

## UPSC Civil Services Examination

### Subject – UPSC GS-II

### Topic – FEMA & FERA

Foreign Exchange Management Act, 1999 (FEMA) came into force by an act of Parliament. It was enacted on 29 December 1999. This new Act is in consonance with the frameworks of the World Trade Organisation (WTO). It also paved the way for Prevention of Money Laundering Act, 2002 which came into effect from July 1, 2005. This topic would be of importance in the [IAS Exam](#) for both Prelims and Mains.

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#### Quick Facts about FERA & FEMA for UPSC

##### **What is FEMA?**

It is a set of regulations which empowers Reserve Bank of India to pass regulations and enables Government of India to pass rules relating to foreign exchange in tune with foreign trade policy of India.

##### **Which Act did FEMA replace?**

FEMA replaced an act called Foreign Exchange Regulation Act (FERA).

##### **What is FERA and when was it passed?**

FERA (Foreign Exchange Regulation Act) legislation was passed in 1973. It came into effect on January 1, 1974. FERA was passed to regulate the financial transactions concerning foreign exchange and securities. FERA was introduced when Forex reserves of the country were very low.

##### **Why was FERA replaced?**

FERA did not comply with the post-liberalisation policies of the Government.

## What is the main change brought in FEMA compared to FERA?

It made all the criminal offences as civil offences.

### Difference between FEMA and FERA

FERA	FEMA
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”

## 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.

### Categories of Authorised Persons under FEMA

Category	Authorised Dealer - Category I	Authorised Dealer Category - II	Authorised Dealer Category - III	Full Fledged Money Changers
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<b>Entities</b>	1. Commercial Banks 2. State Co-operative Banks 3. Urban Co-operative Banks	1. Upgraded FFMC 2. Co-operative Banks 3. Regional Rural Banks (RRB's), others	1. Select Financial and other Institutions	1. Department of Post 2. Urban Co-operative Banks 3. Other FFMC
<b>Activities Permitted</b>	As per RBI guidelines, all current and capital account transactions	All activities permitted to FFMC and specified non-trade related current account transactions	Foreign exchange, transactions related	Purchase of foreign exchange and sale for private and business visits abroad

### 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.

The above details would be of help to candidates preparing for [UPSC 2020](#) exams from the perspective of mains examination.