



THE ASSAM GAZETTE

অসাধাৰণ

EXTRAORDINARY

প্ৰাপ্ত কৰ্তৃত্বৰ দ্বাৰা প্ৰকাশিত

PUBLISHED BY THE AUTHORITY

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GOVERNMENT OF ASSAM
ORDERS BY THE GOVERNOR
FINANCE (INSTITUTIONAL FINANCE) DEPARTMENT

NOTIFICATION

The 20th December, 2022

No.121227/219.- In exercise of the powers conferred by Section 38 of the Banning of Unregulated Deposit Scheme Act, 2019 (Central Act 21 of 2019), the Governor of Assam, in consultation with the Central Government is hereby pleased to make the following rules, namely:-

- Short title and commencement.
1. (1) These rules may be called the Assam Banning of Unregulated Deposit Schemes Rules, 2022.
- (2) They shall come into force on the date of their publication in the Official Gazette.
- Definitions
2. (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) "complaint" 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;

(d) "**Competent Authority**" means the Commissioner and Secretary to the Government of Assam, Finance Department, as appointed by the Government under sub-section 1 of Section 7 of the Act;

(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 Assam;

(h) "**State**" means the State of Assam;

(i) "**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.

Ceiling for self-help groups.

3. As per clause (i) of sub-section (4) of Section 2, the 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. 50,000/- per annum.

- Power of yearly assessment under clause (j) and clause (k) of sub-section (4) of section 2 of the Act.
4. The power of yearly assessment of deposit schemes such as periodic payments by self-help groups members and stipulate annual ceiling on amounts shall be done only by the State Government.
- Powers and duties of the Competent Authority under sub-section (3) of section 7 of the Act.
5. (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 shall be published 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.
- Information and particulars to be considered.
6. The information and particulars which the Competent Authority shall consider as per sub-section (3) of section 7 of the Act for provisionally attaching the property of the deposit taker shall include the following, namely:-

- (a) any complaint against the promotion or operation of an Unregulated Deposit Scheme, whether the complainant is a depositor in the said Unregulated Deposit Scheme or not;
- (b) any information received from the Central Government, or any State Governments or Union Territory Administrations, or any law enforcement authority or agency or body under the charge of such Governments or Administrations, regarding the promotion or operation of an Unregulated Deposit Scheme;
- (c) information of any advertisement, whether in print or electronic media or both, inducing another person to invest in, or become a member or participant of any Unregulated Deposit Scheme; and
- (d) any other information that the Competent Authority received that a deposit taker is soliciting or accepting deposits in contravention of the provisions of the Act.

Form and manner of intimation as per sub-section (3) of section 2.

- 7. (1) Every deposit taker commencing business shall submit an intimation in the Form annexed to these rules to the Competent Authority as designated under clause (d) of rule 2 of these rules, within a period of thirty days from the commencement of the business.
- (2) In case of any change in any particulars submitted to the said authority, the deposit taker shall intimate the authority of such change within a period of thirty days from the date of the change in FORM-7.

Manner of provisional attachment and administration of attached property under sub-section (3) of section 7.

- 8. (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 for 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 mentioning the details of the property to be attached in FORM-1.

- (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) above, the Competent Authority shall direct the officers appointed under sub-section (2) of section 7 of the Act, to prepare and maintain a record of the property provisionally attached which shall include details of the properties so attached, any expenditure incurred or any cost of management of the property and of any income received from the property in FORM-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 Assamese 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 encumbrance 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) above, 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) above.
- (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.

(14) 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.

(15) 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.

(16) 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 realization of the assets as per provision of sub-section (1) of section 14.

Impounding and retention of records under sub-section (8) of section 7.

9. (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.

Powers vested while conducting investigation or inquiry under sub-section (4) of section 7.

10. (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 as in FORM-4;
 - (ii) notice for additional information, if any, required in FORM-5;
 - (iii) final notice for personal attendance of deposit taker or other persons and witnesses in FORM-6.
- (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;
- (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.

Application for confirmation of provisional attachment under sub-section (1) section 4.

11. The Competent Authority shall file an application before the Designated Court for making the provisional attachment absolute, containing the following particulars, namely:-

- (a) a complete list of the property, money or deposits attached;
- (b) in case of immovable property, the name or names and

particulars of the owner of the property, any person who claims to be in possession of the property, and any other person who has an interest in the said property;

- (c) the record of the provisionally attached property specified in sub-rule (3) of rule 8 and the valuation report, if any, specified in sub-rule (11) of rule 8;
- (d) a list of the depositors from whom the deposit taker has accepted or collected deposits; and,
- (e) a list of dues owed to depositors including amounts that may be realised from sale of any attached property of the deposit taker.

Procedure to be adopted by Designated Court under sub-section (3) of section 15.

12. The procedure to be adopted by Designated Court as per provisions of sub-section (3) of section 15 shall be as follows, namely:-
- (1) The Designated Court may regulate its own procedure and shall be guided by the principles of natural justice and the procedure contained in the Code of Civil Procedure, 1908.
 - (2) The Designated Court shall,-
 - (a) consider the objections to the show cause notice issued under sub-section (1) or sub-section (2) of section 15 of the Act ;
 - (b) hear the aggrieved person and the Competent Authority or advocates representing these parties; and,
 - (c) take into account all relevant materials placed on record before it.

Valuation reports to be obtained while releasing properties attached.

13. 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 as per sub-section (1) of section 14 of the Act.

Power of Competent Authority to engage, empanel agencies for forensic or digital audit, valuation or sale of assets under clause (b) of sub-section (4) of section 7.

14. (1) The Competent Authority shall under clause (b) of sub-section (4) of section 7, engage Government empanelled agencies -

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

for the purpose of assessing valuation of property to be provisionally attached by the Competent Authority under sub-section (1) of section 14.

(2) The competent Authority shall utilize the services of such agencies and auditors for valuation of assets, for selling of assets and for forensic and digital audit of money trail for assessing the valuation of property to be attached under sub-section (1) of section 14.

(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 during the process of attachment.

Manner of retraction of advertisement under section 33.

15. (1) The appropriate Government shall direct the owner of any newspaper or other publication of any nature either in print or in electronic form, to publish a full and fair retraction,

unequivocally withdrawing any offer, promotion or inducement made earlier in any advertisement, statement or information to any person to become a member of any Unregulated Deposit Scheme.

- (2) The retraction shall be as prominent as the original advertisement, statement or information and be in such a format and font that immediately catches the attention of any reader or recipient.
- (3) The retraction shall be published free of cost within two days from the date of the direction of the appropriate Government.
- (4) Where the appropriate Government is of the view that the retraction published has not sufficiently engaged the attention of the readers of the newspaper or such other publication, that Government may direct re-publication of the retraction.

SAMIR K. SINHA,
Principal Secretary to the Government of Assam,
Finance Department.

FORM-1

[See rule 8(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 8 (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 under mentioned 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) Officer appointed by Competent Authority

FORM 3

[See rule 8(13)]

NOTICE OF SALE OF IMMOVABLE PROPERTYOffice 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.....on the said.....day of.....at.....(place).

The sale shall 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 shall 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 shall also be stopped, before any lot is knocked down if 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 declaim 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 1 [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

FORM-4**[See rule 10(1)(i)]****Notice of 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 under sub-section (3) and (4) of section 7 of the Act shall 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 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:-

- (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 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 an ex-parte order.

(Note: Strike whichever is not applicable)

Yours Faithfully,

Date:

FORM-5**[See rule 10(1)(ii)]****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 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 under sub-section (3) and (4) of section 7 of the Act shall 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 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:-

- A. Certain further details or clarifications or additional information listed here below are required in connection with the Deposit Scheme* or Chit funds Scheme* or Default in repayment* of Deposit or any specified service promised against such deposit on which I would call for additional information, under the deposit scheme/s by the financial entity which please furnish immediately.
- (i)
 - (ii)
 - (iii)
 - (iv)
- B. You are hereby required to attend 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.

- C. In case you fail to comply with the orders of the under signed, it shall be deemed that you have nothing to say in the matter and action under the appropriate provisions of the Act shall 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:

FORM-6**[See rule 10(1)(iii)]****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 or the officers appointed to assist the Competent Authority under sub-section (3) and (4) of section 7 of the Act shall 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 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:-

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 authorized 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 that, you're 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 shall be deemed that you have nothing to say in the matter and action under the appropriate provisions of the Act shall 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: