

100 年公務人員特種考試司法人員考試試題

等 別：三等考試

類 科：各類科

科 目：法學知識與英文 (包括中華民國憲法、法學緒論、英文)

- (D) 1. 下列何者為大法官解釋認為係屬憲法第 22 條之非明文列舉權利？
(A)商業性言論、誹謗性言論
(B)職業選擇自由、契約自由
(C)商業性言論、性言論之表現自由
(D)隱私權、契約自由
- (C) 2. 司法院大法官釋字第 649 號解釋中，認為「非視覺功能障礙者，不得從事按摩業。」之法律規定，違反下列何項憲法基本權之保障？
(A)生存權 (B)人身自由 (C)平等權 (D)應考試之權
- (A) 3. 菸害防制法規定菸品所含之尼古丁及焦油含量，應以中文標示於菸品容器上。涉及下列何種基本權利？
(A)不表意之自由 (B)禁止不當聯結
(C)不工作之自由 (D)吸菸之行動自由
- (C) 4. 依公民投票法之規定，下列何者並無公民投票案之提案權或公民投票之交付權？
(A)總統 (B)立法院 (C)縣(市)議會 (D)中華民國國民
- (A) 5. 依司法院大法官釋字第 471 號解釋，對於違反槍砲彈藥刀械管制條例之行為人，一律交付強制工作 3 年，不符合下列何種原則？
(A)比例原則 (B)法律優位原則 (C)法律保留原則 (D)信賴保護原則
- (D) 6. 外國人是否可以在我國請求國家賠償？
(A)可以，並無限制
(B)不可以
(C)有繳稅即可
(D)我國國民得在該國與該國人享受同等權利者，則可以請求
- (A) 7. 依大法官解釋，臨檢實施之手段包含檢查、路檢、取締或盤查等，影響人民之何種基本權利？
(A)行動自由、財產權及隱私權 (B)秘密通訊自由及營業自由
(C)財產權、營業自由及契約自由 (D)秘密通訊自由及隱私權
- (C) 8. 依司法院大法官釋字第 442 號解釋，公職人員選舉罷免法規定選舉訴訟採二審終結且不得提起再審之規定，係：
(A)違反正當法律程序之要求 (B)非為增進公共利益所必要
(C)符合選舉訴訟事件之特性 (D)對人民訴訟權過度之限制
- (B) 9. 總統依法行使大赦時，須經何種程序？
(A)由總統逕行頒布
(B)由行政院會議議決及立法院通過
(C)由總統令行政院轉令主管部會執行
(D)由司法院提出，總統同意後公布
- (A) 10. 總統候選人之一於登記截止後至選舉投票日前死亡，中央選舉委員會應如何處理？ (A)
(A)公告停止選舉，並定期重行選舉
(B)繼續進行選舉程序
(C)依職權判斷是否對於該次選舉有重大影響而決定是否停止選舉
(D)公告無限期停止選舉
- (B) 11. 有關行政院院長與各部會首長間關係之敘述，下列何者正確？
(A)各部會首長獨立行使職權，不受行政院院長之指揮監督
(B)行政院院長辭職時，各部會首長亦應一併辭職

公職王歷屆試題 (100 司法特考)

- (C)各部會首長為行政院院長之幕僚，無法獨立對外作成決策
(D)總統發布各部會首長之任免命令，無須行政院院長之副署
- (D) 12. 關於立法院各種委員會在邀請地方自治團體行政機關有關人員到會備詢時之敘述，下列何者正確？
(A)不論法律是否規定，地方自治團體行政機關公務員拒不到會備詢時，立法院得刪減中央機關對地方自治團體補助款預算
(B)不論法律是否規定，地方自治團體行政機關公務員拒不到會備詢時，立法院得擱置中央機關對地方自治團體補助款預算
(C)除法律明定應到會備詢者外，地方自治團體行政機關公務員一律不得到會說明及備詢
(D)除法律明定應到會備詢者外，地方自治團體行政機關公務員得衡酌到會說明之必要性，決定是否到會
- (A) 13. 關於法律違憲審查制度，我國是採取何種設計方式？
(A)司法院大法官獨占法律之違憲宣告權
(B)各級法院法官均得為法律違憲之宣告
(C)司法院大法官以及最高法院法官均得為法律之違憲宣告
(D)法律牴觸憲法者應不予適用，任何機關均得為無效之宣告
- (B) 14. 國家機關之職權、設立程序及總員額，依憲法增修條文之規定，得以法律為準則性之規定，係涉及下列何種憲法上之原則？
(A)平等原則 (B)法律保留原則 (C)信賴保護原則 (D)比例原則
- (A) 15. 依司法院大法官釋字第 553 號解釋，我國司法院大法官所掌之違憲審查案件，原則上不包括下列那種案件之審查？
(A)行政處分違憲 (B)政黨違憲 (C)法律違憲 (D)自治法規違憲
- (C) 16. 自然法之思想源遠流長，在不同的時代有不同的主張，下列敘述何者不屬於自然法的思想？
(A)神、自然、理性都是自然法的法源
(B)法是本於人類理性而產生，無待於國家之制定
(C)法有其個別性，隨各民族之文化而生變異，並非一成不變的規範
(D)法具有不因時地而變異的普遍妥當性
- (B) 17. 下列有關法律不溯及既往原則之敘述，何者錯誤？
(A)為法律適用之原則，故不論在公法或私法領域均有其適用之餘地
(B)在刑法領域應無例外地適用
(C)其目的在維護既得權益，故在尊重既得權之前提下立法者得制定溯及既往之法律
(D)刑法第 1 條「行為之處罰，以行為時之法律有明文規定者為限」，是法律不溯及既往原則之表現
- (A) 18. 依著作權法之規定，下列關於著作人格權之敘述，何者錯誤？
(A)著作人死亡者，關於其著作人格權之保護，視同消滅
(B)著作人於著作公開發表時，有表示其本名、別名或不具名之權利
(C)著作人格權專屬於著作人本身，不得讓與或繼承
(D)依學位授予法撰寫之碩士、博士論文，著作人已取得學位者，推定著作人同意公開發表其著作
- (D) 19. 下列敘述，何者非為司法機關適用法律之原則？
(A)不得以法律不明確、不完備而拒絕審判
(B)一事不再理原則
(C)不告不理原則
(D)法官依法獨立審判，可以拒絕適用違憲疑慮之法律
- (B) 20. 依性別工作平等法中「促進工作平等措施」專章之規定，下列敘述何者錯誤？
(A)女性受僱者因生理日致工作有困難者，每月得請生理假 1 日，其請假日數併入病假計算

公職王歷屆試題 (100 司法特考)

- (B)受僱者於配偶分娩時，雇主應給予陪產假 2 日，陪產假期間不發給工資
- (C)子女未滿一歲須受僱者親自哺乳者，除規定之休息時間外，雇主應每日另給哺乳時間 2 次，每次以 30 分鐘為度
- (D)受僱者於其家庭成員預防接種、發生嚴重之疾病或其他重大事故須親自照顧時，得請家庭照顧假，全年以 7 日為限
- (D) 21. 關於刑法中罪刑法定原則之實質內涵，下列敘述何者錯誤？
- (A)習慣不得作為刑事審判的直接法源
- (B)否定絕對不定期刑
- (C)禁止類推適用
- (D)絕對禁止溯及既往
- (B) 22. 依目前民法親屬編之規定，下列何種婚姻是屬於絕對無效之法律行為？
- (A)男未滿 18 歲女未滿 16 歲而結婚者
- (B)公開儀式結婚但未向戶政機關登記者
- (C)未曾訂定婚約即結婚者
- (D)未成年人結婚未得法定代理人同意者
- (C) 23. 關於公務員之懲戒處分，下列敘述何者錯誤？
- (A)九職等公務員之記過與申誡得逕由主管長官行之
- (B)掌理公務員懲戒之機關為司法院公務員懲戒委員會
- (C)所有懲戒處分皆不適用於政務官
- (D)撤職與休職均為懲戒處分之類型
- (B) 24. 法律的制定首要程序為法律案的提出，下列關於提出法律案之敘述，何者錯誤？
- (A)立法委員提出法律案，應有 15 人以上之連署
- (B)交通部就其執掌事項有向立法院提出法律案之權
- (C)司法院就其所掌有關司法機關之組織及司法權行使之事項，得向立法院提出法律案
- (D)法律案之提出，應以書面為之，不得以口頭敘述替代
- (A) 25. 有關普通法與特別法之敘述，下列何者正確？
- (A)必須二種以上法律就同一事項均有規定，且其規定內容不同，始有比較之必要
- (B)普通法與特別法的區別係屬絕對
- (C)刑事訴訟法是刑法的特別法
- (D)普通法與特別法的關係不可能存在於同一法典的不同條文中
- (B) 26. 下列何者不是刑事制裁中刑罰之手段？
- (A)追徵、追繳或抵償
- (B)沒入
- (C)罰金
- (D)褫奪公權
- (D) 27. 依家庭暴力防治法之規定，下列何者為緊急保護令之聲請權人？
- (A)被害人
- (B)利害關係人
- (C)社會福利機構
- (D)檢察官
- (B) 28. 有關職業災害補償，下列敘述何者錯誤？
- (A)受僱人只須受僱於雇主即可，即使未另訂補償契約，亦有可能成立職業災害補償
- (B)雇主須有故意或過失，始有可能成立職業災害補償
- (C)即使受僱人與有過失，亦不得酌減補償金額
- (D)受僱人因職業災害而致財物毀損者，不屬於職業災害之補償範圍
- (D) 29. 下列何種權利有消滅時效制度之適用？
- (A)抵押權
- (B)質權
- (C)留置權
- (D)繼承回復請求權
- (B) 30. 關於著作人之著作，下列那些權利專屬於著作人本身，不得讓與或繼承？甲：編輯著作權、乙：公開發表權、丙：公開展示權、丁：公開演出權、戊：姓名表示權、己：同一性保持權
- (A)甲戊己
- (B)乙戊己
- (C)乙丙戊
- (D)乙丁己
- (C) 31. Most religions teach that we should have _____ for the poor, the weak, and

the unfortunate.

(A) association (B) bisection (C) compassion (D) obsession

(A) 32. The body temperature of crocodiles is not _____, so they have to warm themselves in the sun during the day.

(A) constant (B) accurate (C) falling (D) mild

(D) 33. My boss came from an impoverished family and he attributed his success to his parents' strict _____.

(A) emulation (B) mentality (C) ordinance (D) upbringing

(C) 34. Citizens of the tiny Himalayan kingdom of Bhutan _____ challenges, especially when it comes to archery, the country's beloved national sport.

(A) detest (B) forsake (C) relish (D) withdraw

(B) 35. Clothing in Western society is _____. When we dress in the prevailing fashion, we are both trying to conform, yet simultaneously, to individualize ourselves.

(A) ambiguous (B) paradoxical
(C) philosophical (D) redundant

(D) 36. The 2-year-old child is happily playing with his new toy. Obviously, he does not realize _____.

(A) his parents to leave him (B) his parents leaving him
(C) his parents be leaving him (D) that his parents are leaving him

Attitudes of intolerance towards homosexuality have been so pronounced in the past that it is only during recent years that some of the myths surrounding the subject have been dispelled. Homosexuality is not a sickness and is not distinctively associated with any forms of psychiatric disturbance. Homosexual males are not limited to any particular _____ 37 _____ of occupations, such as hairdressing, interior decorating, or the arts. Like the terms racism and sexism, heterosexism refers to the process by which non-heterosexual people are categorized and discriminated against on the basis of their sexual _____ 38 _____. Homophobia describes a fear of and _____ 39 _____ for homosexual individuals. _____ 40 _____ homosexuality is becoming more accepted, both heterosexism and homophobia remain ingrained in many realms of Western society; antagonism towards homosexuals _____ 41 _____ in many people's emotional attitudes. Instances of violent assault and murder of homosexuals remain all too common. For this reason, many homosexual groups are campaigning to have anti-homosexual acts classified as "hate crimes."

(C) 37. (A) factor (B) censor (C) sector (D) mentor

(B) 38. (A) deception (B) orientation (C) contraction (D) abstraction

(D) 39. (A) reverence (B) ecstasy (C) apathy (D) disdain

(D) 40. (A) As (B) If (C) Because (D) Although

(B) 41. (A) falters (B) persists (C) expires (D) collapses

(A) 42. It was not until the 1970s, when ranchers began acquiring bison with an eye toward encouraging a boutique meat market, that the species rebounded in significant numbers.

(A) The population of bison increased a lot in the 1970s because ranchers saw the potential of bison as a kind of meat on the table and started to raise them on their farms.

(B) Bison eyes became a popular item in many jewelry stores in the 1970s when ranchers developed an interest in purchasing bison.

(C) Many one-eyed bison boutiques were opened in the marketplace in the 1970s,

which contributed to the fast growth of the species on ranches.

(D) There was a big increase in the numbers of the bison species in the 1970s when ranchers started to appreciate its beauty.

(D) 43. The presence of a lovely animal can be _____ for the elderly who live by themselves.

(A) aggravating (B) disrespectful (C) domesticated (D) therapeutic

(B) 44. More damaging are the little violations of ethical standards forced on managers or other employees who are asked every day to sacrifice personal values for company gain.

(A) Management will be at stake while little sacrifice on workers' personal values is forced to happen.

(B) Employees' little sacrifice on personal values for company gain is considered more damaging.

(C) Employees sacrifice their values to rescue the damaging ethical standards in companies.

(D) Ethical standards being violated means more damage of the company gain.

(C) 45. The green fairy tale of replacing fossil fuel with biofuel, such as palm oil, begins to look more like an environmental nightmare.

(A) The wide use of fossil fuel is believed to be a nightmare to the environment for its burning is causing severe environmental problems.

(B) The long use of fossil fuel is being replaced by palm oil, which is called biofuel and believed to bring a cleaner environment.

(C) Replacing fossil fuel with biofuel was believed to be good to the environment, but now it seems to cause more problems.

(D) Replacing fossil fuel with biofuel like palm oil is a green fairy tale because biofuel is called green oil.

(B) 46. African voters are losing patience with faulty elections that often exclude popular candidates and are marred by serious irregularities.

(A) Many voters in Africa have lost in their fight against the government, which often removes popular candidates from the ballots in elections.

(B) In Africa, the citizenry is irritated by elections which often exclude well-liked contenders and are marked with unfair practices.

(C) It is common to see that candidates in popular elections in Africa are often those with moral or financial liabilities.

(D) Many African voters are not happy about problematic elections in which candidates smear each other irresponsibly.

第 47 題至第 50 題為篇章結構，各題請依文意，從四個選項中選出最合適者，各題答案內容不重複

When the Doha global trade negotiations collapsed in July, 2008, many countries shared the blame. 47 Indian consumers have suffered during the recent food crisis, with inflation over 12 percent for some commodities. Removing agricultural trade barriers would surely have helped get cheaper food to India's many millions of poor citizens. Yet Indian trade minister Kamal Nath declined to open India further to farm imports. 48

Essentially, India's politicians fear that liberalizing agriculture will expose their farmers to catastrophe if food prices collapse in the future. India has some efficient farmers who would gain from a boost in trade. 49 Land holdings are small, productivity is low, mechanization is minimal, and big business

公職王歷屆試題 (100 司法特考)

faces restrictions in consolidating farming. 50 Over 100,000 Indian farmers have committed suicide in the past decade. Many reasons are cited for this: crop failure, bad monsoons, mounting debts, and alcoholism. The government's response has been to award 100,000 rupees compensation to the families of farmers who have taken their own lives, a policy which has been criticized for creating a perverse incentive to suicides or murders.

- (A) 47. (A)But one of the more surprising culprits was India.
(B)What was behind this decision?
(C)But vast areas of the agricultural sector are hugely inefficient.
(D)By refusing to move on from its outdated approach to agriculture, India is condemning farmers to misery.
- (B) 48. (A)But the fundamental problem is that many Indian farmers will never make a proper living on their own land.
(B)What was behind this decision?
(C)And there is also a humanitarian problem.
(D)But one of the more surprising culprits was India.
- (A) 49. (A)But vast areas of the agricultural sector are hugely inefficient.
(B)And there is also a humanitarian problem.
(C)But the fundamental problem is that many Indian farmers will never make a proper living on their own land.
(D)What was behind this decision?
- (D) 50. (A)By refusing to move on from its outdated approach to agriculture, India is condemning farmers to misery.
(B)But the fundamental problem is that many Indian farmers will never make a proper living on their own land.
(C)But vast areas of the agricultural sector are hugely inefficient.
(D)And there is also a humanitarian problem.

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