

Bar Examination Act (Act No. 44 of 2019 unenforced)

(Act No. 140 of May 31, 1949)

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Chapter I The Bar Examination

(Purpose of the Bar Examination)

Article 1 (1) The bar examination is a national examination for the purpose of judging whether an examinee has the knowledge required of a person who is to be a judge, public prosecutor, or attorney, and the practical ability to utilize that required knowledge.

(2) The examination set forth in Article 66 of the Court Act (Act No. 59 of 1947) is conducted pursuant to this Act.

(3) The bar examination is to be conducted in coordination with education at a course in 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 the knowledge and abilities that students need for the legal profession; the same applies in Article 4), and the training of legal apprentices.

(Methods of the Bar Examination)

Article 2 (1) The bar examination consists of short-answer questions (including multiple-choice questions; the same applies hereinafter) and essay questions.

(2) The determination of which persons have passed the bar examination is made from among the pool of test takers who have achieved a passing score on the short-answer questions, by totaling the results of both the short-answer questions and the essay questions.

(Subjects in the Bar Examination)

Article 3 (1) Short-answer questions are 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; and
 - (iii) the Penal Code.
- (2) Essay questions are given on the following subjects for the purpose of judging whether an examinee has the expert knowledge 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 laws);
 - (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); and
 - (iv) one subject that an examinee has selected in advance from among the subjects specified by the Ministry of Justice Order as subjects concerning expert legal fields.
- (3) The Ministry of Justice Order may specify the scope of all or a part of the subjects for examination set forth in the preceding two paragraphs.
- (4) In the bar examination, in order to properly assess whether examinees have the knowledge required of persons who are to be judges, public prosecutors, or attorneys, and the practical ability to utilize that required knowledge, care must be taken to judge their logical and practical ability to understand, think about, and judge legal matters, without placing excessive emphasis on whether or not they possess that knowledge.

(Qualifications for Taking the Bar Examination)

- Article 4 (1) A person set forth in one of the following items may take the bar examination during the period specified in the relevant item:
- (i) a person who has completed a course in a graduate school of law: the period from the first April 1 after the day on which they completed the course up to the date on which five years have elapsed since that 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 bar examination results up to the date on which five years have elapsed since that April 1.
- (2) Notwithstanding the provisions of the preceding paragraph, a person set forth in item (i) may take the bar examination during the period set forth in item (ii):
- (i) a person who is enrolled in a course at a graduate school of law, and has been certified by the president of the university to which the relevant graduate school of law belongs, pursuant to the provisions of the Ministry of

Justice Order, as one who satisfies the following sub-items (a) and (b):

- (a) having received credit for the completion of prescribed subject units at the relevant graduate school of law (meaning units as prescribed by the Ministry of Justice Order as essential for judging through the bar examination whether candidates have the knowledge required of persons who are to be judges, public prosecutors or attorneys, and the practical ability to utilize that required knowledge); and
 - (b) being expected to complete the course in the relevant graduate school of law within one year from April 1 of the year in which the bar examination is held; and
 - (ii) whichever period is shorter, either the period from April 1 of the year in which the relevant person takes the bar examination pursuant to the provisions of this paragraph for the first time while being enrolled in a course in the graduate school of law in the preceding item, up to the time the person completes the course in or withdraws from that graduate school of law; or five years from the aforementioned April 1.
- (3) For the provisions of paragraph (1), item (i) to apply to cases in which a person having taken the bar examination pursuant to the provisions of the preceding paragraph has completed the course in a graduate school of law set forth in item (i) of that paragraph, the phrase "the first April 1 after the day on which they completed the course" in paragraph (1), item (i) is deemed to be replaced with "the year in which they took the bar examination for the first time, pursuant to the provisions of the following paragraph".
- (4) A person who has taken the bar examination pursuant to the provisions of paragraph (1) or (2) through use of a qualification to take that exam (meaning the completion of a course in a graduate school of law, or the passing of a preliminary bar examination, as prescribed in the items of paragraph (1); or certification by the president of a university to which a graduate school of law to which that person is enrolled belongs, as prescribed in paragraph (2), item (i); the same applies in this paragraph), is not eligible to take another bar examination through the use of a different qualification during the period for taking examinations through the former qualification (meaning the period specified in the items of paragraph (1) or in paragraph (2), item (ii)).

(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 seeking to take the bar examination has knowledge, practical ability to utilize that knowledge, and basic grounding in legal practices that are equivalent to that of a person listed in paragraph (1), item (i) of the preceding Article; and a preliminary examination consists of short-answer questions, essay questions, and oral

examination.

- (2) Short-answer questions are given on the following subjects:
 - (i) the Constitution;
 - (ii) administrative laws;
 - (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 are given on the following subjects only to those who have passed the short-answer questions:
 - (i) subjects set forth in item (i) through (vii) of the preceding paragraph;
 - (ii) one subject that an examinee has selected in advance from among the subjects specified by the Ministry of Justice Order as subjects concerning expert legal fields; and
 - (iii) 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 applies in the following paragraph).
- (4) Oral examinations are given only to those persons who have passed the essay questions on subjects concerning basic legal practices, and are focused on judging whether those persons have the ability to present an argument based on legal deductions, analysis, and logical construction.
- (5) The Ministry of Justice Order may specify the scope of all or a part of the subjects for examination prescribed in the preceding three paragraphs.

(Hearing of Opinions of the National Bar Examination Commission)

Article 6 If the Minister of Justice seeks to enact, amend, or repeal the Ministry of Justice Order set forth in Article 3, paragraph (2), item (iv) or paragraph (3); or the preceding Article, paragraph (3), item (ii) or paragraph (5), the Minister must hear the opinions of the National Bar Examination Commission.

(Implementation of the Bar Examination)

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

(Methods for Determining Which Persons Have Passed)

Article 8 The National Bar Examination Commission determines which persons have passed the bar examination based on the judgment reached through consultation; and determines which persons have passed the preliminary

examination based on the judgment reached through consultation.

(Certificates)

Article 9 A person who has passed the bar examination or preliminary examination is given a certificate certifying that they have passed the relevant examination.

(Rescission of the Decision That a Person Has Passed)

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

(Examination Fees)

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

(2) An examination fee paid pursuant to the provisions of the preceding paragraph is not refunded even if the person does not take the relevant examination.

Chapter II The National Bar Examination Commission

(Establishment of the National Bar Examination Commission and Functions under its Jurisdiction)

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

(2) The Commission takes charge of the following functions:

(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) submitting 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) If the Commission finds it necessary to do so for carrying out functions 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 consists of seven members.

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

(3) The term of office of Commission members is two years; provided, however, that the term of office of a member appointed to fill a vacancy is the remaining term of office of their predecessor.

(4) Commission members may be reappointed.

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

(A Chairperson)

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

(2) The chairperson presides over the business of the Commission and represents it.

(3) The Commission must designate in advance a person to represent the chairperson in cases in which the chairperson is not available, from among the Commission members.

(Bar Examiners)

Article 15 (1) Bar examiners are assigned to the Commission to prepare examination questions, mark examination papers, and judge which persons have passed the bar examination; and examiners for the preliminary bar examination (referred to as "examiners for the preliminary examination" in this Article and in the following Article) are assigned to the Commission to prepare examination questions, mark examination papers, and judge which persons have passed the preliminary examination.

(2) The Minister of Justice appoints bar examiners or examiners for the preliminary examination each time the relevant examination is held, from among persons with the knowledge and experience required for conducting the examination, based on the recommendation of the Commission.

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

(Delegation to Cabinet Order)

Article 16 Beyond 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 are specified by Cabinet Order.

Chapter III Auxiliary Provisions

(Delegation to the Ministry of Justice Order)

Article 17 Beyond what is provided for in this Act, the Ministry of Justice Order prescribes the matters necessary for conducting the bar examination and the preliminary examination.

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

(Effective Date)

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

- (i) the provisions of Article 2, and the provisions Article 7, paragraphs (1) and (2), Articles 8 through 10, and Articles 19 through 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 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 amendment by Article 1 of this Act are deemed after the enforcement of this Act to be in force as the Ministry of Justice Order, based on the corresponding provisions of the Bar Examination Act amended by Article 1 of this Act.

(Transitional Measures Concerning Actions by the National Bar Examination Administration Commission)

Article 3 (1) Decisions and other such actions that the National Bar Examination Administration Commission has made before the enforcement of this Act, based on the provisions of the Bar Examination Act prior to its amendment by Article 1 of this Act are deemed after the enforcement of this Act to be those that the National Bar Examination Commission has made based on the corresponding provisions of the Bar Examination Act amended by Article 1 of this Act.

(2) Beyond what is provided for in the preceding paragraph, decisions and other

such actions that the National Bar Examination Administration Commission or its chairperson has made before the enforcement of this Act, based on the provisions of laws or regulations are deemed after the enforcement of this Act to be those that the Minister of Justice has made based on the corresponding provisions of the relevant laws or regulations.

- (3) The filing of applications and other such actions that have already been undertaken with the National Bar Examination Administration Commission at the time of the enforcement of this Act, based on the provisions of the Bar Examination Act prior to its amendment by Article 1 of this Act are deemed after the enforcement of this Act to be those undertaken with the National Bar Examination Commission based on the corresponding provisions of the Bar Examination Act amended by Article 1 of this Act.
- (4) Beyond what is provided for in the preceding paragraph, requests and other such actions that have already been undertaken with the National Bar Examination Administration Commission or its chairperson at the time of the enforcement of this Act, based on the provisions of laws or regulations are deemed after the enforcement of this Act to be those undertaken with the Minister of Justice based on the corresponding provisions of the relevant laws or regulations.
- (5) A person who is a bar examination examiner at the time of the enforcement of this Act is deemed to have been appointed as a bar examination examiner pursuant to the provisions of Article 15 of the Bar Examination Act amended by Article 1 of this Act, as of the date of the enforcement of this Act.

(Transitional Measures Concerning Measures Against Dishonest Examinees)

Article 4 The National Bar Examination Commission may rescind the National Bar Examination Administration Commission's decision that a person has passed, if the relevant person has taken, by wrongful means, the bar examination carried out before the enforcement of this Act; has violated the Bar Examination Act prior to its amendment by Article 1 of this Act; or has violated the Rules of the National Bar Examination Administration Commission that were established based on the Bar Examination Act prior to its amendment by Article 1 of this Act.

(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 For the rescission of a decision that a person has passed an examination, that is made under 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 that paragraph is 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 seeks to establish the Ministry of Justice Order as set forth in Article 3, paragraph (2), item (iv) or paragraph (3) of the Bar Examination Act amended by Article 2 of this Act (hereinafter referred to as the "new Act"), the Minister may first hear the opinions of the National Bar Examination Commission, even prior to the date of enforcement of the provisions of Article 2 of this Act.
- (2) Even prior to the date of enforcement of the provisions of Article 2 of this Act, the Minister of Justice may appoint bar examiners for a bar examination under the new Act (hereinafter referred to as the "new bar examination") 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 Conventional Bar Examination)

- Article 7 (1) In addition to the new bar examination, the National Bar Examination Commission is to 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 amendment by Article 2 of this Act (hereinafter referred to as the "former Act") and paragraph (2) of the Supplementary Provisions of that Act (including the provisions of the Ministry of Justice Order based on these provisions) remain in force even after the enforcement of the provisions of Article 2 of this Act.
- (2) The provisions of Article 1, paragraphs (1) and (2), Articles 7 through 11, and Chapters II and III of the new Act apply to the bar examination conducted under the preceding paragraph (hereinafter referred to as the "conventional bar examination"). In this case, the term "bar examination" in Article 1, paragraph (1) of the new Act is deemed to be replaced with "bar examination and the bar examination conducted under Article 7, paragraph (1) of the Supplementary Provisions of the Act Partially Amending the Bar Examination Act and the Courts Act (Act No. 138 of 2002) (hereinafter referred to as the 'conventional bar examination')"; the term "both the bar examination and the preliminary examination," in Article 7 of the new Act is deemed to be replaced

with "the conventional bar examination"; the phrase "which persons have passed the bar examination" in Article 8 of the new Act is deemed to be replaced with "which persons have passed the conventional bar examination"; the phrase "based on the judgment reached through consultation; and determines which persons have passed the preliminary examination based on the judgment reached through consultation" in that Article is deemed to be replaced with "based on the judgment reached through consultation"; the term "bar examination or preliminary examination" in Article 9 and Article 11, paragraph (1) of the new Act is deemed to be replaced with "each stage of testing for the conventional bar examination"; the phrase "bar examination or" in Article 10 of the new Act is deemed to be replaced with "conventional bar examination, bar examination or"; the term "bar examination and preliminary examination" in Article 12, paragraph (2), items (i) through (iii) and Article 17 of the new Act is deemed to be replaced with "conventional bar examination"; and the term "the bar examination" in Article 15, paragraph (1) of the new Act is deemed to be replaced with "the conventional bar examination"; and the phrase "; and examiners for the preliminary bar examination (referred to as 'examiners for the preliminary examination' in this Article and in the following Article) are assigned to the Commission to prepare examination questions, mark examination papers, and judge which persons have passed the preliminary examination." in that paragraph is deemed to be replaced with "."

(3) The provisions of the preceding Article apply mutatis mutandis to the conventional bar examination. In this case, the term "Article 3, paragraph (2), item (iv) or paragraph (3) of the Bar Examination Act amended by Article 2 of this Act (hereinafter referred to as the 'new Act')" in paragraph (1) of that Article is deemed to be replaced with "Article 4, paragraph (1), item (iv) or Article 6, paragraph (4) of the Bar Examination Act prior to its amendment by Article 2 of this Act, 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 that Article is deemed to be replaced with "Article 15 of the Bar Examination Act amended by Article 2, as applied pursuant to the provisions of paragraph (2) of the following Article following the deemed replacement of terms".

(The New Bar Examination and the Conventional Bar Examination)

- Article 8 (1) In each year from 2006 through 2011, a person may take either the new bar examination or the conventional bar examination by selecting either of them in advance and filing an application in accordance with the procedures specified by the Ministry of Justice Order.
- (2) When a person who seeks 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 that item; the same applies in this Article) has undergone the second-stage of testing for the bar examination under the former Act, or has undergone the second-stage of testing for the conventional bar examination (if the person had taken these examinations before obtaining the qualification to take the new bar examination, they are limited to those that the person had taken within the two years prior to the day on which the person obtained the qualification to take the new bar examination; referred to as the "conventional bar examination, etc." in this Article), before taking that new bar examination, the person who has taken the conventional bar examination, etc. (excluding any examination which is deemed, under the following paragraph, to be the new bar examination, and that the person has taken using other qualifications for taking the examination) is deemed to have 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 apply to that person.

- (3) Beyond what is provided for in the preceding paragraph, in cases of 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 person who has taken the conventional bar examination, etc. before taking the new bar examination, or has undergone the second-stage of testing for the conventional bar examination after taking the new bar examination is deemed to have taken the new bar examination using the relevant qualification, and the provisions of Article 4 of the New Act apply to that person.

(Time to Begin Offering the Preliminary Examination)

Article 9 The preliminary examination prescribed in Article 5 of the new Act is to 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 Former Act or Who Have Passed the Conventional Bar Examination)

Article 10 Persons who have passed the second-stage of testing for the bar examination under the former Act or the second-stage of testing for the conventional bar examination are deemed to have passed the new bar examination.

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

(Effective Date)

This Act comes into effect as of October 1, 2014.

Supplementary Provisions [Act No. 44 of June 26, 2019] [Extract]

(Effective Date)

Article 1 This Act comes into effect as of April 1, 2020; provided, however, that the provisions set forth in the following items come into effect as of the date specified in each respective item:

- (i) the provisions in Article 1 which amend Article 6, paragraph (4) of the Act on Coordination between Education at Graduate Schools of Law and the Bar Examination, and the provisions of the following Article through Article 4 of the Supplementary Provisions: the date of promulgation;
- (ii) the provisions in Article 4 which amend Articles 5 and 6 of the Bar Examination Act: December 1, 2021; and
- (iii) the provisions of Article 2, Article 4 (other than the amending provisions set forth in the preceding item) and Article 5, and the provisions of Articles 5 through 8 of the Supplementary Provisions: October 1, 2022.

(Transitional Measures for Partial Amendment of the Act on Coordination between Education at Graduate Schools of Law and the Bar Examination)

Article 2 (1) omitted

(2) When the Minister of Justice, prior to the enforcement of the provisions set forth in item (iii) of the preceding Article, seeks to establish the Ministry of Justice Order as set forth in Article 4, paragraph (2), item (i) of the Bar Examination Act amended by Article 4 of this Act (referred to as the "new Bar Examination Act" in the following Article), the Minister must notify the Minister of Education, Culture, Sports, Science and Technology to that effect. In this case, the Minister of Education, Culture, Sports, Science and Technology may submit opinions to the Minister of Justice as necessary.

(Transitional Measures for Partial Revision of the Bar Examination Act)

Article 3 When the Minister of Justice intends to establish the Ministry of Justice Order set forth in Article 5, paragraph (3), item (ii) of the new Bar Examination Act, the Minister may hear the opinions of the National Bar Examination Commission, even before the effective date of the provisions set forth in Article 1, item (ii) of the Supplementary Provisions.

(Delegation to Cabinet Order)

Article 4 Beyond what is provided for in the preceding two Articles, Cabinet Order prescribes the transitional measures necessary for the enforcement of this Act.