

# Bar Examination Act

(Act No. 140 of May 31, 1949)

## Table of contents

- Chapter I The Bar Examination, etc. (Articles 1 to 11)
- Chapter II The National Bar Examination Commission (Articles 12 to 16)
- Chapter III Auxiliary Provisions (Article 17)
- Supplementary Provisions

### Chapter I The Bar Examination, etc.

(Purpose, etc. of the Bar Examination)

- Article 1 (1) The bar examination is a national examination for the purpose of judging whether an examinee has the learning required of a person who is to be a judge, public prosecutor, or attorney, and the practical ability to utilize such learning as required of such person.
- (2) The examination set forth in Article 66 of the Court Act (Act No. 59 of 1947) shall be conducted under this Act.
- (3) The bar examination shall be conducted in organic coordination with education in a graduate law program as prescribed in Article 4, paragraph (1), item (i) and the training of legal apprentices.

(Methods, etc. of the Bar Examination)

- Article 2 (1) The bar examination shall consist of short-answer questions (including multiple-choice questions; the same shall apply hereinafter) and essay questions.
- (2) Which persons have passed the bar examination is to be judged, with regard to those who have achieved a passing score on the short-answer questions, by synthesizing the results of both the short-answer questions and the essay questions.

(Subjects, etc. in the Bar Examination)

- Article 3 (1) Short-answer questions shall be given on the following subjects for the purpose of judging whether an examinee has the expert legal knowledge and ability to make legal deductions required of a person who is to be a judge, public prosecutor, or attorney:
- (i) The Constitution;
  - (ii) The Civil Code;
  - (iii) The Penal Code.

- (2) Essay questions shall be given on the following subjects for the purpose of judging whether an examinee has the expert learning and the ability for legal analysis, logical construction, and dissertation, as required of a person who is to be a judge, public prosecutor, or attorney:
- (i) Subjects related to public law (meaning subjects concerning the Constitution and administrative Acts);
  - (ii) Subjects related to civil affairs (meaning subjects concerning the Civil Code, the Commercial Code, and the Code of Civil Procedure);
  - (iii) Subjects related to criminal affairs (meaning subjects concerning the Penal Code and the Code of Criminal Procedure).
  - (iv) One subject that an examinee has selected in advance from among the subjects specified by Ordinance of the Ministry of Justice as subjects concerning expert legal fields.
- (3) Ordinance of the Ministry of Justice may specify the scope of the subjects for examination listed in the preceding two paragraphs in whole or in part.
- (4) In order to properly assess whether an examinee has the learning required of a person who is to be a judge, public prosecutor, or attorney, and the practical ability to utilize such learning as required of such person, in the bar examination, examinees shall not be disproportionately judged on whether or not they possess such knowledge, but rather due consideration shall be paid to judging their logical and practical abilities to understand, think about, and judge legal matters.

(Qualifications, etc. for Taking the Bar Examination)

Article 4 (1) Persons as listed in the following items may take the bar examination during the period specified in the relevant item:

- (i) A person who has completed a program at a graduate school of law (meaning a professional graduate school as prescribed in Article 99, paragraph (2) of the School Education Act (Act No. 26 of 1947), the purpose of which is to cultivate students' learning and ability as required by the legal profession; such program shall be referred to as a "graduate law program" in the following paragraph): The period from the first April 1 after the day on which he/she completed the program up to the date on which five years have elapsed since said April 1; and
  - (ii) A person who has passed a preliminary bar examination: The period from the first April 1 after the day of the announcement of the preliminary examination results up to the date on which five years have elapsed since said April 1.
- (2) A person who has taken, under the provisions of the preceding paragraph, the bar examination using either of the qualifications for taking examinations (meaning the completion of a graduate law program or the passing of a

preliminary bar examination prescribed in the items of said paragraph; hereinafter the same shall apply in this paragraph) may not take another bar examination using the other qualification during the period for taking examinations with the former qualification (meaning the period specified in the items of the preceding paragraph).

(Preliminary Bar Examination)

Article 5 (1) The purpose of a preliminary bar examination (hereinafter referred to as a "preliminary examination") is to judge whether a person who intends to take a bar examination has the learning, the ability to utilize such learning, and the basic grounding in legal practices equal to those listed in paragraph (1), item (i) of the preceding Article, and a preliminary examination shall consist of short-answer questions, essay questions, and oral examination.

(2) Short-answer questions shall be given on the following subjects:

- (i) The Constitution;
- (ii) Administrative Acts;
- (iii) The Civil Code;
- (iv) The Commercial Code;
- (v) The Code of Civil Procedure;
- (vi) The Penal Code;
- (vii) The Code of Criminal Procedure; and
- (viii) Liberal arts.

(3) Essay questions shall be given on the following subjects, only to those persons who have passed the short-answer questions:

- (i) Subjects listed in the items of the preceding paragraph; and
- (ii) Subjects concerning basic legal practices (meaning subjects concerning a basic grounding in legal practices (including a grounding to be acquired through practical experience); the same shall apply in the following paragraph).

(4) Oral examinations shall be conducted on subjects concerning basic legal practices, only to those persons who have passed the essay questions, and shall be focused on judging whether said persons have the ability to present an argument based on legal deductions, analysis, and logical construction.

(5) Ordinance of the Ministry of Justice may specify the scope of the subjects for examination prescribed in the preceding three paragraphs in whole or in part.

(Hearing of Opinions of the National Bar Examination Commission)

Article 6 When the Minister of Justice intends to establish, revise, or repeal a Ordinance of the Ministry of Justice as set forth in paragraph (2), item (iv) or paragraph (3) of Article 3 or paragraph (5) of the preceding Article, he/she shall first hear the opinions of the National Bar Examination Commission.

(Implementation of the Bar Examination, etc.)

Article 7 The National Bar Examination Commission shall conduct both the bar examination and the preliminary examination at least once per year, and shall make a public notice of the date and venue thereof in the official gazette in advance.

(Methods for Determining Which Persons Have Passed)

Article 8 The National Bar Examination Commission shall determine which persons have passed the bar examination based on the judgment reached through consultation among the bar examiners, and shall determine which persons have passed the preliminary examination based on the judgment reached through consultation among examiners for the preliminary bar examination.

(Certificate)

Article 9 A person who has passed the bar examination or the preliminary examination shall be given a certificate certifying that he/she has passed the relevant examination.

(Rescission, etc. of the Decision That a Person Has Passed)

Article 10 With regard to a person who has taken or has intended to take the bar examination or the preliminary examination by wrongful means, or a person who has violated this Act or Ordinance of the Ministry of Justice based on this Act, the National Bar Examination Commission may prohibit such a person from taking said examination, rescind the decision that such a person has passed, or prevent such a person from taking the bar examination or preliminary examination, specifying a period not more than five years, depending on the circumstances.

(Examination Fee)

Article 11 (1) A person who intends to take the bar examination or preliminary examination shall pay the examination fee specified by Cabinet Order in consideration of the actual costs of each of such examinations.

(2) An examination fee paid pursuant to the provisions of the preceding paragraph shall not be refunded even in the event that the person did not take said examination.

## **Chapter II National Bar Examination Commission**

(Establishment of the National Bar Examination Commission and Affairs)

under its Jurisdiction)

Article 12 (1) The National Bar Examination Commission (hereinafter referred to as the "Commission" in this Chapter) shall be established at the Ministry of Justice.

(2) The Commission shall take charge of the following affairs:

(i) Conducting the bar examination and preliminary examination;

(ii) Studying and deliberating important matters for conducting the bar examination and preliminary examination, in response to what is asked of it by the Minister of Justice;

(iii) Presenting opinions to the Minister of Justice concerning important matters for conducting the bar examination and preliminary examination; and

(iv) Dealing with other matters that come under its authority in accordance with the applicable laws.

(3) When the Commission finds it necessary for carrying out affairs under its jurisdiction, it may request that the relevant administrative organs or the relevant public or private organizations submit necessary materials or otherwise provide cooperation.

(Commission Members)

Article 13 (1) The Commission shall consist of seven members.

(2) Commission members shall be appointed by the Minister of Justice from among judges, public prosecutors, attorneys, and persons with relevant learning and experience.

(3) The term of office of Commission members shall be two years; provided, however, that the term of office of a member appointed to fill a vacancy shall be the remaining term of office of his/her predecessor.

(4) Commission members may be reappointed.

(5) Commission members shall serve on a part-time basis.

(Chairperson)

Article 14 (1) A chairperson shall be appointed by the Minister of Justice based on the candidate who is elected by the Commission members from among themselves.

(2) The chairperson shall preside over the affairs of the Commission and shall represent it.

(3) The Commission shall designate, in advance, a person to represent the chairperson in the case where the chairperson cannot execute his/her duties, from among the Commission members.

(Bar Examiners, etc.)

Article 15 (1) The Commission has in place bar examiners to prepare examination questions, mark examination papers, and judge which persons have passed the bar examination, and examiners for the preliminary bar examination (hereinafter referred to as "examiners for the preliminary examination" in this Article and in the following Article) to prepare examination questions, mark examination papers, and judge which persons have passed the preliminary examination.

(2) Bar examiners and examiners for the preliminary examination shall be appointed by the Minister of Justice each time an examination is held, from among persons with the learning and experience required for conducting the examination, based on the recommendation of the Commission.

(3) Bar examiners and examiners for the preliminary examination shall serve on a part-time basis.

(Delegation to Cabinet Order)

Article 16 In addition to what is provided in Article 12 through the preceding Article, matters concerning the Commission members, bar examiners, examiners for the preliminary examination, and other necessary matters concerning the Commission shall be specified by Cabinet Order.

### **Chapter III Auxiliary Provisions**

(Delegation to Ordinance of the Ministry of Justice)

Article 17 In addition to what is provided by this Act, matters necessary for conducting the bar examination and the preliminary examination shall be specified by Ordinance of the Ministry of Justice.

### **Supplementary Provisions [Act No. 138 of December 6, 2002] [Extract]**

(Effective Date)

Article 1 This Act shall come into effect as of January 1, 2004; provided, however, that the provisions listed in the following items shall come into effect as of the date specified in the relevant item:

(i) The provisions of Article 2 and Article 7, paragraphs (1) and (2), Article 8 through Article 10, and Article 19 through Article 28 of the Supplementary Provisions: December 1, 2005

(Transitional Measures Concerning the Rules of the National Bar Examination Administration Commission)

Article 2 The Rules of the National Bar Examination Administration Commission that are already in force at the time of the enforcement of this Act

and that are based on the provisions of Article 4, paragraph (1), item (iv) and Article 6, paragraph (4) of the Bar Examination Act prior to its revision under Article 1 shall be deemed, after the enforcement of this Act, to be in force as Ordinance of the Ministry of Justice, based on the corresponding provisions of the Bar Examination Act after its revision under Article 1.

(Transitional Measures Concerning Acts, etc. by the National Bar Examination Administration Commission)

Article 3 (1) Decisions and other acts that were carried out by the National Bar Examination Administration Commission prior to the enforcement of this Act and that were based on the provisions of the Bar Examination Act prior to its revision under Article 1, shall be deemed, after the enforcement of this Act, to be decisions and other acts carried out by the National Bar Examination Commission based on the corresponding provisions of the Bar Examination Act after its revision under Article 1.

(2) In addition to what is provided in the preceding paragraph, decisions and other acts that were carried out by the National Bar Examination Administration Commission or the chairperson thereof prior to the enforcement of this Act and that were based on the provisions of laws and regulations, shall be deemed, after the enforcement of this Act, to be decisions and other acts carried out by the Minister of Justice based on the corresponding provisions of said laws and regulations.

(3) Applications that have already been filed and other acts that have already been carried out with the National Bar Examination Administration Commission at the time of the enforcement of this Act that were based on the provisions of the Bar Examination Act prior to its revision under Article 1, shall be deemed, after the enforcement of this Act, to be applications filed and other acts carried out with the National Bar Examination Commission based on the corresponding provisions of the Bar Examination Act after its revision under Article 1.

(4) In addition to what is provided in the preceding paragraph, requests that have already been made and other acts that have already been carried out with the National Bar Examination Administration Commission or the chairperson thereof at the time of the enforcement of this Act that were based on the provisions of laws and regulations, shall be deemed, after the enforcement of this Act, to be requests made to and other acts carried out with the Minister of Justice based on the corresponding provisions of said laws and regulations.

(5) A person who is already a bar examination examiner at the time of the enforcement of this Act shall be deemed to have been appointed as a bar examination examiner under the provisions of Article 15 of the Bar Examination Act after its revision under Article 1, as of the date of the

enforcement of this Act.

(Transitional Measures Concerning Measures Against Dishonest Examinees)

Article 4 With regard to a person who has, by wrongful means, taken the bar examination prior to the enforcement of this Act, a person who has violated the Bar Examination Act prior to its revision under Article 1, or a person who has violated the Rules of the National Bar Examination Administration Commission, which are based on said Act, the National Bar Examination Commission may rescind any decision made by the National Bar Examination Administration Commission that a person has passed.

(Replacement of Terms in the Provisions of the Act on Special Measures

Concerning the Qualification of Attorneys Licensed in Okinawa as Attorneys Licensed in Japan)

Article 5 With regard to the rescission of a decision that a person has passed an examination under the provisions of Article 4, paragraph (3) of the Act on Special Measures Concerning the Qualification of Attorneys Licensed in Okinawa as Attorneys Licensed in Japan (Act No. 33 of 1970), after the enforcement of this Act, the term "National Bar Examination Administration Commission" in said paragraph shall be deemed to be replaced with "National Bar Examination Commission."

(Transitional Measures Concerning Acts Necessary for Conducting the New Bar Examination)

Article 6 (1) When the Minister of Justice intends to establish Ordinance of the Ministry of Justice as set forth in Article 3, paragraph (2), item (iv) or paragraph (3) of the Bar Examination Act after its revision under Article 2 (hereinafter referred to as the "New Act"), he/she may first hear the opinions of the National Bar Examination Commission, even prior to the date of enforcement of the provisions of Article 2.

(2) The Minister of Justice may appoint bar examiners for the bar examination under the provisions of the New Act (hereinafter referred to as the "new bar examination"), even prior to the date of enforcement of the provisions of Article 2, pursuant to the provisions of Article 15 of the New Act.

(3) Public notices or other preparations necessary for conducting the new bar examination may be made even prior to the date of enforcement of the provisions of Article 2.

(Implementation of the Old Bar Examination)

Article 7 (1) In addition to the new bar examination, the National Bar Examination Commission shall conduct the conventional bar examination

during the period from 2006 to 2011 (for 2011, limited to oral examinations for persons who passed the second-stage written questions in 2010). In this case, the provisions of Article 2 through Article 6-2 of the Bar Examination Act prior to its revision under Article 2 (hereinafter referred to as the "Old Act") and paragraph (2) of the Supplementary Provisions (including the provisions of Ordinance of the Ministry of Justice based on these provisions) shall remain in force even after the enforcement of the provisions of Article 2.

(2) The provisions of Article 1, paragraphs (1) and (2), Article 7 through Article 11, and Chapters II and III of the New Act shall apply to the bar examination conducted under the provisions of the preceding paragraph (hereinafter referred to as the "old bar examination"). In this case, the term "bar examination" in Article 1, paragraph (1) of the New Act shall be deemed to be replaced with "bar examination conducted under the provisions of Article 7, paragraph (1) of the Supplementary Provisions of the Act for Partial Revision of the Bar Examination Act and the Court Act (Act No. 138 of 2002) (hereinafter referred to as the 'old bar examination');" the term "both the bar examination and the preliminary examination," in Article 7 of the New Act shall be deemed to be replaced with "the old bar examination;" the term "which persons have passed the bar examination" in Article 8 of the New Act shall be deemed to be replaced with "which persons have passed the old bar examination;" the term "The National Bar Examination Commission shall [...]" and shall determine which persons have passed the preliminary examination based on the judgment reached through consultation among examiners for the preliminary examination" in the same Article shall be deemed to be replaced with "The National Bar Examination Commission shall [...]" the term "bar examination or preliminary examination" in Article 9 and Article 11, paragraph (1) of the New Act shall be deemed to be replaced with "each type of old bar examination;" the term "bar examination or" in Article 10 of the New Act shall be deemed to be replaced with "old bar examination, bar examination or;" the term "bar examination and preliminary examination" in Article 12, paragraph (2), item (i) through item (iii) and Article 17 of the New Act shall be deemed to be replaced with "old bar examination;" and the term "the bar examination" in Article 15, paragraph (1) of the New Act shall be deemed to be replaced with "the old bar examination," and the term ", and examiners for the preliminary bar examination (hereinafter referred to as 'examiners for the preliminary examination' in this Article and in the following Article) to prepare examination questions, mark examination papers, and judge which persons have passed the preliminary examination." in the same paragraph shall be deemed to be replaced with "."

(3) The provisions of the preceding Article shall apply mutatis mutandis to the old bar examination. In this case, the term "Article 3, paragraph (2), item (iv)

or paragraph (3) of the Bar Examination Act after its revision under Article 2 (hereinafter referred to as the 'New Act')" in paragraph (1) of said Article shall be deemed to be replaced with "Article 4, paragraph (1), item (iv) or Article 6, paragraph (4) of the Bar Examination Act prior to its revision under Article 2, which is to remain in force pursuant to the provisions of paragraph (1) of the following Article;" and the term "Article 15 of the New Act" in paragraph (2) of said Article shall be deemed to be replaced with "Article 15 of the Bar Examination Act after its revision under Article 2, which shall be applied by replacing certain terms pursuant to the provisions of paragraph (2) of the following Article."

(The New Bar Examination and the Old Bar Examination)

Article 8 (1) In each year from 2006 through 2011, a person may take either the new bar examination or the old bar examination by selecting either of them in advance and filing an application in accordance with the procedures specified by Ordinance of the Ministry of Justice.

(2) When a person who intends to take the new bar examination using the qualification set forth in Article 4, paragraph (1), item (i) of the New Act (meaning the completion of a graduate law program as prescribed in the said item; hereinafter the same shall apply in this Article) has undergone, prior to taking said new bar examination, the second-stage of testing for the bar examination under the provisions of the Old Act, or has undergone the second-stage of testing for the old bar examination (with regard to any examination that he/she had taken prior to obtaining the qualification to take the new bar examination, limited to such examination that he/she had taken within the two years prior to the day on which he/she obtained the qualification to take the new bar examination; hereinafter referred to as having "taken the old bar examination, etc." in this Article), the fact that such person has taken the old bar examination, etc. (excluding any examination which is deemed, under the provisions of the following paragraph, to be the new bar examination and that he/she has taken using other qualifications for taking the examination) shall be deemed as said person having already taken the new bar examination using the qualification as set forth in Article 4, paragraph (1), item (i) of the New Act, and the provisions of Article 4, paragraph (1) of the New Act shall apply.

(3) In addition to what is provided in the preceding paragraph, with regard to a person who has taken the new bar examination using the qualification set forth in Article 4, paragraph (1), item (i) of the New Act, the fact that said person has taken the old bar examination, etc. prior to taking the new bar examination and the fact that said person has undergone the second-stage of testing for the old bar examination after taking the new bar examination shall be deemed as said person having taken the new bar examination using said

qualification, and the provisions of Article 4 of the New Act shall apply.

(Time to Begin Offering the Preliminary Examination)

Article 9 The preliminary examination prescribed in Article 5 of the New Act shall be conducted from 2011, notwithstanding the provisions of Article 7 of the New Act.

(Transitional Measures Concerning Persons Who Have Passed the Bar Examination under the Old Act or Who Have Passed the Old Bar Examination)

Article 10 A person who has passed the second-stage of testing for the bar examination under the provisions of the Old Act or the second-stage of testing for the old bar examination shall be deemed to have passed the new bar examination.

#### **Supplementary Provisions [Act No. 52 of June 4, 2014]**

(Effective Date)

This Act shall come into effect as of October 1, 2014.