



GOVERNMENT OF KARNATAKA

No. FD 27 CAM 2019

Karnataka Government Secretariat,
M.S. Building,
Bengaluru, Date: 27.10.2020.

Notification

Sub: The Karnataka Banning of Unregulated Deposit Schemes Rules, 2020

Preamble:

Whereas the Banning of Unregulated Deposit Schemes Ordinance promulgated by the President of India and came into force on 21st February 2019, which was later replaced by the Banning of Unregulated Deposit Schemes Act, 2019 on the 31st of July 2019 and published in the Gazette of India, Extraordinary, Part II-Section 1 dated 31.07.2019 and as per Section 37 of the Act the Central Government vide Notification published the Banning of Unregulated Deposit Schemes Rules 2020 in the Gazette of India, Extraordinary, Part II-Section 3 Subsection (ii) dated 12.2.2020.

In addition to the Rules the Central Government has formed under Section 37 for carrying out the provisions of the Banning of Unregulated Deposit Schemes Act, 2019, in exercise of the powers conferred by Section 38 of the Banning of Unregulated Deposit Scheme Act, 2019 (21 of 2019), the Government of Karnataka hereby makes the following rules, namely:-

1. Title and commencement.- (1) These rules may be called the Karnataka Banning of Unregulated Deposit Schemes Rules, 2020.

(2) They shall come into force from the date of their publication in the Official Gazette.

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

(c) "Government" means the Government of Karnataka;

(d) "Suo motu cognizance" means an action taken by a Government agency, court or other State or Central authority on its own apprehension or official acts of its own initiative.

(2) The words and expressions used herein and not defined but defined in the Act shall have the meanings assigned to them in the Act.

3. Powers and duties of the Competent Authority under sub-section (3) of section 7.- (1) If the Competent Authority or an Officer appointed to assist the Competent Authority is satisfied that the facts of the case necessitate identification of the properties or assets 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 or the Officer appointed to assist the Competent Authority, may procure such details from Police authorities utilizing the provisions of sub-section (1) of Section 31 or any other authority as deemed fit or from public through a public notification seeking the details of properties or assets.

(2) Where the information is sought from the public through the public notification specified in sub-rule (1) of this rule, an advertisement may be released in two prominent local newspapers within a period of fifteen days of receipt of report from the Police Authorities informing that a prima facie case exists.

(3) If the Competent Authority, after collecting additional information, is of the opinion that some additional properties of the deposit taker require to be attached, it may do so in accordance with Section 7 of the Act.

4. Powers vested while conducting investigation or inquiry.-

(1) Unless and otherwise felt essential, to conduct investigation or inquiry under sub-section (4) of section 7, while conducting investigation or inquiry, the following notices may be issued by the Competent Authority, namely:-

- (i) notice for initiation of action in Form A;
- (ii) notice for additional information, if any, required in Form B;
- (iii) final notice for personal attendance of deposit taker or other persons and witnesses in Form C.

(2) The Order of Provisional attachment shall contain to the extent possible, the following:

- (i) details of the Complaint;
- (ii) details of the Deposit Taker or Financial entity;
- (iii) inquiry report from the Police;
- (iv) report received from regulator if any;
- (v) complaints received from public;

- (vi) details of the Proceedings, reasons for attaching such properties, effective date of attachment;
- (vii) copies of the Notices issued or served and delivery proof, if any;
- (viii) summary of the findings;
- (ix) details of property attached, bank account numbers, amount attached, securities including shares and bonds, attached movable property, approximate value of such property, and in case of immovable property the extent of land, survey numbers and boundaries of such property and name of the title holder of such property; and
- (x) conclusion; and
- (xi) evidences (attach the evidences or proof).

(3) The proceedings of the Competent Authority shall record the proceedings under sub section (4) of section 7 and shall follow due process of law diligently.

5. Powers relating to absconding persons.- Where the Competent Authority or the Officers appointed to assist the Competent Authority is satisfied or has reasons to believe that a person in respect of whom action is contemplated under the Act has absconded or is concealing himself, the Competent Authority or the Officers appointed to assist the Competent Authority shall make a report in writing to the Designated Court for further course of action.

6. Power to seize properties.- Where the officers appointed to assist the Competent Authority or Competent Authority is satisfied or has reason to believe that any property which is liable to be attached under the Act is likely to be concealed, transferred or dealt in any manner which will result in defeating the purpose of the Act, it may direct the police officer to seize such property or where it is not practicable to seize such property make an order to freeze such property and it shall not be transferred or otherwise disposed of or dealt with.

7. Power to appoint legal practitioner and others.- The Competent Authority or an officer appointed to assist the Competent Authority shall be entitled to use the services of the Department of Prosecution, legal practitioners or chartered accountants or any other persons whose services are necessary for possession and realisation of the assets.

8. Power of Government to empanel agencies for forensic or digital audit, valuation or sale of assets.- (1) The Government shall empanel and notify the list of,-

- (a) Agencies for valuation of assets and for assisting in selling of assets to prospective buyers; and
- (b) Forensic auditors and digital auditors for audit of money trail.

(2) The competent Authority shall utilise the services of such agencies and auditors for valuation of assets, for selling of assets and for forensic and digital audit of money trail.

(3) The Competent Authority may also utilize the services of Forensic Auditors or Digital Auditors empanelled by the Indian Banks' Association for Audit of Money trail till the State empanels such agencies, wherever felt required.

9. Valuation reports to be obtained while releasing properties attached.-

The Designated Court while according permission to deposit the fair value of the property in lieu of the attachment under sub-section (1) of Section 17 may obtain valuation reports from at least two empanelled Valuers while releasing properties.

By order and in the name of
Governor of Karnataka

(Manju Prasannan Pillai)
Secretary to Government
(Fiscal Reforms)
Finance Department

Enclosers:

1. Form A (see rule 4) Notice for initiation of action.
2. Form B (see rule 4) Notice for additional information
3. Form C(see rule 4)Final Notice

To:

1. The Principal Accountant General (G & SSA)/ (E&RSA)/ (A&E), Karnataka State, Bengaluru.
2. Additional Chief Secretary, Home Department, Vidhana Soudha, Bengaluru.
3. Principal Secretary to Government, Revenue Department, M.S. Building, Bengaluru
4. Principal Secretary to Government, Cooperation Department, M.S. Building, Bengaluru
5. Principal Secretary to Government, Law Department, Vidhana Soudha, Bengaluru.
6. Secretary to Government, Department of Parliamentary Affairs and Legislation, Vidhana Soudha, Bengaluru.

7. Director General and Inspector General of Police, Nrupatunga, Bengaluru.
8. Director General of Police, CID, Carlton House, Palace Road, Bengaluru.
9. Director, Department of Prosecution, 6th floor, Cauvery Bhavan, Bengaluru.
10. All Regional Commissioners of Revenue Department (through Revenue Department).
11. Deputy Commissioners of all Districts (through Revenue Department).
12. Commissioner of Police / Superintendent of Police of all Districts (through Home Department).
13. Assistant Commissioners of all Revenue Sub-Divisions (through Revenue Department).
14. Convenor, State Level Coordination Committee & Regional Director, Reserve Bank of India, Nrupatunga Road, Bengaluru.
15. Nodal Cell for KPID, Home Department, Vidhana Soudha, Bengaluru.

cc to,

1. Chief Secretary to Government, Vidhana Soudha, Bengaluru.
2. Additional Chief Secretary and Development Commissioner, Vidhana Soudha, Bengaluru.
3. Additional Chief Secretary to Government, Finance Department, Vidhana Soudha, Bengaluru.
4. Secretary to Government (Budget and Resource), Finance Department, Vidhana Soudha, Bengaluru.
5. Guard file.
6. Office copy.

Form A
(see rule 4)
Notice for initiation of action

To

Sir /Madam,

Sub : M/s

Based on the information or reports received it is prima facie apparent that the subject financial entity or deposit taker is involved in the Act which are cognizable under the provisions of section 3 of the Act.

The Competent Authority or the Officers appointed to assist the Competent Authority are under Sub Section (3) and (4) of the Section 7 of the Act have the same power as vested in a civil court under the Code of Civil Procedure, 1908 while conducting investigation or inquiry in respect of the unauthorised deposit schemes or defaults under the deposit schemes in contravention of Section 3 or 4. In exercise of the powers under the Act the following is ordered:

In connection with the subject, you are required to submit the following:

- (a) Details of financial entity, registration of the entity, permissions to accept deposits from regulators if any, including unique identification number or Registration and PAN numbers.
- (b) Details of the Promoters, Managing Directors, Directors, Partners, Management persons etc., including unique identification number or Registration and PAN numbers.
- (c) Latest audited Balance Sheet and Profit and Loss accounts filed.
- (d) Details of the Regulator and the copy of registration certificates, permissions to undertake the activity of deposit taking.
- (e) Produce full details of the Scheme of Deposits under which deposits are being collected from public.
- (f) List of the Depositors along with Deposit accepted, Rate of interest, Maturity Date, terms of repayment of interest and principle, any other promises or assurances or commissions payable etc.
- (g) Details of defaults if any in repayment of Deposit or any specified service promised against such deposit along with date of default.

- (h) Total amount in default and number of depositors affected, if any
- (i) Reasons for default if any
- (j) Steps taken or proposed to repay the amount in default
- (k) Details of the Bank accounts of the financial entity with latest balance in the accounts.

You are hereby required to submit the full details listed above and duly attested, to my office on _____ at _____ either in person or through representative duly authorised in writing in this behalf or produce or cause to be produced at the said time any documents, accounts and any other evidence you may rely in support of the activity or the acts in the matter.

In case you fail to comply with the orders of the under signed, it will be deemed that you have nothing to say in the matter and action under the appropriate provisions of the Act will be initiated. Failure to be present at the hearing granted, or failure to present evidence can result in a Best Judgment Assessment or an ex-parte order.

(Note : * Strike whichever is not applicable)

Yours faithfully,

Date:

(C) In case you fail to comply with the orders of the under signed, it will be deemed that you have nothing to say in the matter and action under the appropriate provisions of the Act will be initiated. Failure to be present at the hearing granted, or failure to present evidence can result in a Best Judgment Assessment or an ex-parte order.

(Note : * Strike whichever is not applicable)

Date:

Yours faithfully,

Form C
(see rule 4)
Final Notice

To

Sir /Madam,

Sub: M/s

Ref: Notice in form A dated: _____.

Notice in Form B dated: _____.

Based on the information or reports received it is prima facie apparent that the subject financial entity or deposit taker is involved in the Act which are cognizable under the provisions of section 3 of the Act.

The Competent Authority of the Officers appointed to assist the Competent Authority are under Sub Section (3) and (4) of Section 7 of the Act have the same power as vested in a civil court under the Code of Civil Procedure, 1908 while conducting investigation or inquiry in respect of the unauthorised deposit schemes or defaults under the deposit schemes under Section 3 of the Act. In exercise of the powers under the Act, the following is ordered:

(A) As per Notice in Form A calling details and documents No. _____ dated: _____ you were asked to submit the details and documents but you have failed to submit the details and document called for.

and / or

(B) As per Notice in Form B you were asked to furnish certain additional documents or details and also to attend my office on _____ at _____ either in person or through a representative duly authorised in writing on his/her behalf or produce or cause to be produced at the said time any documents, accounts and any other evidence you may rely in support of the activity or the acts in the matter,

but you have failed to appear before me along with the details and document called for.

(C) In view of the your not complying with the orders of the under signed, a final opportunity is given to you to submit the details and document called for and / or appear before me along with the details and document called for on _____ at _____ failing which it will be deemed that you have nothing to say in the matter and action under the appropriate provisions of the Act will be initiated. Failure to be present at the hearing granted, or failure to present evidence can result in a Best Judgment Assessment or an ex-parte order.

(Note : * Strike which ever is not applicable)

Yours faithfully,

Date:

By Order and etc.,.....