

# BAR EXAM SYLLABUS 2023

## Competency Requirements for Bar Exam 2023 (BE2023)

- I. A competent newly qualified lawyer of the Maldives must be able to apply fundamental legal rules and principles to client problems which s/he might encounter in practice.
- II. In relatively straightforward and routine cases s/he will, without assistance, must be able to conduct a case from start to conclusion. In order to do this s/he must be able to identify the main legal issues a client matter raises. S/he must then be able to apply the law to demonstrably progress the client's matter through its various stages while protecting the client's interests. S/he must be able to represent the client in court, putting forward the client's case and defending it reasonably effectively.
- III. In more complex cases s/he should be able to make an initial judgement about some aspects of the case and progress more routine aspects of it. S/he may need assistance from those with more experience with aspects requiring more sophisticated knowledge of the law, greater judgement and innovative solutions.
- IV. S/he must be able to recognise common situations which raise issues of ethical conduct and ensure that s/he acts in a way which upholds the ethical standards of the profession.

## SUBJECT AREAS

Students contemplating taking BE2023, should be thorough in the following six subject areas it tests:

1. Tort Law
2. Criminal Law and Procedure
3. Constitutional and Administrative Law
4. Contract Law and Practice
5. Land Law and Practice
6. Maldivian Legal System

## BE2023: TORT LAW

SUBJECT	TOPICS	SUB-TOPICS
<b>TORT LAW</b>	1. Elements of Tort	a. Legal wrong b. Legal damage c. Legal remedy
	2. Negligence	a. Duty of care b. Breach of duty c. Causation and damages including damages for personal injury d. Negligence claims for consequential and pure economic loss
	3. Defamation	a. Libel and slander b. Elements and defences
	4. Breach of Statutory Duty	a. Cause of action b. Elements of breach
	5. General Defenses of Tort	a. Volenti non-fit injuria b. Contributory negligence
	6. Employers liability	a. Elements b. Defences c. Vicarious liability: Elements and defences
	7. Strict Liability	a. Elements b. Defences
	8. Nuisance	a. Elements b. Defences

## BE2023: CRIMINAL LAW AND PROCEDURE

SUBJECT	TOPICS	SUB-TOPICS
<b>CRIMINAL LAW AND PROCEDURE</b>	1. Elements of Crime	a. Actus Reus b. Mens Rea c. Causation
	2. General Defences	a. Mistake b. Accident c. Insanity d. Intoxication e. Necessity f. Duress g. Private defence (self defence, defence of another, defence of property) h. Consent

	3. Inchoate Offences	<ul style="list-style-type: none"> <li>a. Attempt</li> <li>b. Incitement/criminal solicitation</li> <li>c. Conspiracy</li> </ul>
	4. Specific Offences	<ul style="list-style-type: none"> <li>a. Offences of damage to property</li> <li>b. Non-fatal offences against the person <ul style="list-style-type: none"> <li>i. Assault</li> <li>ii. Battery</li> <li>iii. Actual and grievous bodily harm</li> </ul> </li> <li>c. Fatal offences against the person <ul style="list-style-type: none"> <li>i. Murder</li> <li>ii. Voluntary/ involuntary manslaughter</li> </ul> </li> <li>d. Wrongful restraint and confinement <ul style="list-style-type: none"> <li>i. Sexual offences</li> <li>ii. Sexual assault</li> <li>iii. Sexual offences against children</li> <li>iv. Rape and marital rape</li> </ul> </li> <li>e. property offences: <ul style="list-style-type: none"> <li>i. Theft</li> <li>ii. Burglary</li> <li>iii. Robbery</li> <li>iv. Criminal trespass</li> </ul> </li> <li>f. Bribery and corruption</li> <li>g. Criminal breach of trust and criminal misappropriation</li> </ul>
	5. Criminal Procedure	<ul style="list-style-type: none"> <li>a. Powers and processes of arrest, search, and seizure</li> <li>b. Procedure and processes at the police station</li> <li>c. Right to legal advice</li> <li>d. Bail</li> <li>e. Evidence including burden and standard of proof, hearsay, confessions, privilege against self-incrimination, exclusion of evidence</li> <li>f. Jurisdictions of the courts in criminal matters</li> <li>g. Trial procedure</li> <li>h. Sentencing</li> <li>i. Appeals</li> </ul>

## BE2023: CONSTITUTIONAL AND ADMINISTRATIVE LAW

SUBJECT	TOPICS	SUB-TOPICS
<b>CONSTITUTIONAL AND ADMINISTRATIVE LAW</b>	1. Fundamental principles of the Maldives Constitution	<ul style="list-style-type: none"><li>a. Constitutional supremacy and parliamentary sovereignty;</li><li>b. Separation of powers</li><li>c. Rule of law to include military and police powers</li><li>d. The Individual and the State</li></ul>
	2. The organs of the state	<ul style="list-style-type: none"><li>a. The functions, processes, role, and interrelationships of<ul style="list-style-type: none"><li>i. the Executive,</li><li>ii. the Legislature, and</li><li>iii. the Judiciary</li></ul></li></ul>
	3. Fundamental rights and freedoms	<ul style="list-style-type: none"><li>a. Current status of Human Rights law in the Maldives including instruments to which the Maldives is a party and its reservations</li></ul>
	4. The functions and powers of independent commissions and institutions	<ul style="list-style-type: none"><li>a. Judicial Service Commission</li><li>b. Civil Service Commission</li><li>c. Human Rights Commission</li><li>d. Auditor General's Office</li><li>e. Prosecutor General's Office</li><li>f. National Integrity Commission</li><li>g. Anti-Corruption Commission</li><li>h. Elections Commission</li></ul>
	5. Other features of the Maldives constitution	<ul style="list-style-type: none"><li>a. State of emergency</li><li>b. Constitutional amendments and interpretations</li><li>c. Decentralization</li><li>d. State ownership financial obligations and claims</li><li>e. Right to information</li></ul>

## BE2023: CONTRACT LAW AND PRACTICE

SUBJECT	TOPICS	SUB-TOPICS
	1. Formation of contracts	Offer, acceptance, intention, certainty, consideration, and capacity
	2. Privity of contract and third-party rights	

<b>CONTRACT LAW AND PRACTICE</b>	3. Contents of contract	Express terms, terms v representations, incorporation of terms, importance of terms (warranties, conditions, and innominate terms), implied terms (Sale of Goods Act, Consumer Protection Act), unfair terms, exclusion clauses and boiler plate clauses
	4. Vitiating Factors	Duress, undue influence, misrepresentation, mistake, and illegality
	5. Discharge of contract	Agreement, breach, performance, and frustration
	6. Remedies	Damages, (including causation, remoteness, duty to mitigate and penalty clauses v liquidated damages) rescission, injunction, and specific performance
	7. Business structures: sole traders, partnerships, including limited liability partnerships, limited companies (but only as covered by the Companies Act and Regulations made under it)	<ul style="list-style-type: none"> <li>a. Formation, registration, constitution, and termination</li> <li>b. Legal personality</li> <li>c. Funding a business and liability for debts</li> <li>d. Management and decision making/default position under statute</li> <li>e. Roles and responsibilities of officers, directors, partners, members, shareholders</li> </ul>

<b>BE2023: LAND LAW AND PRACTICE</b>		
<b>SUBJECT</b>	<b>TOPICS</b>	<b>SUB-TOPICS</b>
<b>LAND LAW AND PRACTICE</b>	1. Introduction	Distribution of land (land allocation for governmental purposes, land leased for tourism activities, environmental purposes, and protected land)
	2. Concept of land	<ul style="list-style-type: none"> <li>a. Nature of land</li> <li>b. Definition of land</li> <li>c. Creation of land registry and title</li> <li>d. Law relating to fixtures</li> <li>e. Categorisation of land (residential, agricultural, and industrial)</li> </ul>
	3. Tenure, possession, and ownership	<ul style="list-style-type: none"> <li>a. Tenure (Maldives)</li> <li>b. Forms and grants (Maldives)</li> <li>c. <i>Hiba</i></li> <li>d. <i>Laa jehssun</i></li> <li>e. <i>Wasiyah</i> and co-ownership (Maldives)</li> <li>f. <i>Hiba</i> in respect of buildings on <i>Bandaara</i> and <i>Amilla Goathi</i></li> </ul>

		<ul style="list-style-type: none"> <li>g. <i>Wasiyah</i> in respect of buildings on <i>Bandaara Goathi</i></li> <li>h. <i>Belun Sharutu kurun</i> co-ownership and exchange of land</li> </ul>
	4. Land and Freehold estates	<ul style="list-style-type: none"> <li>a. Freehold and legal estate distribution of estate in the Maldives</li> <li>b. <i>Bandaara Goathi</i> and <i>Amilla Goathi</i></li> <li>c. Partition of land</li> <li>d. Building regulations</li> <li>e. Grants, allocations, Sale and / or transfer of land for residential purposes, registration, conditions to be fulfilled before registration</li> <li>f. Allocating land for residential purpose</li> <li>g. Sale of Land (<i>Amilla Goathi</i> and <i>Bandaara Goathi</i>)</li> <li>h. Freehold covenants</li> </ul>
	5. Leases	<ul style="list-style-type: none"> <li>a. Types of leases</li> <li>b. Creation and formalities</li> <li>c. Overview of leasehold covenants</li> <li>d. Termination</li> <li>e. Sale</li> <li>f. Obligations of landlord and tenant, including express and implied covenants</li> <li>g. Breach of covenants by tenants and landlord</li> <li>h. Remedies for breach</li> </ul>
	6. Licenses	<ul style="list-style-type: none"> <li>a. Distinction between leases and licenses, the scope, different types</li> <li>b. Nature, creation, revocability</li> </ul>
	7. Mortgages	<ul style="list-style-type: none"> <li>a. Informal and defective legal mortgages</li> <li>b. Protection of mortgagor and mortgagee</li> <li>c. Right to redeem, option to purchase, postponement.</li> <li>d. Unconscionable conduct, oppressive terms, undue influence, and misrepresentation</li> <li>e. Remedies available to legal mortgagee; possession, foreclosure, sale.</li> </ul>
	8. Easements and <i>Profits a prendre</i>	<ul style="list-style-type: none"> <li>a. Creation, rules, positive and negative easements</li> <li>b. Remedies and extinguishment.</li> </ul>
	9. Trusts and trusteeship Remedies	<ul style="list-style-type: none"> <li>a. Damages</li> <li>b. Rectification</li> <li>c. Restitution</li> <li>d. Estoppel</li> <li>e. Injunction and specific performance</li> <li>f. Rescission</li> <li>g. Constructive trust</li> </ul>

## BE2023: MALDIVIAN LEGAL SYSTEM

SUBJECT	TOPICS	SUB-TOPICS
<b>MALDIVIAN LEGAL SYSTEM</b>	1. Sources of law, their interpretation, and their interrelationships	<ul style="list-style-type: none"> <li>a. Constitution</li> <li>b. Legislation</li> <li>c. Islamic Shariah including the position of Islamic criminal and Islamic Family law</li> <li>d. Judicial precedent: Stare Decisis</li> <li>e. Treaties and Conventions</li> <li>f. Practice of Open Democratic States</li> <li>g. Statutory Interpretation: Literal Rule, Golden Rule, Mischief Rule, Purposive Rule</li> </ul>
	2. Courts, tribunals, and the appeal system	<ul style="list-style-type: none"> <li>a. Court structure and specialised tribunals</li> <li>b. Jurisdiction, types, and powers</li> <li>c. Appellate courts and Leave of Court</li> <li>d. Appeals (incl civil procedure code)</li> </ul>
	3. Alternatives to court proceedings	<ul style="list-style-type: none"> <li>a. Arbitration Act v Courts</li> <li>b. Maldives International Arbitration Centre</li> </ul>
	4. Legal profession and ethics	<ul style="list-style-type: none"> <li>a. Officers of Law v Officers of Court</li> <li>b. Client Confidentiality and Privilege</li> <li>c. Duty of Care</li> <li>d. Conflict of Interest</li> <li>e. Legal Fees (Contingent/Project/Hourly)</li> <li>f. Professional Standards and Ethics</li> <li>g. Bar Council and Oversight</li> </ul>
	5. Civil Procedure Code	<ul style="list-style-type: none"> <li>a. Jurisdiction</li> <li>b. Limitation periods</li> <li>c. Enforcement of judgements (excl. foreign judgements)</li> <li>d. Counter claims</li> <li>e. Summary judgements</li> <li>f. Discovery and disclosure</li> <li>g. ex parte hearing and reviews</li> <li>h. Court fees</li> <li>i. Interlocutory relief</li> <li>j. Abuse of process</li> </ul>