FEMA

It replaced FERA in the year 1999

Major reason for replacing FERA

FERA was  incompatible with the pro-liberalization policies of the Government of India.

It is in tune with the WTO and also with the provisions of  Prevention of Money Laundering Act, 2002,

FEMA is applicable to all parts of India and was primarily formulated to utilize the foreign exchange resources in efficient manner. It is also equally applicable to the offices and agencies which are located outside India however is managed or owned by an Indian Citizen.

FEMA head office is known as Enforcement Directorate and is situated in heart of city of Delhi. All the forex correspondence have to be addressed to this office

 main objective - of FEMA

* to help facilitate external trade and payments in India.
* orderly development and maintenance of foreign exchange market in India
* It defines the procedures, formalities, dealings of all foreign exchange transactions in India
* Free transactions on current account subject to a reasonable restrictions that may be imposed.( which my also be banned by the Central Government)
* Without general or specific permission of FEMA, MA restricts the transactions involving foreign exchange or foreign security and payments from outside the country to India – the transactions should be made only through an authorised person.

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| BASIS | FERA | FEMA |
| Meaning | An act promulgated, to regulate payments and foreign exchange in India, is FERA. | FEMA an act initiated to facilitate external trade and payments and to promote orderly management of the forex market in the country. |
| Enactment | Old | New |
| No. Of sections | 81 | 19 |
| Introduced when | Foreign exchange reserves were low. | Foreign exchange position was satisfactory. |
| Approach towards forex transactions | Rigid | Flexible |
| Basis for determining residential status | Citizenship | More than 6 months stay in India or as per IT act |
| Violation | Criminal offence | Civil offence |
| Punishment for contravention | Imprisonment | Fine or imprisonment (if fine not paid in the stipulated time) |

AD i.e. Authorized person in FEMA

Section 2(c) of Foreign Exchange Management Act or FEMA states that ‘authorized person’ means an authorized dealer, money changer, off-shore banking unit or any other person authorized under section 10 (1) to deal in foreign exchange and foreign securities. These are authorized by RBI under section 10 of FEMA to deal in foreign exchange.

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| **Category** | **Entities** | **Permitted Activities** |
| Authorised Dealer –  Category I | Commercial Banks, State Co-op Banks, Urban Co-op Banks | All current and capital account transactions as per RBI directions issued from time to time |
| Authorised Dealer-  Category II | Upgraded FFMCs (fledged money changer), Co-op Banks, Regional Rural Banks (RRBs), others | Specified non-trade related current account transactions and all activities permitted to FFMC |
| Authorised Dealer –  Category III | Selected Financial and other institutions | Transactions incidental to the foreign exchange |
| Full Fledged Money Changers (FFMC) | Department of Post, Urban Co-op Banks, Other FFMC | Purchase of foreign exchange and sale for private and business visits abroad. |