

THE BANNING OF UNREGULATED DEPOSIT SCHEMES ACT, 2019

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THE BANNING OF UNREGULATED DEPOSIT SCHEMES ACT, 2019

ACT NO. 21 OF 2019

[31st July, 2019.]

An Act to provide for a comprehensive mechanism to ban the unregulated deposit schemes, other than deposits taken in the ordinary course of business, and to protect the interest of depositors and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.—(1) This Act may be called the Banning of Unregulated Deposit Schemes Act, 2019.

(2) It extends to the whole of India *except the State of Jammu and Kashmir.

(3) It shall be deemed to have come into force on the 21st day of February, 2019

2. Definitions—In this Act, unless the context otherwise requires,—

(1) “appropriate Government” means in respect of matters relating to,—

(i) the Union territory without legislature, the Central Government;

(ii) the Union territory of Puducherry, the Government of that Union territory;

(iii) the Union territory of Delhi, the Government of that Union territory; and;

(iv) the State, the State Government;

(2) “company” shall have the same meaning as assigned to it in clause (20) of section 2 of the Companies Act, 2013 (18 of 2013);

(3) “Competent Authority” means an Authority appointed by the appropriate Government under section 7;

(4) “deposit” means an amount of money received by way of an advance or loan or in any other form, by any deposit taker with a promise to return whether after a specified period or otherwise, either in cash or in kind or in the form of a specified service, with or without any benefit in the form of interest, bonus, profit or in any other form, but does not include—

(a) amounts received as loan from a scheduled bank or a co-operative bank or any other banking company as defined in section 5 of the Banking Regulation Act, 1949 (10 of 1949);

(b) amounts received as loan or financial assistance from the Public Financial Institutions notified by the Central Government in consultation with the Reserve Bank of India or any non-banking financial company as defined in clause (f) of section 45-I of the Reserve Bank of India Act, 1934 (2 of 1934) and is registered with the Reserve Bank of India or any Regional Financial Institutions or insurance companies;

*. Now applicable to the Union territory of Jammu and Kashmir and the Union territory of Ladakh by vide notification No. S.O. 3912 (E), dated 30th October, 2019.

(c) amounts received from the appropriate Government, or any amount received from any other source whose repayment is guaranteed by the appropriate Government, or any amount received from a statutory authority constituted under an Act of Parliament or a State Legislature;

(d) amounts received from foreign Governments, foreign or international banks, multilateral financial institutions, foreign Government owned development financial institutions, foreign export credit collaborators, foreign bodies corporate, foreign citizens, foreign authorities or person resident outside India subject to the provisions of the Foreign Exchange Management Act, 1999 (42 of 1999) and the rules and regulations made thereunder;

(e) amounts received by way of contributions towards the capital by partners of any partnership firm or a limited liability partnership;

(f) amounts received by an individual by way of loan from his relatives or amounts received by any firm by way of loan from the relatives of any of its partners;

(g) amounts received as credit by a buyer from a seller on the sale of any property (whether movable or immovable);

(h) amounts received by an asset re-construction company which is registered with the Reserve Bank of India under section 3 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);

(i) any deposit made under section 34 or an amount accepted by a political party under section 29B of the Representation of the People Act, 1951 (43 of 1951);

(j) any periodic payment made by the members of the self-help groups operating within such ceilings as may be prescribed by the State Government or Union territory Government;

(k) any other amount collected for such purpose and within such ceilings as may be prescribed by the State Government;

(l) an amount received in the course of, or for the purpose of, business and bearing a genuine connection to such business including—

(i) payment, advance or part payment for the supply or hire of goods or provision of services and is repayable in the event the goods or services are not in fact sold, hired or otherwise provided;

(ii) advance received in connection with consideration of an immovable property under an agreement or arrangement subject to the condition that such advance is adjusted against such immovable property as specified in terms of the agreement or arrangement;

(iii) security or dealership deposited for the performance of the contract for supply of goods or provision of services; or

(iv) an advance under the long-term projects for supply of capital goods except those specified in item (ii);

Provided that if the amounts received under items (i) to (iv) become refundable, such amounts shall be deemed to be deposits on the expiry of fifteen days from the date on which they become due for refund:

Provided further that where the said amounts become refundable, due to the deposit taker not obtaining necessary permission or approval under the law for the time being in force, wherever required, to deal in the goods or properties or services for which money is taken, such amounts shall be deemed to be deposits.

Explanation.—For the purposes of this clause,—

(i) in respect of a company, the expression “deposit” shall have the same meaning as assigned to it under the Companies Act, 2013 (18 of 2013);

(ii) in respect of a non-banking financial company registered under the Reserve Bank of India Act, 1934 (2 of 1934), the expression “deposit” shall have the same meaning as assigned to it in clause (bb) of section 45-I of the said Act;

(iii) the expressions “partner” and “firm” shall have the meanings respectively assigned to them under the Indian Partnership Act, 1932 (9 of 1932);

(iv) the expression “partner” in respect of a limited liability partnership shall have the same meaning as assigned to it in clause (q) of sub-section (1) of section 2 of the Limited Liability Partnership Act, 2008 (6 of 2009);

(v) the expression “relative” shall have the same meaning as assigned to it in the Companies Act, 2013 (18 of 2013);

(5) “depositor” means any person who makes a deposit under this Act;

(6) “deposit taker” means—

(i) any individual or group of individuals;

(ii) a proprietorship concern;

(iii) a partnership firm (whether registered or not);

(iv) a limited liability partnership registered under the Limited Liability Partnership Act, 2008 (6 of 2009);

(v) a company;

(vi) an association of persons;

(vii) a trust (being a private trust governed under the provisions of the Indian Trusts Act, 1882 (2 of 1882) or a public trust, whether registered or not);

(viii) a co-operative society or a multi-State co-operative society; or

(ix) any other arrangement of whatsoever nature, receiving or soliciting deposits, but does not include—

(i) a Corporation incorporated under an Act of Parliament or a State Legislature;

(ii) a banking company, a corresponding new bank, the State Bank of India, a subsidiary bank, a regional rural bank, a co-operative bank or a multi-State co-operative bank as defined in the Banking Regulation Act, 1949 (10 of 1949);