



CORRIDALEGAL
Corporate & Employment Law Firm



Foreign Exchange Management Act, 1999



Bare Act

Corrida Legal presents the Bare Act Series, sourced from official texts and supported with an executive summary designed to help readers grasp the essence of the law with ease.

NOTE: An Executive Summary of the Foreign Exchange Management Act, 1999 (FEMA) is included towards the end of this document, right after the full bare act of the statute. This summary helps professionals, business owners, compliance officers, HR managers, legal practitioners, and students quickly understand the key provisions relating to current and capital account transactions, role of the Reserve Bank of India (RBI), responsibilities of authorised persons, rules for external trade and payments, foreign direct investment and overseas borrowings, enforcement powers of the Directorate of Enforcement, adjudication and appeals, and penalties for non-compliance, without having to read the entire text.

The Foreign Exchange Management Act, 1999 Summary provides a clear, practical, and time-saving guide for anyone looking to comply with India's foreign exchange laws, strengthen cross-border business operations, manage investment flows, and stay aligned with regulatory requirements under the FEMA bare act.

THE FOREIGN EXCHANGE MANAGEMENT ACT, 1999

ARRANGEMENT OF SECTIONS

CHAPTER I

PRELIMINARY

SECTIONS

1. Short title, extent, application and commencement.
2. Definitions.

CHAPTER II

REGULATION AND MANAGEMENT OF FOREIGN EXCHANGE

3. Dealing in foreign exchange, etc.
4. Holding of foreign exchange, etc.
5. Current account transactions.
6. Capital account transactions.
7. Export of goods and services.
8. Realisation and repatriation of foreign exchange.
9. Exemption from realisation and repatriation in certain cases.

CHAPTER III

AUTHORISED PERSON

10. Authorised person.
11. Reserve Bank's powers to issue directions to authorised person.

12. Power of Reserve Bank to inspect authorised person.

CHAPTER IV

CONTRAVENTION AND PENALTIES

13. Penalties.
14. Enforcement of the orders of Adjudicating Authority.
- 14A. Power of recover arrears of penalty.
15. Power to compound contravention.

CHAPTER V

ADJUDICATION AND APPEAL

16. Appointment of Adjudicating Authority.
17. Appeal to Special Director (Appeals).
18. Appellate Tribunal.
19. Appeal to Appellate Tribunal.
20. *[Omitted.]*
21. Qualifications, for appointment of Special Director (Appeals).
22. *[Omitted.]*
23. Terms and Conditions of service Special Director (Appeals).
24. *[Omitted.]*

SECTIONS

25. *[Omitted.]*
26. *[Omitted.]*
27. Staff of Special Director (Appeals).
28. Procedure and powers of Appellate Tribunal and Special Director (Appeals).
29. *[Omitted.]*
30. *[Omitted.]*
31. *[Omitted.]*
32. Right of appellant to take assistance of legal practitioner or chartered accountant and of Government, to appoint presenting officers.
33. Officers and employees etc., to be public servant.
34. Civil court not to have jurisdiction.
35. Appeal to High Court.

CHAPTER VI

DIRECTORATE OF ENFORCEMENT

36. Directorate of Enforcement.
37. Power of search, seizure, etc.
- 37A. Special provisions relating to assets held outside India in contravention of section 4.
38. Empowering other officers.

CHAPTER VII

MISCELLANEOUS

39. Presumption as to documents in certain cases.
40. Suspension of operation of this Act.
41. Power of Central Government to give directions.
42. Contravention by companies.
43. Death or insolvency in certain cases.
44. Bar of legal proceedings.
- 44A. Powers of Reserve Bank not to apply to International Financial Services Centre.
45. Removal of difficulties.
46. Power to make rules.
47. Power to make regulations.
48. Rules and regulations to be laid before Parliament.
49. Repeal and saving.

THE FOREIGN EXCHANGE MANAGEMENT ACT, 1999

ACT NO. 42 OF 1999

[29th December, 1999.]

An Act 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.

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

CHAPTER I

PRELIMINARY

1. Short title, extent, application and commencement.—(1) This Act may be called the Foreign Exchange Management Act, 1999.

(2) It extends to the whole of India.

(3) It shall also apply to all branches, offices and agencies outside India owned or controlled by a person resident in India and also to any contravention thereunder committed outside India by any person to whom this Act applies.

(4) It shall come into force on such date¹ as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

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

(a) “Adjudicating Authority” means an officer authorised under sub-section (1) of section 16;

²[(b) “Appellate Tribunal” means the Appellate Tribunal referred to in section 18;]

(c) “authorised person” means an authorised dealer, money changer, off-shore banking unit or any other person for the time being authorised under sub-section (1) of section 10 to deal in foreign exchange or foreign securities;

³[(cc) “Authorised Officer” means an officer of the Directorate of Enforcement authorised by the Central Government under section 37A;]

(d) “Bench” means a Bench of the Appellate Tribunal;

(e) “capital account transaction” means a transaction which alters the assets or liabilities, including contingent liabilities, outside India of persons resident in India or assets or liabilities in India of persons resident outside India, and includes transactions referred to in sub-section (3) of section 6;

(f) “Chairperson” means the Chairperson of the Appellate Tribunal;

(g) “chartered accountant” shall have the meaning assigned to it in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 (38 of 1949);

³[(gg) “Competent Authority” means the Authority appointed by the Central Government under sub-section (2) of section 37A;]

(h) “currency” includes all currency notes, postal notes, postal orders, money orders, cheques, drafts, travellers cheques, letters of credit, bills of exchange and promissory notes, credit cards or such other similar instruments, as may be notified by the Reserve Bank;

1. 1st June, 2000, *vide* notification No. G.S.R. 371(E), dated 1st May, 2000, *see* Gazette of India, Extraordinary, Part II, sec. 3(i).

2. Subs. by Act 7 of 2017, s. 165, for clause (b) (w.e.f. 26-5-2017).

3. Ins. by Act 20 of 2015, s. 138 (w.e.f. 9-9-2015).

- (i) “currency notes” means and includes cash in the form of coins and bank notes;
- (j) “current account transaction” means a transaction other than a capital account transaction and without prejudice to the generality of the foregoing such transaction includes,—
 - (i) payments due in connection with foreign trade, other current business, services, and short-term banking and credit facilities in the ordinary course of business,
 - (ii) payments due as interest on loans and as net income from investments,
 - (iii) remittances for living expenses of parents, spouse and children residing abroad, and
 - (iv) expenses in connection with foreign travel, education and medical care of parents, spouse and children;
- (k) “Director of Enforcement” means the Director of Enforcement appointed under sub-section (1) of section 36;
- (l) “export”, with its grammatical variations and cognate expressions, means—
 - (i) the taking out of India to a place outside India any goods,
 - (ii) provision of services from India to any person outside India;
- (m) “foreign currency” means any currency other than Indian currency;
- (n) “foreign exchange” means foreign currency and includes,—
 - (i) deposits, credits and balances payable in any foreign currency,
 - (ii) drafts, travellers cheques, letters of credit or bills of exchange, expressed or drawn in Indian currency but payable in any foreign currency,
 - (iii) drafts, travellers cheques, letters of credit or bills of exchange drawn by banks, institutions or persons outside India, but payable in Indian currency;
- (o) “foreign security” means any security, in the form of shares, stocks, bonds, debentures or any other instrument denominated or expressed in foreign currency and includes securities expressed in foreign currency, but where redemption or any form of return such as interest or dividends is payable in Indian currency;
- (p) “import”, with its grammatical variations and cognate expressions, means bringing into India any goods or services;
- (q) “Indian currency” means currency which is expressed or drawn in Indian rupees but does not include special bank notes and special one rupee notes issued under section 28A of the Reserve Bank of India Act, 1934 (2 of 1934);
- (r) “legal practitioner” shall have the meaning assigned to it in clause (i) of sub-section (1) of section 2 of the Advocates Act, 1961 (25 of 1961);
- (s) “Member” means a Member of the Appellate Tribunal and includes the Chairperson thereof;
- (t) “notify” means to notify in the Official Gazette and the expression “notification” shall be construed accordingly;
- (u) “person” includes—
 - (i) an individual,
 - (ii) a Hindu undivided family,
 - (iii) a company,
 - (iv) a firm,
 - (v) an association of persons or a body of individuals, whether incorporated or not,
 - (vi) every artificial juridical person, not falling within any of the preceding sub-clauses, and
 - (vii) any agency, office or branch owned or controlled by such person;

(v) “person resident in India” means—

(i) a person residing in India for more than one hundred and eighty-two days during the course of the preceding financial year but does not include—

(A) a person who has gone out of India or who stays outside India, in either case—

(a) for or on taking up employment outside India, or

(b) for carrying on outside India a business or vocation outside India, or

(c) for any other purpose, in such circumstances as would indicate his intention to stay outside India for an uncertain period;

(B) a person who has come to or stays in India, in either case, otherwise than—

(a) for or on taking up employment in India, or

(b) for carrying on in India a business or vocation in India, or

(c) for any other purpose, in such circumstances as would indicate his intention to stay in India for an uncertain period;

(ii) any person or body corporate registered or incorporated in India,

(iii) an office, branch or agency in India owned or controlled by a person resident outside India,

(iv) an office, branch or agency outside India owned or controlled by a person resident in India;

(w) “person resident outside India” means a person who is not resident in India;

(x) “prescribed” means prescribed by rules made under this Act;

(y) “repatriate to India” means bringing into India the realised foreign exchange and—

(i) the selling of such foreign exchange to an authorised person in India in exchange for rupees, or

(ii) the holding of realised amount in an account with an authorised person in India to the extent notified by the Reserve Bank,

and includes use of the realised amount for discharge of a debt or liability denominated in foreign exchange and the expression “repatriation” shall be construed accordingly;

(z) “Reserve Bank” means the Reserve Bank of India constituted under sub-section (1) of section 3 of the Reserve Bank of India Act, 1934 (2 of 1934);

(za) “security” means shares, stocks, bonds and debentures, Government securities as defined in the Public Debt Act, 1944 (18 of 1944), savings certificates to which the Government Savings Certificates Act, 1959 (46 of 1959) applies, deposit receipts in respect of deposits of securities and units of the Unit Trust of India established under sub-section (1) of section 3 of the Unit Trust of India Act, 1963 (52 of 1963)* or of any mutual fund and includes certificates of title to securities, but does not include bills of exchange or promissory notes other than Government promissory notes or any other instruments which may be notified by the Reserve Bank as security for the purposes of this Act;

(zb) “service” means service of any description which is made available to potential users and includes the provision of facilities in connection with banking, financing, insurance, medical assistance, legal assistance, chit fund, real estate, transport, processing, supply of electrical or other energy, boarding or lodging or both, entertainment, amusement or the purveying of news or other information, but does not include the rendering of any service free of charge or under a contract of personal service ;

(zc) “Special Director (Appeals)” means an officer appointed under ¹[section 17];

(zd) “specify” means to specify by regulations made under this Act and the expression “specified” shall be construed accordingly;

1. Subs. by Act 7 of 2017, s.165, for “section 18” (w.e.f. 26-5-2017).

*Now see the Unit Trust of India (transfer of Undertaking of Repeal) Act, 2002 (58 of 2002).

(ze) “transfer” includes sale, purchase, exchange, mortgage, pledge, gift, loan or any other form of transfer of right, title, possession or lien.

CHAPTER II

REGULATION AND MANAGEMENT OF FOREIGN EXCHANGE

3. Dealing in foreign exchange, etc.—Save as otherwise provided in this Act, rules or regulations made thereunder, or with the general or special permission of the Reserve Bank, no person shall—

- (a) deal in or transfer any foreign exchange or foreign security to any person not being an authorised person;
- (b) make any payment to or for the credit of any person resident outside India in any manner;
- (c) receive otherwise through an authorised person, any payment by order or on behalf of any person resident outside India in any manner.

Explanation.—For the purpose of this clause, where any person in, or resident in, India receives any payment by order or on behalf of any person resident outside India through any other person (including an authorised person) without a corresponding inward remittance from any place outside India, then, such person shall be deemed to have received such payment otherwise than through an authorised person;

- (d) enter into any financial transaction in India as consideration for or in association with acquisition or creation or transfer of a right to acquire, any asset outside India by any person.

Explanation.—For the purpose of this clause, “financial transaction” means making any payment to, or for the credit of any person, or receiving any payment for, by order or on behalf of any person, or drawing, issuing or negotiating any bill of exchange or promissory note, or transferring any security or acknowledging any debt.

4. Holding of foreign exchange, etc.—Save as otherwise provided in this Act, no person resident in India shall acquire, hold, own, possess or transfer any foreign exchange, foreign security or any immovable property situated outside India.

5. Current account transactions.—Any person may sell or draw foreign exchange to or from an authorised person if such sale or drawal is a current account transaction:

Provided that the Central Government may, in public interest and in consultation with the Reserve Bank, impose such reasonable restrictions for current account transactions as may be prescribed.

6. Capital account transactions.—(1) Subject to the provisions of sub-section (2), any person may sell or draw foreign exchange to or from an authorised person for a capital account transaction.

(2) The Reserve Bank may, in consultation with the Central Government, specify—

¹[(a) any class or classes of capital account transactions, involving debt instruments, which are permissible;]

(b) the limit up to which foreign exchange shall be admissible for such transactions:

²[(c) any conditions which may be placed on such transactions;]

³[Provided that the Reserve Bank or the Central Government shall not impose any restrictions on the drawal of foreign exchange for payment due on account of amortisation of loans or for depreciation of direct investments in the ordinary course of business.]

1. Subs. by Act 20 of 2015, s. 139, for Clause (a) (w.e.f. 15-10-2019).

2. Ins. by s. 139, *ibid.* (w.e.f. 15-10-2019).

3. The Proviso subs. by s. 139, *ibid.* (w.e.f. 15-10-2019).

¹[(24) The Central Government may, in consultation with the Reserve Bank, prescribe—

- (a) any class or classes of capital account transactions, not involving debt instruments, which are permissible;
- (b) the limit up to which foreign exchange shall be admissible for such transactions; and
- (c) any conditions which may be placed on such transactions.]

2*

*

*

*

*

(4) A person resident in India may hold, own, transfer or invest in foreign currency, foreign security or any immovable property situated outside India if such currency, security or property was acquired, held or owned by such person when he was resident outside India or inherited from a person who was resident outside India.

(5) A person resident outside India may hold, own, transfer or invest in Indian currency, security or any immovable property situated in India if such currency, security or property was acquired, held or owned by such person when he was resident in India or inherited from a person who was resident in India.

(6) Without prejudice to the provisions of this section, the Reserve Bank may, by regulation, prohibit, restrict, or regulate establishment in India of a branch, office or other place of business by a person resident outside India, for carrying on any activity relating to such branch, office or other place of business.

³[(7) For the purposes of this section, the term “debt instruments” shall mean, such instruments as may be determined by the Central Government in consultation with the Reserve Bank.]

7. Export of goods and services.—(1) Every exporter of goods shall—

(a) furnish to the Reserve Bank or to such other authority a declaration in such form and in such manner as may be specified, containing true and correct material particulars, including the amount representing the full export value or, if the full export value of the goods is not ascertainable at the time of export, the value which the exporter, having regard to the prevailing market conditions, expects to receive on the sale of the goods in a market outside India;

(b) furnish to the Reserve Bank such other information as may be required by the Reserve Bank for the purpose of ensuring the realisation of the export proceeds by such exporter.

(2) The Reserve Bank may, for the purpose of ensuring that the full export value of the goods or such reduced value of the goods as the Reserve Bank determines, having regard to the prevailing market conditions, is received without any delay, direct any exporter to comply with such requirements as it deems fit.

(3) Every exporter of services shall furnish to the Reserve Bank or to such other authorities a declaration in such form and in such manner as may be specified, containing the true and correct material particulars in relation to payment for such services.

8. Realisation and repatriation of foreign exchange.—Save as otherwise provided in this Act, where any amount of foreign exchange is due or has accrued to any person resident in India, such person shall take all reasonable steps to realise and repatriate to India such foreign exchange within such period and in such manner as may be specified by the Reserve Bank.

9. Exemption from realisation and repatriation in certain cases.—The provisions of sections 4 and 8 shall not apply to the following, namely:—

- (a) possession of foreign currency or foreign coins by any person up to such limit as the Reserve Bank may specify;

1. Ins. by Act 20 of 2015, s. 139 (w.e.f. 15-10-2019).

2. Sub-section (3) omitted by s. 139, *ibid.* (w.e.f. 15-10-2019).

3. Ins. by s. 139, *ibid.* (w.e.f. 15-10-2019).

(b) foreign currency account held or operated by such person or class of persons and the limit up to which the Reserve Bank may specify;

(c) foreign exchange acquired or received before the 8th day of July, 1947 or any income arising or accruing thereon which is held outside India by any person in pursuance of a general or special permission granted by the Reserve Bank;

(d) foreign exchange held by a person resident in India up to such limit as the Reserve Bank may specify, if such foreign exchange was acquired by way of gift or inheritance from a person referred to in clause (c), including any income arising therefrom;

(e) foreign exchange acquired from employment, business, trade, vocation, services, honorarium, gifts, inheritance or any other legitimate means up to such limit as the Reserve Bank may specify; and

(f) such other receipts in foreign exchange as the Reserve Bank may specify.

CHAPTER III

AUTHORISED PERSON

10. Authorised person.—(1) The Reserve Bank may, on an application made to it in this behalf, authorise any person to be known as authorised person to deal in foreign exchange or in foreign securities, as an authorised dealer, money changer or off-shore banking unit or in any other manner as it deems fit.

(2) An authorisation under this section shall be in writing and shall be subject to the conditions laid down therein.

(3) An authorisation granted under sub-section (1) may be revoked by the Reserve Bank at any time if the Reserve Bank is satisfied that—

(a) it is in public interest so to do; or

(b) the authorised person has failed to comply with the condition subject to which the authorisation was granted or has contravened any of the provisions of the Act or any rule, regulation, notification, direction or order made thereunder:

Provided that no such authorisation shall be revoked on any ground referred to in clause (b) unless the authorised person has been given a reasonable opportunity of making a representation in the matter.

(4) An authorised person shall, in all his dealings in foreign exchange or foreign security, comply with such general or special directions or orders as the Reserve Bank may, from time to time, think fit to give, and, except with the previous permission of the Reserve Bank, an authorised person shall not engage in any transaction involving any foreign exchange or foreign security which is not in conformity with the terms of his authorisation under this section.

(5) An authorised person shall, before undertaking any transaction in foreign exchange on behalf of any person, require that person to make such declaration and to give such information as will reasonably satisfy him that the transaction will not involve, and is not designed for the purpose of any contravention or evasion of the provisions of this Act or of any rule, regulation, notification, direction or order made thereunder, and where the said person refuses to comply with any such requirement or makes only unsatisfactory compliance therewith, the authorised person shall refuse in writing to undertake the transaction and shall, if he has reason to believe that any such contravention or evasion as aforesaid is contemplated by the person, report the matter to the Reserve Bank.

(6) Any person, other than an authorised person, who has acquired or purchased foreign exchange for any purpose mentioned in the declaration made by him to authorised person under sub-section (5) does not use it for such purpose or does not surrender it to authorised person within the specified period or uses the foreign exchange so acquired or purchased for any other purpose for which purchase or acquisition of foreign exchange is not permissible under the provisions of the Act or the rules or regulations or direction

or order made thereunder shall be deemed to have committed contravention of the provisions of the Act for the purpose of this section.

11. Reserve Bank's powers to issue directions to authorised person.—(1) The Reserve Bank may, for the purpose of securing compliance with the provisions of this Act and of any rules, regulations, notifications or directions made thereunder, give to the authorised persons any direction in regard to making of payment or the doing or desist from doing any act relating to foreign exchange or foreign security.

(2) The Reserve Bank may, for the purpose of ensuring the compliance with the provisions of this Act or of any rule, regulation, notification, direction or order made thereunder, direct any authorised person to furnish such information, in such manner, as it deems fit.

(3) Where any authorised person contravenes any direction given by the Reserve Bank under this Act or fails to file any return as directed by the Reserve Bank, the Reserve Bank may, after giving reasonable opportunity of being heard, impose on the authorised person a penalty which may extend to ten thousand rupees and in the case of continuing contravention with an additional penalty which may extend to two thousand rupees for every day during which such contravention continues.

12. Power of Reserve Bank to inspect authorised person.—(1) The Reserve Bank may, at any time, cause an inspection to be made, by any officer of the Reserve Bank specially authorised in writing by the Reserve Bank in this behalf, of the business of any authorised person as may appear to it to be necessary or expedient for the purpose of—

- (a) verifying the correctness of any statement, information or particulars furnished to the Reserve Bank;
- (b) obtaining any information or particulars which such authorised person has failed to furnish on being called upon to do so;
- (c) securing compliance with the provisions of this Act or of any rules, regulations, directions or orders made thereunder.

(2) It shall be the duty of every authorised person, and where such person is a company or a firm, every director, partner or other officer of such company or firm, as the case may be, to produce to any officer making an inspection under sub-section (1), such books, accounts and other documents in his custody or power and to furnish any statement or information relating to the affairs of such person, company or firm as the said officer may require within such time and in such manner as the said officer may direct.

CHAPTER IV

CONTRAVENTION AND PENALTIES

13. Penalties.—(1) If any person contravenes any provision of this Act, or contravenes any rule, regulation, notification, direction or order issued in exercise of the powers under this Act, or contravenes any condition subject to which an authorisation is issued by the Reserve Bank, he shall, upon adjudication, be liable to a penalty up to thrice the sum involved in such contravention where such amount is quantifiable, or up to two lakh rupees where the amount is not quantifiable, and where such contravention is a continuing one, further penalty which may extend to five thousand rupees for every day after the first day during which the contravention continues.

¹[(1A) If any person is found to have acquired any foreign exchange, foreign security or immovable property, situated outside India, of the aggregate value exceeding the threshold prescribed under the proviso to sub-section (1) of section 37A, he shall be liable to a penalty up to three times the sum involved in such contravention and confiscation of the value equivalent, situated in India, the Foreign exchange, foreign security or immovable property.

¹ Ins. by Act 20 of 2015, s. 140 (w.e.f. 9-9-2015).

(1B) If the Adjudicating Authority, in a proceeding under sub-section (1A) deems fits, he may, after recording the reasons in writing, recommend for the initiation of prosecution and if the Director of Enforcement is satisfied, he may, after recording the reasons in writing, may direct prosecution by filing a Criminal Complaint against the guilty person by an officer not below the rank of Assistant Director.

(1C) If any person is found to have acquired any foreign exchange, foreign security or immovable property, situated outside India, of the aggregate value exceeding the threshold prescribed under the proviso to sub-section (1) of section 37A, he shall be, in addition to the penalty imposed under sub-section (1A), punishable with imprisonment for a term which may extend to five years and with fine.

(1D) No court shall take cognizance of an offence under sub-section (1C) of section 13 except as on complaint in writing by an officer not below the rank of Assistant Director referred to in sub-section (1B).]

(2) Any Adjudicating Authority adjudging any contravention under sub-section (1), may, if he thinks fit in addition to any penalty which he may impose for such contravention direct that any currency, security or any other money or property in respect of which the contravention has taken place shall be confiscated to the Central Government and further direct that the foreign exchange holdings, if any, of the persons committing the contraventions or any part thereof, shall be brought back into India or shall be retained outside India in accordance with the directions made in this behalf.

Explanation.—For the purposes of this sub-section, “property” in respect of which contravention has taken place, shall include—

- (a) deposits in a bank, where the said property is converted into such deposits;
- (b) Indian currency, where the said property is converted into that currency; and
- (c) any other property which has resulted out of the conversion of that property.

14. Enforcement of the orders of Adjudicating Authority.—(1) Subject to the provisions of sub-section (2) of section 19, if any person fails to make full payment of the penalty imposed on him under section 13 within a period of ninety days from the date on which the notice for payment of such penalty is served on him, he shall be liable to civil imprisonment under this section.

(2) No order for the arrest and detention in civil prison of a defaulter shall be made unless the Adjudicating Authority has issued and served a notice upon the defaulter calling upon him to appear before him on the date specified in the notice and to show cause why he should not be committed to the civil prison, and unless the Adjudicating Authority, for reasons in writing, is satisfied—

(a) that the defaulter, with the object or effect of obstructing the recovery of penalty, has after the issue of notice by the Adjudicating Authority, dishonestly transferred, concealed, or removed any part of his property, or

(b) that the defaulter has, or has had since the issuing of notice by the Adjudicating Authority, the means to pay the arrears or some substantial part thereof and refuses or neglects or has refused or neglected to pay the same.

(3) Notwithstanding anything contained in sub-section (1), a warrant for the arrest of the defaulter may be issued by the Adjudicating Authority if the Adjudicating Authority is satisfied, by affidavit or otherwise, that with the object or effect of delaying the execution of the certificate the defaulter is likely to abscond or leave the local limits of the jurisdiction of the Adjudicating Authority.

(4) Where appearance is not made pursuant to a notice issued and served under sub-section (1), the Adjudicating Authority may issue a warrant for the arrest of the defaulter.

(5) A warrant of arrest issued by the Adjudicating Authority under sub-section (3) or sub-section (4) may also be executed by any other Adjudicating Authority within whose jurisdiction the defaulter may for the time being be found.

(6) Every person arrested in pursuance of a warrant of arrest under this section shall be brought before the Adjudicating Authority issuing the warrant as soon as practicable and in any event within twenty-four hours of his arrest (exclusive of the time required for the journey):

Provided that, if the defaulter pays the amount entered in the warrant of arrest as due and the costs of the arrest to the officer arresting him, such officer shall at once release him.

Explanation.—For the purposes of this sub-section, where the defaulter is a Hindu undivided family, the *karta* thereof shall be deemed to be the defaulter.

(7) When a defaulter appears before the Adjudicating Authority pursuant to a notice to show cause or is brought before the Adjudicating Authority under this section, the Adjudicating Authority shall give the defaulter an opportunity showing cause why he should not be committed to the civil prison.

(8) Pending the conclusion of the inquiry, the Adjudicating Authority may, in his discretion, order the defaulter to be detained in the custody of such officer as the Adjudicating Authority may think fit or release him on his furnishing the security to the satisfaction of the Adjudicating Authority for his appearance as and when required.

(9) Upon the conclusion of the inquiry, the Adjudicating Authority may make an order for the detention of the defaulter in the civil prison and shall in that event cause him to be arrested if he is not already under arrest:

Provided that in order to give a defaulter an opportunity of satisfying the arrears, the Adjudicating Authority may, before making the order of detention, leave the defaulter in the custody of the officer arresting him or of any other officer for a specified period not exceeding fifteen days, or release him on his furnishing security to the satisfaction of the Adjudicating Authority for his appearance at the expiration of the specified period if the arrears are not satisfied.

(10) When the Adjudicating Authority does not make an order of detention under sub-section (9), he shall, if the defaulter is under arrest, direct his release.

(11) Every person detained in the civil prison in execution of the certificate may be so detained,—

(a) where the certificate is for a demand of an amount exceeding rupees one crore, up to three years, and

(b) in any other case, up to six months:

Provided that he shall be released from such detention on the amount mentioned in the warrant for his detention being paid to the officer-in-charge of the civil prison.

(12) A defaulter released from detention under this section shall not, merely by reason of his release, be discharged from his liability for the arrears, but he shall not be liable to be arrested under the certificate in execution of which he was detained in the civil prison.

(13) A detention order may be executed at any place in India in the manner provided for the execution of warrant of arrest under the Code of Criminal Procedure, 1973 (2 of 1974).

¹[14A. Power of recover arrears of penalty.]—(1) Save as otherwise provided in this Act, the Adjudicating Authority may, by order in writing, authorise an officer of Enforcement not below the rank of Assistant Director to recover any arrears of penalty from any person who fails to make full payment of penalty imposed on him under section 13 within the period of ninety days from the date on which the notice for payment of such penalty is served on him.

(2) The officer referred to in sub-section (1) shall exercise all the like powers which are conferred on the income-tax authority in relation to recovery of tax under the Income-tax Act, 1961 (43 of 1961) and the procedure laid down under the Second Schedule to the said Act shall *mutatis mutandis* apply in relation to recovery of arrears of penalty under this Act.]

15. Power to compound contravention.—(1) Any contravention under section 13 may, on an application made by the person committing such contravention, be compounded within one hundred and eighty days from the date of receipt of application by the Director of Enforcement or such other officers of the Directorate of Enforcement and officers of the Reserve Bank as may be authorised in this behalf by the Central Government in such manner as may be prescribed.

1. Section 14A shall stand inserted (date to be notified) by Act 28 of 2016, s. 229.

(2) Where a contravention has been compounded under sub-section (1), no proceeding or further proceeding, as the case may be, shall be initiated or continued, as the case may be, against the person committing such contravention under that section, in respect of the contravention so compounded.

CHAPTER V

ADJUDICATION AND APPEAL

16. Appointment of Adjudicating Authority.—(1) For the purpose of adjudication under section 13, the Central Government may, by an order published in the Official Gazette, appoint as many officers of the Central Government as it may think fit, as the Adjudicating Authorities for holding an inquiry in the manner prescribed after giving the person alleged to have committed contravention under section 13, against whom a complaint has been made under sub-section (3) (hereinafter in this section referred to as the said person) a reasonable opportunity of being heard for the purpose of imposing any penalty:

Provided that where the Adjudicating Authority is of opinion that the said person is likely to abscond or is likely to evade in any manner, the payment of penalty, if levied, it may direct the said person to furnish a bond or guarantee for such amount and subject to such conditions as it may deem fit.

(2) The Central Government shall, while appointing the Adjudicating Authorities under sub-section (1), also specify in the order published in the Official Gazette, their respective jurisdictions.

(3) No Adjudicating Authority shall hold an enquiry under sub-section (1) except upon a complaint in writing made by any officer authorised by a general or special order by the Central Government.

(4) The said person may appear either in person or take the assistance of a legal practitioner or a chartered accountant of his choice for presenting his case before the Adjudicating Authority.

(5) Every Adjudicating Authority shall have the same powers of a civil court which are conferred on the Appellate Tribunal under sub-section (2) of section 28 and—

(a) all proceedings before it shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code (45 of 1860);

(b) shall be deemed to be a civil court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973 (2 of 1974).

(6) Every Adjudicating Authority shall deal with the complaint under sub-section (2) as expeditiously as possible and endeavour shall be made to dispose of the complaint finally within one year from the date of receipt of the complaint:

Provided that where the complaint cannot be disposed of within the said period, the Adjudicating Authority shall record periodically the reasons in writing for not disposing of the complaint within the said period.

17. Appeal to Special Director (Appeals).—(1) The Central Government shall, by notification, appoint one or more Special Directors (Appeals) to hear appeals against the orders of the Adjudicating Authorities under this section and shall also specify in the said notification the matter and places in relation to which the Special Director (Appeals) may exercise jurisdiction.

(2) Any person aggrieved by an order made by the Adjudicating Authority, being an Assistant Director of Enforcement or a Deputy Director of Enforcement, may prefer an appeal to the Special Director (Appeals).

(3) Every appeal under sub-section (1) shall be filed within forty-five days from the date on which the copy of the order made by the Adjudicating Authority is received by the aggrieved person and it shall be in such form, verified in such manner and be accompanied by such fee as may be prescribed:

Provided that the Special Director (Appeals) may entertain an appeal after the expiry of the said period of forty-five days, if he is satisfied that there was sufficient cause for not filing it within that period.

(4) On receipt of an appeal under sub-section (1), the Special Director (Appeals) may after giving the parties to the appeal an opportunity of being heard, pass such order thereon as he thinks fit, confirming, modifying or setting aside the order appealed against.

(5) The Special Director (Appeals) shall send a copy of every order made by him to the parties to appeal and to the concerned Adjudicating Authority.

(6) The Special Director (Appeals) shall have the same powers of a civil court which are conferred on the Appellate Tribunal under sub-section (2) of section 28 and—

(a) all proceedings before him shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code (45 of 1860);

(b) shall be deemed to be a civil court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973 (2 of 1974).

¹[**18. Appellate Tribunal.**—The Appellate Tribunal constituted under sub-section (1) of section 12 of the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 (13 of 1976), shall, on and from the commencement of Part XIV of Chapter VI of the Finance Act, 2017 (7 of 2017), be the Appellate Tribunal for the purposes of this Act and the said Appellate Tribunal shall exercise the jurisdiction, powers and authority conferred on it by or under this Act.]

19. Appeal to Appellate Tribunal—(1) Save as provided in sub-section (2), the Central Government or any person aggrieved by an order made by an Adjudicating Authority, other than those referred to in sub-section (1) of section 17, or the Special Director (Appeals), may prefer an appeal to the Appellate Tribunal:

Provided that any person appealing against the order of the Adjudicating Authority or the Special Director (Appeals) levying any penalty, shall while filing the appeal, deposit the amount of such penalty with such authority as may be notified by the Central Government:

Provided further that where in any particular case, the Appellate Tribunal is of the opinion that the deposit of such penalty would cause undue hardship to such person, the Appellate Tribunal may dispense with such deposit subject to such conditions as it may deem fit to impose so as to safeguard the realisation of penalty.

(2) Every appeal under sub-section (1) shall be filed within a period of forty-five days from the date on which a copy of the order made by the Adjudicating Authority or the Special Director (Appeals) is received by the aggrieved person or by the Central Government and it shall be in such form, verified in such manner and be accompanied by such fee as may be prescribed:

Provided that the Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

(3) On receipt of an appeal under sub-section (1), the Appellate Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

(4) The Appellate Tribunal shall send a copy of every order made by it to the parties to the appeal and to the concerned Adjudicating Authority or the Special Director (Appeals), as the case may be.

(5) The appeal filed before the Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within one hundred and eighty days from the date of receipt of the appeal:

Provided that where any appeal could not be disposed of within the said period of one hundred and eighty days, the Appellate Tribunal shall record its reasons in writing for not disposing off the appeal within the said period.

(6) The Appellate Tribunal may, for the purpose of examining the legality, propriety or correctness of any order made by the Adjudicating Authority under section 16 in relation to any proceeding, on its own motion or otherwise, call for the records of such proceedings and make such order in the case as it thinks fit.

20. [Composition of Appellate Tribunal.] *Omitted by the finance Act, 2017 (7 of 2017), s. 165 (w.e.f. 26-5-2017).*

1. Subs. by Act 7 of 2017, s. 165, for section 18 (w.e.f. 26-5-2017).

¹[**21. Qualifications, for appointment of Special Director (Appeals).**—A person shall not be qualified for appointment as a Special Director (Appeals) unless he—

- (a) has been a member of the Indian Legal Service and has held a post in Grade I of that Service; or
- (b) has been a member of the Indian Revenue Service and has held a post equivalent to a Joint Secretary to the Government of India.]

22. [Term of office.] *Omitted by the Finance Act, 2017 (7 of 2017), s. 165 (w.e.f. 26-5-2017).*

²[**23. Terms and Condition of service of Special Director of (Appeals).**—The salary and allowances payable to and the other terms and conditions of service of the Special Director (Appeals) shall be such as may be prescribed.]

24. [Vacancies.] *Omitted by the Finance Act, 2017 (7 of 2017), s. 165 (w.e.f. 26-5-2017).*

25. [Resignation and removal.] *Omitted by s. 165, ibid. (w.e.f. 26-5-2017).*

26. [Member to act as Chairperson in certain circumstances.] *Omitted by s. 165, ibid. (w.e.f. 26-5-2017).*

³[**27. Staff of Special Director (Appeal).**—(1) The Central Government shall provide the office of the Special Director (Appeals) with such officers and employees as it may deem fit.

(2) The officers and employees of the office of the Special Director (Appeals) shall discharge their functions under the general superintendence of the Special Director (Appeals).

(3) The salaries and allowances and other terms and conditions of service of the officers and employees of the office of the Special Director (Appeals) shall be such as may be prescribed.]

28. Procedure and powers of Appellate Tribunal and Special Director (Appeals).—(1) The Appellate Tribunal and the Special Director (Appeals) shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and, subject to the other provisions of this Act, the Appellate Tribunal and the Special Director (Appeals) shall have powers to regulate its own procedure.

(2) The Appellate Tribunal and the Special Director (Appeals) shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents;
- (c) receiving evidence on affidavits;
- (d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872 (1 of 1872), requisitioning any public record or document or copy of such record or document from any office;
- (e) issuing commissions for the examination of witnesses or documents;
- (f) reviewing its decisions;
- (g) dismissing a representation of default or deciding it *ex parte*;
- (h) setting aside any order of dismissal of any representation for default or any order passed by it *ex parte*; and
- (i) any other matter which may be prescribed by the Central Government.

(3) An order made by the Appellate Tribunal or the Special Director (Appeals) under this Act shall be executable by the Appellate Tribunal or the Special Director (Appeals) as a decree of civil court and, for

1. Subs. by Act 7 of 2017, s. 165, for section 21 (w.e.f. 26-5-2017).

2. Subs. by s. 165, *ibid.*, for section 23 (w.e.f. 26-5-2017).

3. Subs. by s. 165, *ibid.*, for section 27 (w.e.f. 26-5-2017).

this purpose, the Appellate Tribunal and the Special Director (Appeals) shall have all the powers of a civil court.

(4) Notwithstanding anything contained in sub-section (3), the Appellate Tribunal or the Special Director (Appeals) may transmit any order made by it to a civil court having local jurisdiction and such civil court shall execute the order as if it were a decree made by that court.

(5) All proceedings before the Appellate Tribunal and the Special Director (Appeals) shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code (45 of 1860) and the Appellate Tribunal shall be deemed to be a civil court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973 (2 of 1974).

29. [Distribution of business amongst Benches.] *Omitted by the Finance Act, 2017 (7 of 2017), s. 165 (w.e.f. 26-5-2017).*

30. [Power of Chairperson to transfer cases.] *Omitted by s. 165, ibid. (w.e.f. 26-5-2017).*

31. [Decision to be by majority.] *Omitted by s. 165, ibid. (w.e.f. 26-5-2017).*

32. Right of appellant to take assistance of legal practitioner or chartered accountant and of Government, to appoint presenting officers.—(1) A person preferring an appeal to the ¹[Special Director (Appeals)] under this Act may either appear in person or take the assistance of a legal practitioner or a chartered accountant of his choice to present his case before the ²[Special Director (Appeals)].

(2) The Central Government may authorise one or more legal practitioners or chartered accountants or any of its officers to act as presenting officers and every person so authorised may present the case with respect to any appeal before the ²[Special Director (Appeals)].

³[**33. Officers and employees etc., to be public servant.** — The Adjudicating Authority, Competent Authority and the Special Director (Appeals) and other officers and employees of the Special Director (Appeals) shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (45 of 1860).]

34. Civil court not to have jurisdiction.—No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which an Adjudicating Authority or the Appellate Tribunal or the Special Director (Appeals) is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

35. Appeal to High Court.—Any person aggrieved by any decision or order of the Appellate Tribunal may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Appellate Tribunal to him on any question of law arising out of such order:

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.

Explanation.—In this section “High Court” means—

(a) the High Court within the jurisdiction of which the aggrieved party ordinarily resides or carries on business or personally works for gain; and

1. Subs by Act 7 of 2017, s. 165, for “Appellate Tribunal or the Special Director (Appeals)” (w.e.f. 26-5-2017).

2. Subs. by s. 165, *ibid.*, for “Appellate Tribunal or the Special Director (Appeals), as the case may be” (w.e.f. 26-5-2017).

3. Subs. by s. 165, *ibid.*, for section 33 (w.e.f. 26-5-2017).

(b) where the Central Government is the aggrieved party, the High Court within the jurisdiction of which the respondent, or in a case where there are more than one respondent, any of the respondents, ordinarily resides or carries on business or personally works for gain.

CHAPTER VI

DIRECTORATE OF ENFORCEMENT

36. Directorate of Enforcement.—(1) The Central Government shall establish a Directorate of Enforcement with a Director and such other officers or class of officers as it thinks fit, who shall be called officers of Enforcement, for the purposes of this Act.

(2) Without prejudice to the provisions of sub-section (1), the Central Government may authorise the Director of Enforcement or an Additional Director of Enforcement or a Special Director of Enforcement or a Deputy Director of Enforcement to appoint officers of Enforcement below the rank of an Assistant Director of Enforcement.

(3) Subject to such conditions and limitations as the Central Government may impose, an officer of Enforcement may exercise the powers and discharge the duties conferred or imposed on him under this Act.

37. Power of search, seizure, etc.—(1) The Director of Enforcement and other officers of Enforcement, not below the rank of an Assistant Director, shall take up for investigation the contravention referred to in section 13.

(2) Without prejudice to the provisions of sub-section (1), the Central Government may also, by notification, authorise any officer or class of officers in the Central Government, State Government or the Reserve Bank, not below the rank of an Under Secretary to the Government of India to investigate any contravention referred to in section 13.

(3) The officers referred to in sub-section (1) shall exercise the like powers which are conferred on income-tax authorities under the Income-tax Act, 1961 (43 of 1961) and shall exercise such powers, subject to such limitations laid down under that Act.

¹[37A. Special provisions relating to assets held outside India in contravention of section 4.—(1) Upon receipt of any information or otherwise, if the Authorised Officer prescribed by the Central Government has reason to believe that any foreign exchange, foreign security, or any immovable property, situated outside India, is suspected to have been held in contravention of section 4, he may after recording the reasons in writing, by an order, seize value equivalent, situated within India, of such foreign exchange, foreign security or immovable property:

Provided that no such seizure shall be made in case where the aggregate value of such foreign exchange, foreign security or any immovable property, situated outside India, is less than the value as may be prescribed.

(2) The order of seizure along with relevant material shall be placed before the Competent Authority, appointed by the Central Government, who shall be an officer not below the rank of Joint Secretary to the Government of India by the Authorised Officer within a period of thirty days from the date of such seizure.

(3) The Competent Authority shall dispose of the petition within a period of one hundred eighty days from the date of seizure by either confirming or by setting aside such order, after giving an opportunity of being heard to the representatives of the Directorate of Enforcement and the aggrieved person.

Explanation.—While computing the period of one hundred eighty days, the period of stay granted by court shall be excluded and a further period of at least thirty days shall be granted from the date of communication of vacation of such stay order.

(4) The order of the Competent Authority confirming seizure of equivalent asset shall continue till the disposal of adjudication proceedings and thereafter, the Adjudicating Authority shall pass appropriate directions in the adjudication order with regard to further action as regards the seizure made under sub-section (1):

1. Ins. by Act 20 of 2015, s. 142 (w.e.f. 9-9-2015).

Provided that if, at any stage of the proceedings under this Act, the aggrieved person discloses the fact of such foreign exchange, foreign security or immovable property and brings back the same into India, then the Competent Authority or the Adjudicating Authority, as the case may be, on receipt of an application in this regard from the aggrieved person, and after affording an opportunity of being heard to the aggrieved person and representatives of the Directorate of Enforcement, shall pass an appropriate order as it deems fit, including setting aside of the seizure made under sub-section (1).

(5) Any person aggrieved by any order passed by the Competent Authority may prefer an appeal to the Appellate Tribunal.

(6) Nothing contained in section 15 shall apply to this section.]

38. Empowering other officers.—(1) The Central Government may, by order and subject to such conditions and limitations as it thinks fit to impose, authorise any officer of customs or any central excise officer or any police officer or any other officer of the Central Government or a State Government to exercise such of the powers and discharge such of the duties of the Director of Enforcement or any other officer of Enforcement under this Act as may be stated in the order.

(2) The officers referred to in sub-section (1) shall exercise the like powers which are conferred on the income-tax authorities under the Income-tax Act, 1961 (43 of 1961), subject to such conditions and limitations as the Central Government may impose.

CHAPTER VII

MISCELLANEOUS

39. Presumption as to documents in certain cases.—Where any document—

(i) is produced or furnished by any person or has been seized from the custody or control of any person, in either case, under this Act or under any other law; or

(ii) has been received from any place outside India (duly authenticated by such authority or person and in such manner as may be prescribed) in the course of investigation of any contravention under this Act alleged to have been committed by any person,

and such document is tendered in any proceeding under this Act in evidence against him, or against him and any other person who is proceeded against jointly with him, the court or the Adjudicating Authority, as the case may be, shall—

(a) presume, unless the contrary is proved, that the signature and every other part of such document which purports to be in the handwriting of any particular person or which the court may reasonably assume to have been signed by, or to be in the handwriting of, any particular person, is in that person's handwriting, and in the case of a document executed or attested, that it was executed or attested by the person by whom it purports to have been so executed or attested;

(b) admit the document in evidence notwithstanding that it is not duly stamped, if such document is otherwise admissible in evidence;

(c) in a case falling under clause (i), also presume, unless the contrary is proved, the truth of the contents of such document.

40. Suspension of operation of this Act.—(1) If the Central Government is satisfied that circumstances have arisen rendering it necessary that any permission granted or restriction imposed by this Act should cease to be granted or imposed, or if it considers necessary or expedient so to do in public interest, the Central Government may, by notification, suspend or relax to such extent either indefinitely or for such period as may be notified, the operation of all or any of the provisions of this Act.

(2) Where the operation of any provision of this Act has under sub-section (1) been suspended or relaxed indefinitely, such suspension or relaxation may, at any time while this Act remains in force, be removed by the Central Government by notification.

(3) Every notification issued under this section shall be laid, as soon as may be after it is issued, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session

immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification or both Houses agree that the notification should not be issued, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification.

41. Power of Central Government to give directions.—For the purposes of this Act, the Central Government may, from time to time, give to the Reserve Bank such general or special directions as it thinks fit, and the Reserve Bank shall, in the discharge of its functions under this Act, comply with any such directions.

42. Contravention by companies.—(1) Where a person committing a contravention of any of the provisions of this Act or of any rule, direction or order made thereunder is a company, every person who, at the time the contravention was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to punishment if he proves that the contravention took place without his knowledge or that he exercised due diligence to prevent such contravention.

(2) Notwithstanding anything contained in sub-section (1), where a contravention of any of the provisions of this Act or of any rule, direction or order made thereunder has been committed by a company and it is proved that the contravention has taken place with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

- (i) “company” means any body corporate and includes a firm or other association of individuals; and
- (ii) “director”, in relation to a firm, means a partner in the firm.

43. Death or insolvency in certain cases.—Any right, obligation, liability, proceeding or appeal arising in relation to the provisions of section 13 shall not abate by reason of death or insolvency of the person liable under that section and upon such death or insolvency such rights and obligations shall devolve on the legal representative of such person or the official receiver or the official assignee, as the case may be:

Provided that a legal representative of the deceased shall be liable only to the extent of the inheritance or estate of the deceased.

44. Bar of legal proceedings.—No suit, prosecution or other legal proceeding shall lie against the Central Government or the Reserve Bank or any officer of that Government or of the Reserve Bank or any other person exercising any power or discharging any functions or performing any duties under this Act, for anything in good faith done or intended to be done under this Act or any rule, regulation, notification, direction or order made thereunder.

¹[**44A. Powers of Reserve Bank not to apply to International Financial Services Centre.**—Notwithstanding anything contained in any other law for the time being in force, the powers exercisable by the Reserve Bank under this Act,—

(a) shall not extend to an International Financial Services Centre set up under sub-section (1) of section 18 of the Special Economic Zones Act, 2005 (28 of 2005);

(b) shall be exercisable by the International Financial Services Centres Authority established under sub-section (1) of section 4 of the International Financial Services Centres Authority Act, 2019, in so far as regulation of financial products, financial services and financial institutions that are permitted in the International Financial Services Centres are concerned.]

1. Ins. by Act 50 of 2019, s. 33 and the second Schedule (w.e.f. 1-10-2020).

45. Removal of difficulties.—(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, do anything not inconsistent with the provisions of this Act for the purpose of removing the difficulty:

Provided that no such order shall be made under this section after the expiry of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

46. Power to make rules.—(1) The Central Government may, by notification, make rules to carry out the provisions of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for,—

(a) the imposition of reasonable restrictions on current account transactions under section 5;

¹[(aa) the instruments which are determined to be debt instruments under sub-section (7) of section 6;

(ab) the permissible classes of capital account transactions in accordance with sub-section (2A) of section 6, the limits of admissibility of foreign exchange, and the prohibition, restriction or regulation of such transactions;]

(b) the manner in which the contravention may be compounded under sub-section (1) of section 15;

(c) the manner of holding an inquiry by the Adjudicating Authority under sub-section (1) of section 16;

(d) the form of appeal and fee for filing such appeal under sections 17 and 19;

(e) the salary and allowances payable to and the other terms and conditions of service of the ²[Special Director (Appeals)] under section 23;

(f) the salaries and allowances and other conditions of service of the officers and employees of the ³[office of the Special Director (Appeals)] under sub-section (3) of section 27;

(g) the additional matters in respect of which the Appellate Tribunal and the Special Director (Appeals) may exercise the powers of a civil court under clause (i) of sub-section (2) of section 28;

⁴[(gg) the aggregate value of foreign exchange referred to in sub-section (1) of section 37A;]

(h) the authority or person and the manner in which any document may be authenticated under clause (ii) of section 39; and

(i) any other matter which is required to be, or may be, prescribed.

47. Power to make regulations.—(1) The Reserve Bank may, by notification, make regulations to carry out the provisions of this Act and the rules made thereunder.

(2) Without prejudice to the generality of the foregoing power, such regulations may provide for,—

⁵[(a) the permissible classes of capital account transactions involving debt instruments determined under sub-section (7) of section 6, the limits of admissibility of foreign exchange for such transactions, and the prohibition, restriction or regulation of such capital account transactions under section 6;]

(b) the manner and the form in which the declaration is to be furnished under clause (a) of sub-section (1) of section 7;

1. Ins. by Act 20 of 2015, s. 143 (w.e.f. 15-10-2019).

2. Subs. by Act 7 of 2017, s. 165, for “Chairperson and other Member of the Appellate Tribunal and the Special Director (Appeals)” (w.e.f. 26-5-2017).

3. Subs. by s. 165, *ibid.*, for “Appellate Tribunal and the office of the Special Director (Appeals)” (w.e.f. 26-5-2017).

4. Ins. by Act 20 of 2015, s. 143 (w.e.f. 15-10-2019).

5. Subs. by s. 144, *ibid.*, for clause (a) (w.e.f. 15-10-2019).

- (c) the period within which and the manner of repatriation of foreign exchange under section 8;
- (d) the limit up to which any person may possess foreign currency or foreign coins under clause (a) of section 9;
- (e) the class of persons and the limit up to which foreign currency account may be held or operated under clause (b) of section 9;
- (f) the limit up to which foreign exchange acquired may be exempted under clause (d) of section 9;
- (g) the limit up to which foreign exchange acquired may be retained under clause (e) of section 9;
- ¹[(ga) export, import or holding of currency or currency notes;]
- (h) any other matter which is required to be, or may be, specified.

²[(3) All regulations made by the Reserve Bank before the date on which the provisions of this section are notified under section 6 and section 47 of this Act on capital account transactions, the regulation making power in respect of which now vests with the Central Government, shall continue to be valid, until amended or rescinded by the Central Government.]

48. Rules and regulations to be laid before Parliament.—Every rule and regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation, or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

49. Repeal and saving.—(1) The Foreign Exchange Regulation Act, 1973 (46 of 1973) is hereby repealed and the Appellate Board constituted under sub-section (1) of section 52 of the said Act (hereinafter referred to as the repealed Act) shall stand dissolved.

(2) On the dissolution of the said Appellate Board, the person appointed as Chairman of the Appellate Board and every other person appointed as Member and holding office as such immediately before such date shall vacate their respective offices and no such Chairman or other person shall be entitled to claim any compensation for the premature termination of the term of his office or of any contract of service.

(3) Notwithstanding anything contained in any other law for the time being in force, no court shall take cognizance of an offence under the repealed Act and no adjudicating officer shall take notice of any contravention under section 51 of the repealed Act after the expiry of a period of two years from the date of the commencement of this Act.

(4) Subject to the provisions of sub-section (3) all offences committed under the repealed Act shall continue to be governed by the provisions of the repealed Act as if that Act had not been repealed.

(5) Notwithstanding such repeal,—

(a) anything done or any action taken or purported to have been done or taken including any rule, notification, inspection, order or notice made or issued or any appointment, confirmation or declaration made or any license, permission, authorization or exemption granted or any document or instrument executed or any direction given under the Act hereby repealed shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act;

(b) any appeal preferred to the Appellate Board under sub-section (2) of section 52 of the repealed Act but not disposed of before the commencement of this Act shall stand transferred to and shall be disposed of by the Appellate Tribunal constituted under this Act;

1. Ins. by Act 20 of 2015, s. 144 (w.e.f. 15-10-2019).

2. Ins. by s. 144. *ibid.* (w.e.f. 15-10-2019).

(c) every appeal from any decision or order of the Appellate Board under sub-section (3) or sub-section (4) of section 52 of the repealed Act shall, if not filed before the commencement of this Act, be filed before the High Court within a period of sixty days of such commencement:

Provided that the High Court may entertain such appeal after the expiry of the said period of sixty days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period.

(6) Save as otherwise provided in sub-section (3), the mention of particular matters in sub-sections (2), (4) and (5) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 (10 of 1897) with regard to the effect of repeal.

Foreign Exchange Management Act, 1999 – Executive Summary (Corrida Legal)

Introduction to FEMA Act, 1999

The Foreign Exchange Management Act, 1999 (FEMA) was enacted to replace the older Foreign Exchange Regulation Act (FERA), 1973. While FERA focused on strict control of foreign transactions, FEMA introduced a management-oriented and business-friendly approach. Its objective was to facilitate external trade and payments while promoting the orderly development of the foreign exchange market in India. By making the law more liberal, FEMA aligned India with global practices and encouraged greater investment and trade participation.

Why was FEMA introduced?

The shift from FERA to FEMA was necessary because the Indian economy had changed significantly after liberalisation in the early 1990s. Businesses required a law that:

- **Simplified compliance** for trade and investment transactions.
- **Encouraged external trade and payments** with fewer restrictions.
- **Strengthened RBI's role** in regulating foreign exchange through rules and circulars.
- **Supported economic growth** by opening India to global investors.

This transition gave businesses and individuals more freedom in dealing with foreign exchange, making the executive summary of FEMA 1999 a useful reference for professionals and students.

Importance for professionals and businesses

FEMA is not just a legal statute but also a practical framework that affects daily business operations. It is particularly relevant for:

- Exporters and importers, who must comply with FEMA's provisions on foreign currency realisation.
- Investors, both Indian and foreign, who rely on FEMA for rules on capital account transactions.
- Banks and financial institutions, who act as authorised persons under RBI's supervision.
- Compliance officers and HR managers, who need to ensure cross-border remittances and employee payments are legally sound.

For authentic reference, many professionals prefer the Download FEMA Act 1999 PDF, which contains the complete statutory text along with subsequent amendments.

Why FEMA matters today

More than two decades after its enactment, FEMA continues to shape India's global trade and investment environment. Whether it is foreign direct investment, overseas borrowing, or simple remittances, the law provides the structure within which all such transactions occur. Accessible resources such as the Corrida Legal FEMA Act resource make it easier for practitioners to interpret the provisions without having to study the entire Act in detail.

Scope and Applicability of the FEMA Act

The Foreign Exchange Management Act, 1999 (FEMA) is one of the most significant laws for regulating cross-border financial activities in India. Unlike its predecessor FERA, which was restrictive, FEMA adopts a facilitative approach. It applies to all transactions that involve foreign exchange and has wide-ranging implications for individuals, companies, and institutions engaged in trade, investment, or remittance activities.

Who does FEMA apply to?

FEMA covers almost every person or entity involved in foreign exchange dealings in India. Its scope extends to:

- **Individuals** – any Indian resident sending or receiving money abroad, travelling overseas, or making foreign investments.
- **Firms and LLPs** – business entities engaged in import, export, or foreign collaborations.
- **Companies** – both Indian companies receiving foreign direct investment (FDI) and foreign companies operating in India.
- **Authorised persons** – banks, money changers, and other financial intermediaries permitted by the RBI to deal in foreign exchange.

This wide applicability makes the law relevant for both businesses and individuals. Authentic resources like the Download FEMA Act 1999 PDF are often used by professionals to confirm statutory obligations.

Territorial and functional reach

FEMA is applicable not only within India but also to certain transactions outside the country if they involve Indian residents or entities. For example:

- Foreign assets or investments held by Indian residents.
- Overseas branches or subsidiaries of Indian companies.
- Payments made in foreign currency that affect the Indian economy.

This extraterritorial reach ensures that all major cross-border transactions remain within the regulatory framework. For quick interpretation, the executive summary of FEMA 1999 highlights these provisions without requiring readers to go through the entire text.

Practical coverage of foreign exchange dealings

In practice, FEMA governs almost every category of foreign exchange use in India. Some of the key areas are:

- **Current account transactions** – such as remittances for education, travel, and medical expenses.
- **Capital account transactions** – including FDI, external commercial borrowings, and acquisition of property outside India.
- **Export and import transactions** – ensuring timely realisation and repatriation of foreign currency.

This makes FEMA the cornerstone of foreign exchange law in India explained in a simplified yet effective manner.

Why the scope matters

The comprehensive scope of FEMA provides confidence to businesses and investors that India's foreign exchange system is transparent and regulated. It also ensures individuals can freely conduct cross-border activities while staying within the law. For practitioners, the Corrida Legal FEMA Act resource serves as a reliable tool to understand how the Act applies in real-world situations.

Objectives of FEMA, 1999

The Foreign Exchange Management Act, 1999 was enacted at a time when India's economy was opening up and integrating with global markets. The earlier law, FERA, was seen as restrictive and control-oriented, creating hurdles for trade and investment. FEMA was introduced to liberalise the framework and to make foreign exchange dealings simpler, more transparent, and growth-oriented. Its objectives reflect India's shift

from a closed economy to a more globally engaged one.

Facilitating external trade and payments

A key objective of FEMA is to facilitate external trade and payments. By reducing unnecessary restrictions and creating clear rules, FEMA ensures that businesses and individuals can engage in cross-border transactions without undue hurdles. For example, exporters are required to realise foreign exchange earnings within a prescribed period, while importers must follow payment norms that promote transparency. This emphasis on smooth transactions supports India's position in the global economy. For practitioners, the Download FEMA Act 1999 PDF is a handy resource to understand these rules in detail.

Maintaining orderly development of the forex market

Another major objective is to ensure the orderly development of the foreign exchange market in India. Before FEMA, India's forex system lacked a modern regulatory framework. Under FEMA, the Reserve Bank of India (RBI) has been given powers to regulate current and capital account transactions, set limits for remittances, and issue circulars that guide authorised persons like banks and money changers. This approach balances flexibility with stability, making the market more efficient and reliable.

Liberalising foreign exchange framework

Unlike FERA, which criminalised even minor violations, FEMA adopts a more liberal and management-focused framework. It allows residents and non-residents to undertake foreign transactions with fewer restrictions while still keeping sensitive transactions under the RBI's watch. This approach has encouraged foreign investment and improved India's image as a business-friendly destination. The executive summary of FEMA 1999 often highlights this shift as one of the law's most important contributions.

Practical relevance for stakeholders

FEMA's objectives are not only theoretical but have practical implications for businesses, investors, and professionals. Some of its key contributions include:

- **Clarity for exporters and importers** on compliance timelines.
- **Confidence for foreign investors** through transparent capital account rules.
- **Efficiency for individuals** remitting money abroad for travel, education, or medical needs.
- **Guidance for compliance officers** through RBI's circulars and rules.

For everyday use, many professionals rely on the Corrida Legal FEMA Act resource, which combines authentic statutory text with simplified summaries for practical application.

Structure of the FEMA Bare Act

The Foreign Exchange Management Act, 1999 (FEMA) is a concise yet comprehensive legislation designed to regulate foreign exchange dealings in India. Its structure reflects a shift from the older FERA's control-based approach to a modern, management-focused system. By dividing the law into chapters, sections, and supporting rules, the Act provides clarity to businesses, regulators, and individuals dealing with cross-border transactions.

Chapters and sections in the Act

FEMA is comparatively shorter than many corporate laws, consisting of less than 50 sections. However, each section is broad in scope and supported by detailed rules and regulations framed by the Reserve Bank of India (RBI) and the Central Government. The Act begins with preliminary definitions and extends to enforcement, penalties, adjudication, and appeals. For students and practitioners, the FEMA Act bare act download India serves as an authentic reference to the full statutory text.

Key definitions under FEMA

The law provides a set of precise definitions, which form the foundation of its interpretation. Some of the most important terms include:

- **Capital account transaction** – transactions that alter the assets or liabilities outside India of Indian residents or inside India of non-residents.
- **Current account transaction** – day-to-day transactions such as travel, education, medical expenses, and trade payments.
- **Authorised person** – entities approved by the RBI (such as banks and money changers) to deal in foreign exchange.
- **Foreign exchange** – broadly includes foreign currency, deposits, drafts, letters of credit, and other instruments.

These definitions bring clarity and avoid ambiguity in application. For quick understanding, many professionals use the executive summary of FEMA 1999, which highlights these key terms.

Role of RBI and Central Government in framing rules

While FEMA lays down the overall principles, much of its implementation is done through notifications, circulars, and rules issued by the RBI and the Central Government. This allows flexibility to adapt to changing economic conditions. Examples include:

- RBI circulars on foreign remittances.
- Rules for foreign direct investment (FDI).
- Regulations for external commercial borrowings (ECBs).
- Guidelines for realisation and repatriation of export earnings.

This dynamic rule-making power ensures that FEMA remains relevant and responsive to market needs. For compliance purposes, professionals often consult resources like the Corrida Legal FEMA Act resource, which consolidates the bare act with updated rules.

Practical importance of structure

The clear structure of FEMA makes it easier for stakeholders to navigate the law. Exporters, importers, banks, and investors can quickly identify which part of the Act applies to them. This predictability has enhanced confidence in India's foreign exchange framework and reduced disputes. Authentic references such as the Download FEMA Act 1999 PDF remain indispensable for lawyers, compliance officers, and students.

Current Account Transactions under FEMA

The Foreign Exchange Management Act, 1999 (FEMA) makes a clear distinction between current account and capital account transactions. Current account transactions are essentially routine, day-to-day payments connected with trade, services, and personal needs. Unlike capital account dealings, which affect assets or liabilities across borders, current account transactions are generally free unless expressly restricted by the Central Government or regulated by the Reserve Bank of India (RBI). This liberal approach marked a significant departure from the rigid control regime of FERA.

Permitted current account transactions

Most transactions under the current account are allowed freely, reflecting India's intent to promote trade and personal remittances. Common examples include:

- Payments for imports of goods and services.

- Remittances for education and training abroad.
- Medical expenses for treatment overseas.
- Travel-related expenses for business, tourism, or study.
- Day-to-day business payments that do not alter cross-border assets or liabilities.

For detailed compliance, professionals often refer to the Foreign Exchange Management Act, 1999 full text, which sets out the legal foundation of these permissions.

Restrictions imposed by the government

While FEMA allows most current account transactions, certain categories remain restricted to safeguard India's economic stability. These include:

- Remittances involving lottery winnings or banned activities.
- Payments exceeding prescribed limits for foreign education or travel.
- Remittances for acquiring lottery tickets or banned magazines abroad.
- Certain charitable donations in foreign currency without approval.

Such restrictions strike a balance between liberalisation and regulatory oversight. For easy understanding, compliance officers often rely on the executive summary of FEMA 1999 instead of reading the entire Act.

Role of RBI approvals

The RBI plays a central role in monitoring current account transactions. While most are freely permitted, the RBI issues detailed notifications and circulars prescribing limits or prior approvals in special cases. For example:

- Higher-value remittances for foreign education may need RBI clearance.
- Travel allowances are capped under specified limits.
- Exporters must ensure timely realisation and repatriation of foreign currency earnings.

These approvals ensure that India's foreign exchange market in India remains orderly while still allowing flexibility for individuals and businesses.

Practical importance

For businesses and individuals, clarity on current account rules prevents delays and penalties. Exporters, students, and travellers benefit from streamlined processes, while compliance officers use authentic references like the Corrida Legal FEMA Act resource to verify RBI regulations and ensure smooth cross-border dealings.

Capital Account Transactions under FEMA

The Foreign Exchange Management Act, 1999 (FEMA) draws a critical distinction between current account and capital account transactions. While current account transactions involve routine payments for trade and services, capital account transactions are those that alter the assets or liabilities of residents in foreign countries or non-residents in India. Because these transactions impact the long-term economic position of the country, they are more tightly regulated and require approvals from the Reserve Bank of India (RBI).

Definition and scope

Capital account transactions cover a wide range of activities that affect India's foreign exchange reserves and balance of payments. They include cross-border movements of capital, investments, and property rights. For instance:

- Buying or selling of foreign securities.

- Acquisition or transfer of immovable property abroad by Indian residents.
- Investment by non-residents in Indian businesses.
- External borrowings by Indian companies.

For authentic legal reference, professionals and students often consult the Download FEMA Act 1999 PDF, which sets out the statutory framework for these dealings.

Foreign direct investment and portfolio investment

Two of the most common forms of capital account transactions under FEMA are foreign direct investment (FDI) and portfolio investment.

- **FDI:** Long-term investments by foreign entities in Indian businesses, usually involving management control and lasting business interests.
- **Portfolio investment:** Investment in shares, bonds, and other marketable securities by foreign institutional investors, typically without management control.

These investments are regulated by sectoral caps and RBI notifications, ensuring that while India remains open to global investors, sensitive sectors are protected. For quick interpretation, the executive summary of FEMA 1999 provides a simplified guide to these provisions.

Loans, immovable property, and securities

Apart from investments, capital account transactions also include:

- External commercial borrowings (ECBs) by Indian companies.
- Acquisition of immovable property abroad by residents or in India by non-residents.
- Issue or transfer of securities, including shares, debentures, and bonds.

These activities directly affect India's financial stability, which is why they are closely monitored by the RBI. For compliance officers, resources like the Corrida Legal FEMA Act resource help in understanding updated rules on loans and property transactions.

Cross-border transfers

Finally, capital account rules also cover cross-border transfers of capital such as gifts, inheritances, and joint ventures with foreign entities. These transfers, though not always commercial, still alter India's forex position and are regulated under FEMA guidelines. The foreign exchange market in India depends on such clear distinctions to maintain order and predictability.

Role of the Reserve Bank of India (RBI) in FEMA

The Foreign Exchange Management Act, 1999 assigns the Reserve Bank of India (RBI) a central role in regulating India's foreign exchange system. FEMA is designed as an enabling law, while the actual framework for its implementation comes largely through rules, regulations, and circulars issued by the RBI. This ensures that India's foreign exchange market remains stable, transparent, and aligned with evolving economic needs.

RBI as the regulatory authority

Under FEMA, the RBI is the primary authority responsible for overseeing all foreign exchange transactions in India. It regulates how individuals, firms, and companies deal in foreign currency. Its powers include:

- Granting approvals for current and capital account transactions.
- Issuing rules to govern inflows and outflows of foreign currency.
- Monitoring authorised persons such as banks and money changers.

- Ensuring compliance with foreign investment and borrowing regulations.

For authentic details, professionals often rely on the Download FEMA Act 1999 PDF, which provides the statutory basis of these powers.

Grant of approvals and permissions

Not all transactions can be carried out freely under FEMA. In cases where restrictions apply, RBI approvals are mandatory. These include:

- Capital account transactions such as foreign direct investment (FDI) or external commercial borrowings.
- Current account remittances beyond prescribed limits.
- Acquisition of immovable property abroad by Indian residents.
- Investments in sensitive or restricted sectors.

The RBI exercises this authority to balance economic liberalisation with financial security. For simplified understanding, the executive summary of FEMA 1999 highlights categories where prior RBI permission is required.

Notifications, circulars, and guidelines

Since global financial markets evolve rapidly, FEMA is supported by dynamic regulations. The RBI regularly issues:

- **Notifications**, which update the legal framework.
- **Circulars**, which provide clarity on operational procedures.
- **Guidelines**, which explain compliance expectations for banks, companies, and individuals.

These instruments ensure that FEMA remains relevant in changing economic circumstances. To stay updated, many compliance officers refer to resources like the Corrida Legal FEMA Act resource, which consolidates statutory text with RBI updates.

Practical compliance with RBI regulations

In practice, compliance under FEMA is impossible without reference to RBI regulations. Exporters must ensure timely realisation of foreign earnings, investors must adhere to sectoral caps, and banks must monitor cross-border payments. The RBI's supervisory role gives confidence to stakeholders that India's foreign exchange market in India is stable, efficient, and internationally competitive.

Authorised Persons under FEMA

The Foreign Exchange Management Act, 1999 recognises that foreign exchange transactions must be channelled through reliable and regulated intermediaries. To ensure transparency and compliance, the Act designates certain entities as *authorised persons*. These entities act as the link between the Reserve Bank of India (RBI) and the public, facilitating legal and orderly conduct of foreign exchange dealings.

Who qualifies as an authorised person?

Under FEMA, the RBI has the power to permit specific entities to act as authorised persons. These include:

- Banks that are authorised dealers in foreign exchange.
- Money changers licensed to provide currency exchange services.
- Financial institutions approved by RBI for handling forex operations.
- Any other person or entity specifically authorised to deal in foreign currency.

For practitioners, the Download FEMA Act 1999 PDF provides the statutory framework listing who qualifies

as an authorised person.

Responsibilities of authorised dealers

Being designated as an authorised person carries significant responsibilities. These entities must:

- Follow RBI's circulars and guidelines while processing forex transactions.
- Ensure proper documentation and verification of customers.
- Report cross-border transactions to RBI in prescribed formats.
- Prevent unauthorised transactions and comply with anti-money laundering measures.

The executive summary of FEMA 1999 often highlights these obligations, helping compliance officers and professionals quickly understand the role of authorised dealers.

Compliance reporting to RBI

Authorised persons are directly accountable to the RBI for the transactions they facilitate. Their compliance obligations include:

- Submission of periodic returns on inward and outward remittances.
- Maintaining detailed records of forex transactions for inspection.
- Monitoring suspicious transactions and reporting them under FEMA and anti-money laundering laws.
- Ensuring sectoral caps and limits are not breached in case of foreign investment inflows.

This reporting framework ensures that India's foreign exchange market in India remains orderly, transparent, and compliant with global standards.

Practical significance for businesses and individuals

For exporters, importers, investors, and even travellers, authorised persons are the first point of contact for foreign exchange needs. Their role makes compliance easier while providing confidence that transactions are legally valid. For simplified understanding of these provisions, professionals often rely on resources like the Corrida Legal FEMA Act resource, which consolidates statutory text with practical guidance.

Key Takeaways from the FEMA Act Summary

The Foreign Exchange Management Act, 1999 (FEMA) is one of the most important financial laws in India. It not only replaced the restrictive FERA but also introduced a simplified framework for managing cross-border trade and payments. Over the years, FEMA has provided clarity to individuals, businesses, and regulators, creating confidence in the way India's foreign exchange system operates.

Simplified framework for external trade and payments

FEMA created a more liberal and transparent system for handling external trade and payments. Exporters and importers now operate under a law that focuses on management rather than control. Clear timelines for realisation of export earnings and well-defined rules for import payments have brought discipline into the system. For practical reference, professionals often rely on the Download FEMA Act 1999 PDF, which provides the complete statutory framework.

Clear distinction between current and capital account transactions

One of FEMA's greatest contributions is distinguishing between current account transactions (day-to-day trade and remittances) and capital account transactions (foreign investments, property, and borrowings). This separation allows regulators and businesses to understand what is freely permitted and what requires prior approval. The executive summary of FEMA 1999 is particularly helpful in breaking down these distinctions into simple, actionable points.

Greater freedom for individuals and businesses

Unlike FERA, which restricted even basic forex dealings, FEMA allows individuals and businesses much greater freedom. Whether it is students paying fees abroad, companies raising external borrowings, or investors bringing FDI into India, FEMA provides a structured yet liberal framework. This balance supports growth while ensuring that the foreign exchange market in India functions in an orderly manner.

Enforcement mechanism through RBI and ED

FEMA backs its liberal provisions with a strong enforcement structure. The Reserve Bank of India regulates transactions through notifications and circulars, while the Directorate of Enforcement (ED) investigates contraventions. This dual system ensures that while businesses enjoy more freedom, violations are strictly dealt with. To keep track of these evolving rules, many compliance officers turn to the Corrida Legal FEMA Act resource, which combines statutory text with practical guidance.

Key highlights in brief

- FEMA simplified India's foreign exchange framework.
- Clear separation between current and capital account transactions.
- Greater flexibility for businesses, investors, and individuals.
- Enforcement handled by RBI and ED to maintain discipline.
- Authentic references available through Corrida Legal and official downloads.

Conclusion

The Foreign Exchange Management Act, 1999 marked a turning point in India's regulatory approach to foreign exchange. By replacing the restrictive FERA with a liberal and management-oriented law, FEMA has created a system that supports growth, transparency, and global integration.

For businesses, investors, and individuals, FEMA provides a clear structure that balances freedom with accountability. Whether in trade, investment, or remittances, its provisions guide the smooth functioning of the foreign exchange market in India. Over the years, this framework has boosted investor confidence, encouraged cross-border activities, and aligned India's economy with international practices.

At the same time, enforcement through the RBI and the Directorate of Enforcement ensures that compliance remains strong and violations are dealt with firmly. For practical use, professionals and students rely on the Download FEMA Act 1999 PDF, the executive summary of FEMA 1999, and trusted resources like the Corrida Legal FEMA Act resource, which simplify the law for day-to-day application.

In essence, FEMA is not just a statute but a vital instrument in shaping India's global trade and investment environment. It continues to play a central role in ensuring that external transactions remain lawful, efficient, and supportive of economic development.