

BHARAT SCHOOL OF BANKING

FERA AND FEMA ACTS

Foreign Exchange Regulation Act (FERA), 1973

Government of India (PM was Smt. Indira Gandhi) enacted Foreign Exchange Regulation Act (FERA) in 1973, which came into force w.e.f. January 1, 1974, to regulate all Indian exchanges or dealings with foreign countries.

At the time of legislation of the law, India had acute shortage of **foreign exchange (forex)**. The government then tried to **restrict (very strictly)** the **exchanges, or dealings** of India with **foreign** countries. But the **rules and regulations** were so **stringent** that it had a great impact on the **import and export** of currency.

There were several **issues** with this act, like -

- **Law violators** were treated as **criminal offenders** (instead of **civil offenders**)
- Wide **power** on the hand of **Enforcement Directorate (E.D)** to **arrest** any person, seize any document (Corporate world found themselves at the **mercy** of E.D.!)
- Control everything that was specified, relating to **foreign exchange**, aimed at **minimizing** dealings in **forex** and **foreign securities**, etc.

Foreign Exchange Management Act (FEMA), 1999

FERA was too strict on regulating the **foreign exchanges**, that acted like an **obstacle** in **foreign trade**, and had become **incompatible** with the **pro-liberalization** policies of government.

Hence **government of India**, under PM **Shri. AtalBihari Vajpayee** repealed the **FERA Act**, and introduced **FEMA** in **1999**. This time, instead of "**regulating**" the **foreign exchange**, government tried to "**manage**" it (with simpler norms).

FEMA has brought a new **management regime** of **foreign exchange** with the new **framework** of the **World Trade Organization (WTO)**. Also, it brought with it the **Prevention of Money Laundering Act, 2002**, w.e.f. **July 1, 2005**.

Difference between FERA and FEMA

	FERA	FEMA
Objectives	To conserve forex and to prevent misuse	To facilitate foreign trade and maintain forex
Provisions	Consisted of 81 sections with great complexity	Consists only 49 sections and is much simpler
Power of Search & Seize	Wide power on the hands of a police officer (not below the rank of Deputy SP)	Power curtailed to a great extent
Violation	Criminal offence, and was not	Civil offence, and is compoundable (charges can

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	compoundable (charges could not be dropped)	be dropped)
Residential status	only citizenship was the criteria to determine the residential status of a person	More than 6 month stay in India is the criteria to determine the residential status of a person

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