**FOREIGN EXCHANGE MANAGEMENT ACT 1999**

**(1) What is FEMA 1999?**

**-** The Foreign Exchange Management Act, 1999 is an Act of the Parliament of India "to consolidate and amend the law relating to foreign exchange with the objective of facilitating external trade and payments and for promoting the orderly development and maintenance of foreign exchange market in India".

### **(2)What are the main features of Foreign Exchange Management Act, 1999?**

1. It gives powers to the Central Government to regulate the flow of payments to and from a person situated outside the country.
2. All financial transactions concerning foreign securities or exchange cannot be carried out without the approval of FEMA. All transactions must be carried out through “Authorised Persons.”
3. In the general interest of the public, the Government of India can restrict an authorised individual from carrying out foreign exchange deals within the current account.
4. Empowers RBI to place restrictions on transactions from capital Account even if it is carried out via an authorized individual.
5. As per this act, Indians residing in India, have the permission to conduct a foreign exchange, foreign security transactions or the right to hold or own immovable property in a foreign country in case security, property or currency was acquired, or owned when the individual was based outside of the country, or when they inherit the property from individual staying outside the country .

## **(3)What are the objective of the FEMA 1999?**

The main objective of FERA was conservation and proper utilization of the foreign exchange resources of the country. It also sought to control certain aspects of the conduct of business outside the country by Indian companies and in India by foreign companies. When a business enterprise imports goods from other countries, exports its products to them or makes investments abroad, it deals in foreign exchange. Foreign exchange means 'foreign currency' and includes deposits, credits and balances payable in any foreign currency and secondly drafts, travellers, cheques, letters of credit or bills of exchange, expressed or drawn in Indian currency but payable in any foreign currency.

## **(4)What are the difference between FEMA and FERA?**

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| FEMA | FERA |
| It came into force in January 1974 | **It came into force in 1999** |
| It has 81 provisions | **It has 48 provisions** |
| Current Account not defined | **The current account is defined** |
| The narrow definition of “Authorized Person” | **Widened definition of “Authorized Person” and have banks included in it.** |
| No provision for IT | **There is provision for IT** |
| Violation of FERA was a criminal offence | **Violation of FEMA is a civil offence** |
| The appeal was sent to High Court | **Provision of Special Director (Appeals) and Special Tribunal** |
| No Legal help to the accused | **Accused Have the right for Legal help.** |
| The objective was conservation of Foreign Exchange | **The objective is the management of Foreign Exchange** |
| FERA was conceived with the thought that Foreign Exchange is a scarce resource | **FEMA was conceived with the thought that Foreign Exchange is an asset.** |
| Only Authorized dealers and money changers were defined as “Authorized Persons” | **Offshore Banking units also come under “Authorized Persons”** |

**(5)What is the structure of FEMA**?

1. Head Office of FEMA, also known as Enforcement Directorate, headed by Director is located in New Delhi.
2. There are 5 zonal offices in Delhi, Mumbai, Kolkata, Chennai and Jalandhar, each office is headed by Deputy Director.
3. Every 5 zones are further divided into 7 sub-zonal offices headed by Assistant Directors and 5 field units headed by Chief Enforcement Officers.

**(6)To whom is the act applicable?**

-The FEMA, is applicable –

1) To the whole of India

2) Any Branch, office and agency, which is situated outside India, but is owned or controlled by a person resident in India.

3) Any contravention of provisions of FEMA, by all those, who are covered under above two aspects committed outside India

**(7)Who is an Authorized Person under Foreign Exchange Management Act?**

Section 2(c) of [Foreign Exchange Management Act or FEMA](https://fema.taxmann.com/)states that ‘authorised person’ means an authorised dealer, money changer, off-shore banking unit or any other person authorised under section 10 (1) to deal in foreign exchange and foreign securities. These are authorised by RBI under section 10 of [FEMA](https://www.taxmann.com/blogpost/2000000240/fema-foreign-exchange-management-act.aspx) to deal in foreign exchange.