregulated Deposit Scheme means a scheme or an arrangement under which deposits are accepted or solicited by any deposit taker by way of business and which is not a Regulated Deposit Scheme under Regulators like Reserve Bank of India, Securities and Exchange Board of India, National Housing Bank, PFRDA, State Governments etc. Section 3 of the Act bans the Unregulated Deposit Schemes in toto and also provides that no deposit taker shall directly or indirectly promote, operate, issue any advertisement soliciting participation or enrolment in or accept deposits in pursuance of such schemes on and from the date of commencement of the Act, ie, on and from 21st February, 2019.

The Competent Authority under the BUDS Act was appointed under sub-section(1) of section 7 of the BUDS Act vide notification published under S.R.O.619/2020. The Competent Authority receives complaints from public against the firms soliciting/advertising/accepting deposits offering high returns. Under sub-section (2) of section 7 of the Act, the District Collectors are appointed as officers to assist the Competent Authority. The primary role of the Competent Authority as envisaged in the Act relates to identifying and taking necessary steps to provisionally attach all movable/immovable properties and all other 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. The Competent Authority discharges this

function primarily through the District Collectors. The Act empowers the Competent Authority appointed under sub-section (1) of section 7 to conduct investigation or proceeding and to summon any person connected with such deposit taker or to receive evidence on affidavits etc. as envisaged in subsection (4) of section 7 of the Act for which the District collectors appointed under sub-section (2) of section 7 renders necessary assistance. The Act envisages that the deposits of the public are to be returned to them after realizing the same out of the sale proceeds of the properties attached through public auction or if necessary by private sale. For the said purpose, the Competent Authority through the District Collectors are to take immediate necessary action to provisionally attach the properties of the deposit taker, file applications before the Designated Courts under section 14 of the Act and shall obtain necessary orders from the Court according such sanction to sell the properties.

Despite the Act having stringent provisions to deal with such offences, the lack of proper enquiry and the inordinate delay on the part of the investigating officers in filing a report as mandated under section 29 of the Act is creating a situation wherein the hapless public are driven from pillar to post to get their money back. Further it has come to the notice of the Government that such financial scams/unregulated deposit schemes are on the rise within the State and by the time the Investigating Officer files report to the Competent Authority, the properties of the deposit taker/firm are seen alienated or disposed of by any means by the accused. As such the aggrieved depositors find it difficult to get their hard earned money back.

Against this backdrop, Government hereby issue the following directions to all authorities concerned for strict compliance:

1. The District Collectors appointed under section 7(2) of the BUDS Act for assisting the Competent Authority in discharging the functions specified in the Act shall henceforth conduct a suo-motu preliminary enquiry against the Unregulated Deposit Schemes operating within their jurisdiction and shall furnish a comprehensive report to the Competent Authority so that orders for provisional attachment under section 7(3) of the Act can be issued immediately thereafter.
2. If the Managers of any banking Company including the State Bank of India, a subsidiary bank, a regional rural bank, a co-operative bank or a multi State Co-operative Bank have reason to believe that any client is a deposit taker and is acting in contravention to the provisions of the Act, they shall forthwith inform the same to the Competent Authority as per section 11(3) of the Act. The District Collectors shall, during their meetings with the District Lead Banks ensure the compliance of the said statutory requirements.

3. The District Collectors shall take suo motu action for identifying the properties/assets through the Authorities concerned immediately on receipt of a complaint or any valid information from any source including print/visual media regarding the operators of any unregulated deposit schemes in contravention of the provisions of section 3 of the Act and report the matter to the Competent Authority at the earliest. The Superintendent of Police of the Districts concerned shall also be informed of the action against the unregulated deposit takers, whereupon he may bring to the notice of the District Collector, any information regarding any action that is being taken or attempted, by such operators of unregulated deposit schemes, in contravention of the provisions of Section 3 of the Act.

4. The District Collectors shall file necessary application under section 14 of the Act before the Designated Courts for making the provisional attachment absolute within the stipulated time - limit.

5. The District Collectors shall introduce a proper system to receive and record the claim petitions filed by the Depositors and shall ensure that necessary action is taken thereon.

6. The District Collectors shall give adequate publicity regarding the BUDS Act and remedies available therein through their official social media platforms.

The aforesaid instructions shall be scrupulously adhered to by the Authorities concerned.

DR V P JOY
CHIEF SECRETARY

To:

Principal Secretary Revenue Department.
The State Police Chief
All District Collectors
All District Police Chiefs
The Lead Bank Managers
The Registrar of Co-operative Societies
The General Managers of KSFE/ District Managers of KFC (through the District Collectors)
I & PR (Web & New Media) (for publishing in the website)
Stock file/Office Copy

Forwarded / By order.
Signed by
Prameela, K Nair
Date: 21-06-2023 13:09:10
Section Officer.