

To Those Considering Registration as a Registered Foreign Lawyer
(Gaikokuho Jimu Bengoshi)

Welcome to Ichi-ben!

Registering as a Registered Foreign Lawyer
with the Dai-Ichi Tokyo Bar Association

Q & A

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Introduction

Our Dai-Ichi Tokyo Bar Association (hereinafter "**Ichi-ben**") was established in 1923 as an independent association split-off from the Tokyo Bar Association. The founding spirit of modesty and harmony has been passed down to the present day and is characterized by a more moderate and neutral style than that of other groups. As of February 1, 2021, we have members consisting of 6,053 lawyers and 138 registered foreign lawyers.

We sincerely welcome as many foreign lawyers as possible to become our members.

This "Welcome to Ichi-ben!" has been prepared in a Q&A format to explain the procedures for becoming a registered foreign lawyer in an easy-to-understand manner. This document is based on laws and regulations as of February 2021 and the Japanese version of "Gaikouho-Jimu-Bengoshi (Registered Foreign Lawyer) - Manual on Application for Approval & Designation, Revised Version of August 2020"¹ (hereinafter "**Manual**") of the Ministry of Justice.

We hope that this document will be of use to those of you who are qualified to practice law in a foreign country and are considering applying for registration with Ichi-ben, and to the staff of the law office to which you belong. If you have any questions about this document or the registration procedures for a registered foreign lawyer, please do not hesitate to contact the Ichi-ben member section (please see Q37).

¹ The latest English version of the Manual available at the website of the Ministry of Justice is dated March 2016. References to the relevant pages of the Manual in this Q&A are those of the Japanese version of Manual dated August 2020.

[Precautions for Use]

This document is a compilation of the contents of the approval of qualification as a registered foreign lawyer, designation of specified foreign laws (meaning a foreign law other than the law of the state of primary qualification which is the basis of the approval) and the registration application as of February 2021, based on the experiences of applicants.

In regard to interpretation or application of the Attorney Act, the Act on Special Measures Concerning the Handling of Legal Services by Foreign Lawyers, and other laws and regulations, there is a possibility that the Ministry of Justice, courts, investigative authorities, the Japan Federation of Bar Associations, or local bar associations may make decisions that are different from the contents of this document. Please use this document with a full consideration of this point.

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1. Outline of Procedures for Becoming a Registered Foreign Lawyer

Q1. Even if I qualify as a lawyer in a foreign country, will I be unable to practice as a lawyer in Japan?

A1. In Japan, it is prohibited for a person other than a Japanese attorney-at-law (bengoshi) or legal professional corporation (bengoshi houjin) to handle legal services for the purpose of receiving remuneration (Article 72 of the Attorney Act). Prohibited handling of legal services includes handling of legal services based on laws other than those of Japan, so even if you are qualified as a lawyer in a foreign country, you cannot handle legal services in Japan for the purpose of receiving remuneration.

In order for a foreign lawyer (a person with a foreign lawyer qualification who is not registered as a registered foreign lawyer) to provide legal services in Japan based on that qualification, it is necessary to obtain approval of the qualification to become a registered foreign lawyer (gaikokuho jimu bengoshi) in accordance with the Act on Special Measures Concerning the Handling of Legal Services by Foreign Lawyers (hereinafter "GJB Act") and undertake registration as a registered foreign lawyer.

Below, we will touch on the major points of the registered foreign lawyer system in Section 1, the procedures for obtaining approval of qualifications in Section 2, and the procedures for obtaining registration in Section 3.

Q2. Are there cases where a person who is qualified as a lawyer in a foreign country cannot become a registered foreign lawyer?

A2. There are cases where a foreign lawyer will not be able to become a registered foreign lawyer. In order to become a registered foreign lawyer, you must first obtain approval to be qualified as a registered foreign lawyer under the GJB Act. These requirements include (1) being a foreign lawyer (a person whose professional duties are to provide legal services in a foreign country and who is the equivalent of a Japanese attorney-at-law (bengoshi); i.e., the professional equivalent requirement) and (2) similar treatments under the GJB Act are available in the foreign country (i.e., reciprocity requirement).

As a general rule, the examination of whether a person is a foreign lawyer or not will not require detailed proof for a country with precedent (Note). On the other hand, for a country for which there has been no precedent, some time may be needed for examination procedures, such as an examination of the attorney system of that country and submission of documentary evidence (in some cases, the examination alone takes several months and there have been cases where the lawyer who was assigned to the Japan office returned to his home country before he was approved), and there are cases where the approval of qualification as a registered foreign lawyer is not granted in the end. If you have any questions, please contact the Ministry of Justice.

(Note) Precedential examples of requirements for a legal profession in (1) above and of reciprocity in (2) above are found in certain states in the United States, certain European countries, and certain countries in Asia and Oceania, among others. Please refer to pages 36 and 37 of the Manual.

[Reference] GJB Act, Article 2, item 2, Articles 7 and 10. Manual, pp. 32-37.

Q3. If I am qualified as a lawyer in more than one country, can I practice other foreign laws without any other procedures if I become a registered foreign lawyer?

A3. No, you cannot. In order to handle legal services concerning foreign laws for which you are qualified as a lawyer, other than the foreign law that is the basis for your approval as a registered foreign lawyer (hereinafter "**law of primary qualification**"), it is necessary to receive designation by the Minister of Justice for such foreign law(s) (hereinafter such designated foreign laws are referred to as "**designated laws**") and receive a supplementary registration of designated laws in the Registered Foreign Lawyers List kept at the Japan Federation of Bar Associations (hereinafter "**JFBA**"). In the case of Tokyo, the application for designated laws will be made through one of the three local bar associations in Tokyo. Please note that in the United States, Australia, and Canada, the law of primary qualification is not established for each country, but for each state, territory, and other constituent unit.

[Reference] GJB Act, Articles 4, 5 and 34. Article 1 of the GJB Act Enforcement Regulations and the Attached Table. Manual, p. 5, pp. 23 and following.

Q4. What kinds of activities are permitted if I become a registered foreign lawyer?

A4. With regard to the law of primary qualification and designated laws, you are allowed to perform legal services (excluding the activities in Q5 below).

Note that it is prohibited to provide legal services concerning Japanese law, or foreign laws other than the law of primary qualification and designated laws (hereinafter referred to as "**third country law**"); provided that, if you receive written advice from a foreign lawyer or a registered foreign lawyer related to the foreign law, you can provide legal services concerning the third country law.

[Reference] GJB Act, Articles 4, 5, 5-2 and 5-3. Manual, Reference Material (1) Outline and scope of duties of a registered foreign lawyer.

Q5. Even if I become a registered foreign lawyer, what activities are not permitted?

A5. Even in the case where the legal services are related to the law of primary qualification or designated laws, or the legal services are exceptionally permitted under third country law (see Q4 above), it is prohibited to be a representative for litigation or defend a criminal case, or to represent or write legal documents for a legal case for which the main purpose is the obtaining or relinquishing or changing of real estate or industrial property rights, etc. located in Japan. In addition, when representing or writing legal documents in a case other than the above whose purpose is the acquisition or relinquishing or change of ownership of real estate or industrial property rights, etc. located in Japan (in other words, a case in which the purpose is to acquire or relinquish or change the ownership of domestic real estate or industrial property rights, etc. located in Japan but this is not the main purpose) or when acting as an agent for a family relationship case in which a Japanese citizen is a party or certain other cases, there are restrictions, such as the need to act jointly with, or to obtain written advice from, a Japanese attorney-at-law.

However, regardless of the above, a registered foreign lawyer may represent parties in international arbitration cases and international conciliation cases (matters prescribed in the GJB Act, Article 2, item 11, and item 11-2).

[Reference] GJB Act, Articles 4, 5, 5-2 and 5-3. Manual, Reference Material (1) Outline and scope of duties of a registered foreign lawyer.

Q6. Is a foreign lawyer unable to act at all in Japan without becoming a registered foreign lawyer? What kind of activities can I do even if I'm not a registered foreign lawyer?

A6. Under the Attorneys Act of Japan, it is prohibited for persons other than Japanese attorneys-at-law (bengoshi) or legal professional corporations (bengoshi houjin) to handle legal services (including services relating to foreign laws), and violations are subject to criminal punishment. As an exception, registered foreign lawyers are allowed to provide legal services concerning the law of primary qualification or designated laws within the scope of the GJB Act. Therefore, a foreign lawyer who is not registered as a registered foreign lawyer cannot handle legal services. In addition, it is prohibited to receive a share of remuneration for professional duties from other Japanese attorneys-at-law or registered foreign lawyer.

However, even if you are not registered as a registered foreign lawyer, it is considered possible for you to be employed in Japan by a Japanese attorney-at-law, legal professional corporation, registered foreign lawyer or registered foreign lawyer corporation and provide advice on the laws of the country in which you obtained your qualification. Please note, that even in the case of such employment, legal services cannot be provided to clients.

Even during the period when a foreign lawyer who is a partner of an overseas law firm visits Japan and stays in Japan, as long as his/her registration as a registered foreign lawyer has not been completed, there are certain activities that are deemed to be illegal or prohibited, even if they are practices or acts that would be naturally possible as a partner when they are taken in the home country. As long as your registration as a registered foreign lawyer has not been completed, you are not allowed to provide legal services based on the laws of your home country, and you are also prohibited from receiving a share of remuneration for your duties from other attorneys or registered foreign lawyer. Therefore, if you come to Japan before registration, you cannot give advice to clients and you cannot issue invoices under your name.

[Reference] GJB Act, Article 10, Clause 2. Manual, p. 40.

Q7. Are there any differences of which partners and associates should be aware when proceeding to become a registered foreign lawyer?

A7. There are no differences in the registration requirements, but there are differences in the documents to be submitted to the Ministry of Justice when applying for approval. For example, a partner, who is a joint manager, must have a support letter signed by all the partners of the registered foreign lawyer office, but for an employee associate, a certificate of employment of the representative attorney is sufficient.

Q8. How can I become a registered foreign lawyer?

A8. First, you need to apply to the Ministry of Justice for the qualification to become a registered foreign lawyer and obtain approval of the Minister of Justice.

Next, you need to apply for registration to the JFBA to register as a registered foreign lawyer. At that time, in the case of Tokyo, you will apply for registration through one of the three local bar associations in Tokyo.

[Reference] GJB Act, Articles 7 and 24.

Q9. What requirements do I need to meet to become a registered foreign lawyer?

A9. In order to be qualified as a registered foreign lawyer, you must meet the following criteria.

- (1) The person is qualified as a foreign lawyer (a profession in a foreign country equivalent to a Japanese attorney-at-law (bengoshi)).
- (2) The person must have at least three years of professional experience (Note) after becoming qualified as a foreign lawyer.
- (3) The person has the intention to perform duties in good faith.
- (4) The person has a plan, residence and financial basis for performing duties properly and reliably.
- (5) The person has the ability to compensate for damages caused to clients.
- (6) There are no grounds for disqualification as a Japanese attorney-at-law and no similar grounds have arisen under foreign laws and regulations.
- (7) Meets the requirement of reciprocity (excluding a case where the foreign country of the law of primary qualification is a WTO member).

(Note) With regard to the period of work experience described in (2) above, not only work experience in the country of primary qualification but also experience in other countries where you lawfully provided legal services of the law of primary qualification can be included. Experience in Japan (only if you are employed by a Japanese attorney-at-law, a legal professional corporation, a registered foreign lawyer or a registered foreign lawyer corporation as explained in Q6 above, and your work experience is limited to providing advice to such employer on the laws of the country in which you obtained your qualification) can also be included in the period of work experience up to two years.

However, it is recommended to confirm with the Ministry of Justice in advance whether the period of employment in such third country can be included in the period of work experience, as this is ultimately subject to examination by the Ministry of Justice. If the country has a recognized precedent, you can expect a quick reply, but if there is no precedent, it will be considered within the Ministry of Justice and it may take time to reach a decision for approval. In addition, even if there is a precedent, it is necessary to show the certificate of qualification as a foreign lawyer in the third country and provisions of the relevant foreign law (and translation) regarding the system.

[Reference] GJB Act, Articles 8 and 10. Manual, pp. 9-11.

Q10. In the case where the foreign lawyer meets the registration requirements, is it required to apply for registration?

A10. As stated in Q1 above, if you engage in an activity that only a registered foreign lawyer can engage in, you must obtain registration. On the other hand, if you do not engage in such activities, you are not obliged to apply for registration even if you are a foreign lawyer.

2. Approval of the Minister of Justice

Q11. What is the approval of the Minister of Justice?

A11. Approval by the Minister of Justice is a procedure in which the Minister of Justice examines and approves compliance of the applicant with the standards of the GJB Act necessary to become a registered foreign lawyer, based on the application of the applicant.

[Reference] GJB Act, Article 7. Manual, pp 4 and following.

Q12. In detail, what kind of procedures are undertaken to approve qualification by the Minister of Justice?

A12. Procedures for approval will be initiated upon application from the person who will become a registered foreign lawyer. Please note that formal submission of the application documents must be done by the applicant in person at the Ministry of Justice. On the other hand, if you wish to consult with the Ministry of Justice in advance (including for a preliminary examination described in Q13 below), you may act through a representative or administrative staff of your law firm.

The Ministry of Justice examines whether the application meets the criteria for approval based on the prescribed application form and attached documents. In practice, it is customary for a representative or administrative staff to consult on the actual documents in advance, and after resolving any issues and finalizing the necessary documents, the applicant will appear in person at the Ministry of Justice to apply for approval. However, regardless of whether or not prior consultation has been conducted, if there is a formatting deficiency in the documents at the time of the official examination by the Ministry of Justice, the submitted documents will need to be corrected, and additional materials may be required to prove compliance with the standards for each case.

If, as a result of the examination, the qualification of the applicant to become a registered foreign lawyer is approved, the Minister of Justice will notify the applicant to that effect in a "notice of approval" and also make a public notice in the Official Gazette.

[Reference] GJB Act, Articles 9 and 11. Manual, pp. 12 and following.

Q13. In receiving qualification approval from the Minister of Justice I heard that there is a system to apply for preliminary examination (yobi shinsa). What kinds of matters can I talk about? Is it possible to apply for preliminary examination through a representative instead of the applicant himself?

A13.

(1) Preliminary examination

Prior to filing a formal application for approval, a preliminary examination may be requested from the Ministry of Justice at the request of the applicant to determine whether the application meets approval standards and to confirm whether the submitted documents are appropriate and sufficient. In practice, in almost every case, a preliminary examination is conducted.

In principle, an application for preliminary examination must be made by submitting the same application form as the formal application and documents equivalent to the attached documents (copies of application and attachments or drafts prior to signature).

Unlike a formal application, a preliminary examination may be requested through a representative. You do not need to appear at the Ministry of Justice, but you need to submit a power of attorney that describes the prescribed matters.

(2) General consultations

In addition, prior to a preliminary examination, it is also possible to consult with the Ministry of Justice regarding the approval process in general and individual applications (in that case, it is possible to do it through your office staff to a certain extent).

To give a more practical example, in the process of a general consultation described in (2) above (i.e., consultation with Ministry of Justice personnel prior to preliminary examination), we have seen cases where the necessity for additional documents to be prepared according to individual circumstances is pointed out. In many cases, the person in charge at the Ministry of Justice will approach the applicant to move to a preliminary examination after it is confirmed that the applicant has responded to the requests and prepared all the documents.

[Reference] Manual, pp. 19 and following.

Q14. If the preliminary examination is passed, can we expect that the formal examination will be approved without problem?

A14. In the preliminary examination, whether there are any deficiencies in the submitted documents is examined, and if necessary, the submitted documents may be required to be corrected or additional materials must be submitted.

It should be noted that although the preliminary examination will make a check, the formal examination for approval will be implemented again. At the time of the formal examination, you may be required to submit additional documents or provide additional explanations, and if the attached documents submitted at the time of the preliminary examination have expired by the time of this application, you may be required to resubmit new documents. In addition, at the stage of this examination, not only the Ministry of Justice but also the JFBA is consulted, and the applicant may be required to respond to requests depending on the response of the JFBA to the inquiry.

Q15. Is it necessary to secure a residence in Japan and complete the move by the time the application is submitted?

A15. Having a residence in Japan is a prerequisite for qualification approval.

If the applicant has not secured a residence in Japan by the time the application documents are submitted to the Ministry of Justice, the applicant must submit a written statement to the effect that a residence will be secured by the time of receipt of approval, and submit a certified copy of the real estate registry of an owned residence, or a lease agreement, or other documents to prove that a residence has been secured by the time of receipt of approval.

However, it is only necessary to secure a residence at the time of the application, and it is not necessary to apply for approval with an address in Japan, nor is it necessary to have already obtained a status of residence.

Please also refer to Q49 below for practical issues regarding housing in Japan.

Please note that a registered foreign lawyer must stay in Japan for at least 180 days a year after registration.

[Reference] GJB Act, Article 10, paragraph 1, item 3, Article 48. Manual, pp. 43 and following.

Q16. What will be the status of residence in Japan? Is it different before and after registration?

A16. This is not an issue for the registration of a registered foreign lawyer, but a status of residence issue for whether you can stay in Japan, so it is determined according to each individual situation. In more detail, some examples of status of residence prior to being registered as a registered foreign lawyer are "Engineer/Specialist in Humanities/International Services", "Highly-Skilled Professional", "Spouse or Child of Japanese National", etc. After registering, you can use "Legal/Accounting Services". A person who has already acquired permanent residence in Japan can stay in Japan under the status of residence of "Permanent Resident".

Q17. What should be decided when submitting an application?

A17. For example, it is necessary to consider which local bar association you will join, and if you are qualified as a foreign lawyer in more than one country, which country will be the primary qualification country. As described in Q9 above, compliance with the approval standards is required, and methods for meeting these requirements should be considered and prepared.

In addition, in order to perform legal services concerning designated laws other than the law of primary qualification, an application for designation of designated laws may be made at the same time as the application for approval.

Q18. What documents are required for an approval application?

A18. In addition to the prescribed application form, you need to submit the attached documents. The necessary documents are prescribed by laws and regulations. Part of the application form and attached documents must be prepared in the form prescribed by laws and regulations, and the Ministry of Justice also provides a model for other standard attached documents. In addition, you may be asked to submit additional materials depending on each individual case. Please kindly understand that it is difficult to write all the details here because there are various countries and regions.

If the documents to be submitted are prepared in a foreign language, Japanese translation with a translation certificate must be attached.

[Reference] GJB Act, Articles 9 and 17. Articles 4, 13, 14 and 17 of the GJB Act Enforcement Regulations; Appended Form. Manual, pp. 17 and 27.

Q19. I have heard that the applicant in person is required to bring documents to the Ministry of Justice for the approval application (formal application). Why can't I apply through a representative?

A19. When applying for approval, your identity will also be confirmed, and you are required to bring your passport or other identification document, and you are also required to confirm the contents of your oath by reading aloud the oath (see Q21 below.) included in the attached documents in front of a Ministry of Justice personnel. Therefore, the applicant must appear in person at the Ministry of Justice for the formal application.

In order to facilitate the procedures for the application, the Ministry of Justice encourages the applicant to inform the desired date of appearance in advance.

[Reference] Manual, pp. 15 and 16.

Q20. I understand most Japanese, but I can't speak it fluently. Can I have an interview in English?

A20. The application process for qualification approval is conducted in Japanese. If you have difficulty speaking in Japanese, you will need to bring an interpreter.

[Reference] Manual, p. 15.

Q21. What is the content of the oath?

A21. The oath is a document pledging that (1) you are not a person listed in each item of Article 7 of the Attorney Act, (2) you are not a person listed in Article 10, Paragraph 1, Item 2 (a) to (d) of the GJB Act, and (3) you will perform your duties faithfully. Of these, (1) and (2) are pledges that there are no grounds for disqualification.

The form can be found on the website of the Ministry of Justice (see the below URL).

http://www.moj.go.jp/housei/gaiben/housei07_00028.html

[Reference] GJB Act Enforcement Regulations, Article 4, Paragraph 2; Appended Form.

Q22. Reference Form 1-2 states that "The applicant provided services [in Japan] and did not provide legal services to clients." but I am not sure what that means. Please explain.

A22. As described in Q6 above, if you are employed in Japan by a Japanese attorney-at-law, a legal professional corporation, a registered foreign lawyer or a registered foreign lawyer corporation and you wish to provide your employer with advice on the laws of the country in which you obtained your qualification, you may do so even before you are registered as a registered foreign lawyer, as long as it does not violate the Attorney Act. The words "The applicant provided services [in Japan]." in reference form 1-2 refers to a case where the applicant has offered services that are possible even before being registered, and the words "not providing legal services to clients" means that the applicant has not engaged in any conduct that is not permitted before being registered as a registered foreign lawyer.

[Reference] Manual, p. 40.

Q23. In what case should I submit Reference Form 2? How is Reference Form 1-2 related?

A23. Reference Form 2 is a report where the applicant states that, in the case where the applicant was employed in Japan by a Japanese attorney-at-law, a legal professional corporation, a registered foreign lawyer or a registered foreign lawyer corporation and advised the employer on the laws of the country in which qualification was obtained, the activity did not require registration as a registered foreign lawyer and did not include provision of legal advice to clients. Reference Form 2 is required to be submitted even if the provision of services in Japan is not included in the three years of professional experience which is one of the approval standards.

On the other hand, Reference Form 1-2 is prepared by the employer of the applicant in the case where the provision of services in Japan is included for the three years of professional experience, in order to certify that the provision of services, etc., in Japan was actually done.

[Reference] Manual, p. 40.

Q24. In the case where proof of the existence of a financial base is made with assets of the office to which I belong, what kinds of documents need to be submitted?

A24. In the case of a proof of assets of an individual applicant, a certificate of bank balance, etc., is sufficient; however if the certification is based on the assets of a third person (such as an employer, etc.), you must submit a pledge by the third person who will provide financial supports, together with a document indicating that the third person has the financial resources (i.e., most recent accounting report or a letter from an audit firm evaluating its financial condition). Although the most recent accounting report is usually accepted without problems, in the case of an evaluation report prepared by an audit firm, it is recommended that you submit a draft of the audit firm letter and consult with the Ministry of Justice. In addition, in the case of an office that makes multiple applications for registration of registered foreign lawyers, there is also a system in which it is sufficient

to refer to commonly submitted materials (i.e., you can avoid repeated submissions of the same documents) when making an individual application.

[Reference] Manual, pp. 44 and 46.

Q25. In the case where an audit corporation submits a financial status letter to the Ministry of Justice, what is the relevant time that must be certified?

A25. As a general rule, proof must be provided as to the financial figures at the end of the fiscal year that have been most recently finalized. However, if a certain period has elapsed since the end of the term, the Ministry of Justice may request you to obtain certification again, so it is recommended that you consult with the Ministry of Justice in advance.

Q26. Do I need to submit the original copy of the attorney liability insurance certificate?

A26. A copy is enough. In lieu of the attorney liability insurance certificate, you may submit a certificate of insurance coverage (in this case, the original copy is required) issued by the insurance company with which you have an insurance contract.

If you are not covered by insurance at the time of application for approval, you must submit a written petition pledging that you will be covered by insurance, and a copy of your policy will be submitted before approval is obtained.

If you are unable to submit an original copy of the above "certificate of insurance" (in the case where the insurance certificate issued by the insurance company cannot be obtained each time), please consult with the Ministry of Justice.

[Reference] Manual, p. 45.

Q27. I think I have prepared all the documents in the Ministry of Justice Manual. Is there anything else I should submit?

A27. As described in Q14 above, depending on the case, you may be asked to submit supplementary materials, etc., in addition to the documents set forth in the Manual. For example, in a case where professional experience in a third country other than the country of primary qualification is included in the three years of professional experience, the applicant is required to submit evidence, such as a letter proving that he/she is permitted to practice based on his/her primary qualification in such third country, and a copy of the supporting text of the relevant law of such third country. Similarly, in the case where the law of primary qualification is the law of a state in the United States and practice experience in another state is included in the three year of professional experience, the applicant will be requested to submit material that he/she is permitted to practice as a practicing attorney in the state of the practice experience. In the case where information on the website of the office is found to be problematic at the examination stage, even though the applicant is not engaged in illegal activities, there may be various additional requests, such as a request to submit a report stating that the applicant is not engaged in activities that violate laws and regulations.

Q28. If I have the latest information, can I use a certification document from several years ago?

A28. A certificate such as a Good Standing Certificate for qualification of the primary qualification country must be within the validity period of the relevant document and the content must not have changed. In addition, as a general rule, it is desirable that the document be acquired within three months prior to the date of acceptance by the Ministry of Justice for the preliminary examination or formal application, as applicable. In addition, the required number of copies of the certificate may be multiple, so please check with the Ministry of Justice in advance.

Even if a document is issued only once at the time of acquisition of the qualification, in principle, it is required to submit a document obtained within the preceding three months, so it may be necessary to consult with the Ministry of Justice about handling for specific individual circumstances, such as submitting a written report to the effect that documents issued within the preceding three months are not available and that the applicant thus submits documents dated in the past.

[Reference] Manual, p. 35.

Q29. From the initial consultation with the Ministry of Justice, for various reasons it took more than six months to apply for approval. Can I apply only with the documents arranged at the beginning of the consultation?

A29. As described in Q28, documents must be within the valid period at the time of the formal application. Therefore, even documents that have been submitted at the time of preliminary examination must be reacquired if the validity period has expired at the time of the formal application. For example, in the case of a document that represents a guarantee or proves a person's ability to pay, it may be necessary to reacquire the document after several months have passed, so it is necessary to check with the Ministry of Justice beforehand.

Q30. After visiting Japan to apply for approval, do I need to stay in Japan until all procedures are completed?

A30. As described in Q19 above, it is necessary for the applicant to visit Japan temporarily in order to appear at the Ministry of Justice at the time of application for approval, however, the applicant is not required to stay in Japan continuously during the preliminary examination period or after the formal application process.

However, please note that, after you are registered as a registered foreign lawyer, you must stay in Japan for at least 180 days a year.

[Reference] GJB Act, Article 48.

Q31. Including these procedures at the Ministry of Justice, how long will it take to obtain qualification and registration as a registered foreign lawyer?

A31. With regard to the procedures for qualification approval, the Ministry of Justice has announced a standard processing period of two weeks or less for the preliminary

examination procedure and two months or less for the approval examination procedure after the submission of the formal application. The approval examination process (within two months) includes a period to request an opinion from JFBA. However, the above standard processing period is regarded as a guide, and may differ from case to case. In addition, it may take longer in the case of any doubt or issue in the application contents.

In practice, in the preliminary examination or prior consultation before formal application, the necessary documents are requested and examination is conducted with respect to the law of primary qualification, and after these issues and documents are resolved or prepared, the preliminary examination or the formal application for approval is started, but the above standard processing period does not include the period of prior preparation.

In addition, as described in Q36 and below, after examination by the Ministry of Justice is completed, you need to apply to the JFBA for registration on the Registered Foreign Lawyers List and obtain registration through a local bar association. Therefore, in practical terms, it takes at least six months, usually more than eight months, to complete the registration of a registered foreign lawyer from the time consultation is started with the Ministry of Justice, and it takes more time if you are requested additional documents or explanations, etc.

[Reference] Manual, p. 12.

Q32. Is there any possibility that these procedures will not be completed within the above period? If it takes time, what is the reason?

A32. The Ministry of Justice holds a committee meeting once a month to examine both application for preliminary examination and the formal application after the documents are accepted. Comments on the formal application will be invited from the JFBA, and the JFBA (and the local bar association) will present its opinion. In addition, after approval by the Ministry of Justice, the JFBA and local bar association separately examine the registration of the registered foreign lawyer. At that time, the JFBA will examine the case at its monthly meeting and the JFBA Board of Directors will approve it.

In the case where it is necessary to amend or add to the application documents after the application is submitted and submission of the documents is not made by the monthly committee meeting of the Ministry of Justice or the JFBA, it will be necessary to wait for the succeeding monthly meeting, taking more time, and the examination may not be completed within the above-mentioned period.

Q33. How much will these procedures cost?

A33. The application fee for qualification approval of the Ministry of Justice is 27,500 yen, and the application fee for designation of a designated law is 13,400 yen. There is no fee for a preliminary examination. In addition to these fees, actual fees, etc., for issuing various certificates will be incurred.

The above does not include the admission fee, etc., for the JFBA or the local bar association (see Q41 below).

[Reference] Articles 1 and 2 of the Ordinance on Fees Related to the Act on Special Measures Concerning the Handling of Legal Services by Foreign Lawyers.

Q34. When the Minister of Justice qualification is approved, will I learn that by notice?

A34. In the case where the Ministry of Justice decides to approve the qualification after receiving the approval application and determining whether to approve the application upon receiving the opinion of the JFBA, the applicant will be notified to that effect. Public notice is also made in the Official Gazette.

[Reference] GJB Act, Article 10, paragraph 4, Article 11. Manual, p. 19.

Q35. What procedures should I take after receiving notice of qualification approval?

A35. After the Minister of Justice approves the qualification, it is necessary to apply for registration on the Registered Foreign Lawyers List kept at the JFBA. Necessary materials must be submitted to the JFBA through the local bar association within six months from the day following the notification of approval.

Please keep in mind that you will be able to work as a registered foreign lawyer after you have completed the registration of a registered foreign lawyer with the JFBA, not when you receive the notice of approval from the Ministry of Justice.

[Reference] GJB Act, Articles 12, 24 and 25. Manual, p. 19.

3. Registration with a local bar association and the JFBA

Q36. I have heard that applications to register with the JFBA are made through a local bar association. Can I apply to any local bar association?

A36. It is possible to apply for registration through any local bar association in the location of your office. You will become a member of the JFBA and the local bar association when you are registered on the Registered Foreign Lawyers List after applying for registration with the JFBA through the local bar association. Usually, you will apply for registration through the local bar association you wish to join which is indicated in the application form for qualification approval submitted to the Ministry of Justice.

Q37. I heard that all documents should be submitted to the local bar association. Where can I contact it?

A37. In the case of Ichi-ben, the membership section is in charge. Please come to the Ichi-ben office on the 11th floor of the Lawyers Building in Kasumigaseki, or feel free to contact us by telephone (Tel: 03-3595-8580) (please note, handling is in Japanese). The staff will kindly handle your inquiry.

Reception hours: 9:30 - 12:00, 13:00 - 16:30

Telephone reception hours: 9:30 - 12:00, 13:00 - 17:00

Q38. Is it necessary for the applicant to appear in person when contacting or applying for registration with Ichi-ben? Also, please tell me the necessary documents for a registration application.

A38. A representative or staff can contact and apply for registration to Ichi-ben and the applicant does not have to appear in person. The registration application documents must be submitted at the Ichi-ben counter.

The necessary documents for registration application are posted at the following URL of the JFBA, so please download and fill out the application.

https://www.nichibenren.or.jp/jfba_info/membership/foreign/about_registration.html

You can also contact Ichi-ben to get a list of required documents and forms. Each bar association has its own set of required documents (for example, the number of required copies of the original Good Standing Certificate in the country of primary qualification may differ), so please be sure to confirm the necessary documents for Ichi-ben.

The following documents are required for registration application.

- (1) Membership Application Form (addressed to Ichi-ben)
- (2) Request for Registration in the Registered Foreign Lawyers List
- (3) Attached documents
 - i. resume
 - ii. a document certifying qualification to become a registered foreign lawyer
 - iii. a document stating award/punishment received as a foreign lawyer and evaluation of the career as a foreign lawyer by the supervisory authority in charge of professional duties
 - iv. a document proving that the applicant does not fall under any of the items of Article 7 of the Attorney Act
 - v. letter of recommendation

(Note) Two recommendations from Japanese attorneys-at-law and/or registered foreign lawyers belonging to Ichi-ben are required.
 - vi. written pledge
 - vii. photo (1 photo of 11.5 cm long by 8 cm wide, and 3 photos of 9 cm long by 6 cm wide. Photographs must be taken within six months before the application.)
 - viii. documents specified in Article 11, Paragraph 3, of the Basic Rules for Foreign Special Members
 - ix. documents and materials specified in Article 11, Paragraph 4, of the Basic Rules for Foreign Special Members (Pledge 9 -1, Pledge 9 -2)
 - x. notification of professional name and application for permission of use (when a professional name is used)

Q39. If I open a registered foreign lawyer office in Tokyo, to which of the three local bar associations in Tokyo can I apply for registration?

A39. You can apply for registration through any of the three local bar associations in Tokyo.

Q40. How long does it take for a registration to be granted after applying for registration at the local bar association? Is there any difference in the required time depending on which of the three local bar associations in Tokyo I apply to?

A40. It takes approximately one to two months for a registration to be granted after all the necessary documents have been completed and the application has been accepted by the local bar association.

At JFBA, a committee meeting held once a month will make the examination and the JFBA Board of Directors will approve it.

There is no particular difference in the required time depending on which of the three local bar associations in Tokyo.

Q41. Could you tell me about the admission fee and membership fee?

A41. The registration fee to the JFBA is 30,000 yen, the admission fee to Ichi-ben is 30,000 yen, and the registration and license tax is 60,000 yen. If you apply for a designated law at the same time, it costs 5,000 yen for each additional qualification. In addition, actual expenses for photographs, etc., will be incurred.

The bar association fee (total membership fees for JFBA and Ichi-ben) after registration is 27,950 yen per month, and the special membership fee for the new hall is 10,000 yen per month (where applicable*).

* New members after April 2018 and certain other members are exempted from paying the special membership fee for the new hall.

Q42. Please tell us about your efforts regarding registration procedures for registered foreign lawyers.

A42. At Ichi-ben, we provide support to enable more registered foreign lawyers to become members of this association.

If you have any questions about the approval by the Ministry of Justice or registration in our association, please do not hesitate to contact our member's section (see Q37 above). You can also visit the office of Ichi-ben on the 11th floor of the Lawyers Building in Kasumigaseki, or you can make an inquiry by telephone.

Ichi-ben is also working to improve the system in order to reduce the burden on registered foreign lawyers and the staff of law firms handling registration procedures. Examples of recent initiatives are shown below, and we will continue to make efforts to improve the system in response to requests.

(1) Registration of a registered foreign lawyer was a matter for resolution of the regular assembly, but it was changed to a resolution of the chairman and vice-chairman of the board of directors so that registration procedures can proceed more flexibly (FY2017).

(2) We eliminated the need for an accompanying interpreter at the swearing-in ceremony (see Q53 below) held at the time of Ichi-ben registration (FY2020).

(3) Regarding the qualification of a recommender required to apply for registration as a registered foreign lawyer (see Q38 above, item (3), attached document v.), the related rules were revised so that it is possible for not only an attorney-at-law (bengoshi) member of Ichi-ben but also a registered foreign lawyer member of Ichi-ben to be a recommender (FY2020).

Q43. Is there a case where registration as a registered foreign lawyer is refused even though approval of qualification is obtained from the Minister of Justice?

A43. Registration may be refused if there is a risk that the applicant may damage the order or reputation of the local bar association or the JFBA, or if the applicant falls under any of the following and there is a risk that the applicant may lack the aptitude to perform the duties of a registered foreign lawyer:

(1) When there is a mental or physical disability;

(2) If a person who received a disposition under Article 7 (iii) of the Attorney Act makes a request for registration after three years have elapsed from the date of such disposition.

Q44. I belong to a law firm overseas, and in that law firm people other than lawyers are also given equity and voting rights. Will this possibly affect my registration as a registered foreign lawyer?

A44. In Japan, the prohibition of tie-ups with non-attorneys also applies to a registered foreign lawyer, which may cause issues when a registered foreign lawyer who belong to an ABS (Alternative Business Structure, meaning a form of law firm that grants equity and voting rights to persons other than lawyers) provide legal services concerning foreign laws in Japan.

As a result, the JFBA regulations prohibit a registered foreign lawyer from belonging to investment-type ABS (i.e., an ABS that allows contributions from non-attorneys who do not participate in the business of the law office). In addition, belonging to a participatory ABS (i.e., an ABS that allows non-attorneys who participate in the business of the law office to make contributions) is only allowed under certain strict requirements. If you continue to belong to a prohibited organization, you will be disqualified as a registered foreign lawyer even if you obtain approval from the Minister of Justice.

In the case where an applicant for registration belongs to a foreign business entity for the purpose of handling legal services, the applicant must submit certain documents to show that the business entity does not fall under the aforementioned category of a prohibited business entity at the time of application for registration.

You can request prior confirmation by the JFBA of such documents by submitting drafts at the same time of, or prior to, submitting the application for preliminary examination by the Ministry of Justice.

Please refer to the link below for more information.

https://www.nichibenren.or.jp/jfba_info/membership/foreign/abs_info.html

4. Precautions for Application

Q45. Is there anything to which I should pay particular attention when applying for approval or registration to the Registered Foreign Lawyers List?

A45. Before or while applying for approval or registration, you need to pay attention to various aspects, such as items to be posted on your website, the description on business cards, the place of residence in Japan, etc. The details are set out below.

Q46. What should I keep in mind when posting information on the website before or while applying for qualification approval or registration?

A46. Prior to being registered as a registered foreign lawyer, you are not allowed to provide legal services even if they are related to the law of primary qualification, and the violation will be subject to criminal punishment.

In addition, if you are illegally engaged in legal services, you may not be able to obtain approval for qualification as you lack the "intention to perform duties faithfully" (Article 10, paragraph 1, item (3) of the GJB Act), a requirement for approval.

In light of the above points, an applicant should be careful not to conduct legal services including those related to the law of primary qualification, and should also avoid making any statements on the website that could lead to any misunderstanding that you are conducting illegal legal services.

The Ministry of Justice warns that it will always undertake a check of the website in its examination. It seems that the point of the check is whether there is any expression that the applicant is providing legal services to clients or representing clients in Japan before being registered as a registered foreign lawyer.

In the case of a partner, if the applicant has been listed as a partner in Japan since before a transfer to Japan, there may be a doubt about whether legal services are being provided to clients or representation on behalf of clients in Japan is occurring. We have heard that even if you are an associate, it may be deemed problematic to describe your experience in dealing with large-scale projects if you cite the names of Japanese companies and cases.

In addition, in a case where a foreign lawyer stays in Japan for a long period of time and provides assistance to Japanese attorneys-at-law or registered foreign lawyers, labeling such person as a "New York State attorney" without providing an explanation on this point may cause doubt that illegal legal services are being provided by the applicant, and should be avoided.

Q47. What should I be careful of when making business cards before or while applying for qualification approval or registration?

A47. As in Q46, you should avoid any statements that might give rise to the misconception that you are engaged in illegal services in Japan when you are not yet qualified as a registered foreign lawyer.

Q48. If in the past, in an application for registration with the JFBA after obtaining approval of qualification by the Minister of Justice, the examination took longer than expected or problems were pointed out, please let us know to the extent possible.

A48. Since the examination meeting is held once a month, the time until examination tends to be long depending on the timing when documents are submitted and accepted, and if there is any problem in the submitted documents, the period is prolonged each time. You should count on two to three months.

Q49. I am moving to Japan from overseas, and is there anything of which I should be aware?

A49. As described in Q15 above, it is necessary to secure a residence in Japan in order to apply for registration with the Ministry of Justice.

Furthermore, at the point of time when registration as a registered foreign lawyer has not been completed based on the approval of the Ministry of Justice, the provision of legal services in Japan and receipt of distribution of remuneration for legal services from Japanese attorneys-at-law and registered foreign lawyers is prohibited.

In particular, if you are planning to work in Japan as a partner, one way to do this is to secure a residence in Japan when you apply for qualification and then start living in Japan as late as possible. It is advisable to consult with the official in charge at the Ministry of Justice during the preliminary examination regarding the timing of your move to Japan.

Q50. I hope to open my own office by myself in Japan. In that case, what points should I keep in mind?

A50. The Manual explains the necessary documents for the case of a solo practice. If you have any questions, you can consult with the Ministry of Justice in advance, or feel free to contact the Ichi-ben members section (see Q37).

[Reference] Manual, pp. 17 and 42.

Q51. Are there any opportunities for registered foreign lawyers to interact with each other in Japan? I would also like to participate in exchanges of information in Japan.

A51. The International Business Committee of Ichi-ben, in cooperation with the Tokyo Bar Association and the Daini Tokyo Bar Association, holds international seminars and parties every year for the purpose of exchanges between registered foreign lawyers and Japanese lawyers. (We decided not to hold this event in 2020 due to the COVID-19 pandemic.).

5. Procedures after registration is granted

Q52. After the registration is granted by the JFBA and the local bar association, are there any other necessary procedures?

A52. You will be able to start working as a registered foreign lawyer upon receipt of notification of registration from the local bar association. After registration, you need to submit a notification concerning establishment of an office to the Ministry of Justice.

After that, you will be required to notify the Minister of Justice when there is a change in certain facts, and you will be required to submit certain documents to the Minister of Justice every two years even if there is no change (so-called "Biennial Report").

[Reference] Article 9 of the GJB Act Enforcement Regulations. Manual, pp. 65-71.

Q53. I heard that there is a swearing-in ceremony when joining Ichi-ben. What kind of procedure is this?

A53. In Ichi-ben, new member Japanese attorneys-at-law and registered foreign lawyers assemble and take a swearing-in ceremony. The swearing-in ceremony is a traditional event that has been held since 1933, ten years after Ichi-ben was founded.

In the swearing-in ceremony, after the new member representative reads the oath and each new member signs the oath and the signature book, the president of Ichi-ben explains the purpose of the rules of the association and the chairman of the regular assembly gives a congratulatory address, to which the new member representative presents a greeting.

Q54. If I cannot speak Japanese, do I need to bring an interpreter to the swearing-in ceremony?

A54. Handling has changed since August 2020, and now there is no need to bring an interpreter to the swearing-in ceremony.

For registered foreign lawyers who are not familiar with the Japanese language, we have prepared documents with English translation of the written oath, greetings and congratulatory messages at the swearing-in ceremony.

In order to clarify the handling of the above, at the general meeting of members held in February 2021, the relevant rules were amended to the effect that interpreters would not be required for statements of registered foreign lawyers who do not speak Japanese, when allowed by Ichi-ben.