

In pursuance of the provisions of Clause (3) of Article 348 of the Constitution of India, the Governor is pleased to order the publication of the following English translation of the Notification No. 98/XXVII(6)/TC 1216/2016-2020, dated May 04, 2021 for general information:

No. 98/XXVII(6)/TC 1216/2016-2021

Dated Dehradun, May 04, 2021

NOTIFICATION

In exercise of the power conferred under Section 38 of the Banning of Unregulated Deposit Schemes Act, 2019 (No. 21 of 2019), the Governor makes the following rules, namely:-

The Uttarakhand Banning of Unregulated Deposit Schemes Rules, 2021

Short title and commencement

1. (1) These rules may be called the "Uttarakhand Banning of Unregulated Deposit Schemes Rule, 2021".

(2) It shall come into force at once.

Definitions

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

(a) 'Act' means the Banning of Unregulated Deposit Schemes Act, 2019 (No.21 of 2019);

(b) 'Form' means the form appended to these rules;

(c) 'Government' means the Government of Uttarakhand State;

(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 word and expressions used herein and not defined but defined in the Act shall have the meanings assigned to them in the Act.

Powers and duties of the Competent Authority

3. (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 of the Act or any other authority as deemed fit or from public through a public notification seeking the details of properties or assets.

**Powers vested while
conducting
investigation or inquiry**

(2) Where the information is received from the public through the public notification mentioned in sub-rule (1) an advertisement may be released in two prominent local news paper 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. (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) Complete details of the Complaint;

(ii) Complete 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) Complete 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;

(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 of the Act and shall follow due process of law diligently.

5. Where the Competent Authority or the Officers appointed to assist the Competent Authority is satisfied or has sufficient

**Powers relating to
absconding persons**

Power to seize properties

Power to appoint legal practitioner and others

Power of Government to empanel agencies for forensic or digital audit, valuation or sale of assets

Valuation reports to be obtained while releasing properties attached

- reasons to believe that a person in respect of whom action is contemplated under this 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. Where the Competent Authority or officers appointed to assist the competent Authority is satisfied or has sufficient 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. 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 realization of the assets.
 8. (1) The Government shall empanel and notify the following 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 utilize the services of said empanelled 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 said agencies, wherever required.
 9. 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 of the Act may obtain valuation reports from at least two empanelled Valuers while releasing properties.

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 unauthorized deposit schemes of defaults under the deposit schemes in contravention of Section 3 or 4.

In exercise of the powers under the Act the following order is passed:-

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

- (a) Complete Details of financial entity, registration of the entity, permissions to accept deposits from regulations if any, including unique identification number or Registration and PAN numbers.
- (b) Complete Details of the promoters, Managing Directors, Directors, Partners, Management persons etc, including unique identification number or Registration and PAN numbers.
- (c) Complete Latest audited Balance Sheet and profit and loss accounts filed.
- (d) Complete 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) Complete 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 after 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 authorized 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 ex-parte order.

(Note: *Strike whichever is not applicable)

Date:

Form 'B'
(see rule 4)
Notice for additional information

To _____

Sir/Madam,

Sub:M/s

Ref: Notice in Form-A

Dated: _____

Based on the information or reports received it is prima facia apparent that the activities of the financial entity or deposit taker, in question is are cognizable under the provisions of section 3 of the act.

The Competent Authority or the officers appointed to assist the Competent Authority 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 conduction 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 power under the Act the following order is passed.

(A) The undersigned directs to provide certain further details or clarifications or additional information listed here below are required in connection with the deposit scheme* or chit funds scheme* or defaults in repayment* of deposit or any specified service promised against such deposit, under the deposit scheme/s by the financial entity, provide such information immediately.

- i.
- ii.
- iii.
- iv.

(B) You are hereby required to attend 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.

(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:

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 facia apparent that the activities of the financial entity or deposit taker are cognizable under the provisions of section 3 of the Act.

The competent authority or the officers appointed to assist the Competent Authority 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 conduction 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 power under the act the following order is passed.

(A) As per notice in form A calling complete 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 you not complying with the orders of the under signed, a final opportunity is been given to you to submit the details and documents required for and/or appear before me along with the details and documents reaquired 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)

Date

By order and etc.

By Order,

AMIT SINGH NEGI,
Secretary.