

101 年公務人員特種考試司法人員考試試題

等 別：四等考試

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)

- (B) 1. 依據憲法增修條文第 9 條規定，精省之後，省之行政長官為何？
(A)省長 (B)省主席
(C)省府委員會委員長 (D)省府委員會主任
- (B) 2. 依據憲法增修條文，司法院院長、副院長之產生，係依據以下何種程序？
(A)由總統提名，經行政院長同意任命
(B)由總統提名，經立法院同意任命
(C)由司法院大法官互相推舉產生
(D)由全國法官票選產生
- (C) 3. 依據憲法規定，下列機關何者有統一解釋命令之權？
(A)行政院 (B)考試院 (C)司法院 (D)監察院
- (A) 4. 依憲法本文及增修條文之規定，下列何者非屬立法院人事同意權之對象？
(A)行政院院長 (B)司法院院長 (C)考試院院長 (D)監察院之審計長
- (A) 5. 依司法院釋字第 520 號解釋，對於國家重要政策之變更，行政院與立法院應如果展開互動？
(A)行政院應適時向立法院提出報告並備詢
(B)行政院應適時向立法院提出報告，但不須備詢
(C)行政院只須事後知會立法院即可，且無須備詢
(D)行政院無須告知立法院，更無備詢之義務
- (D) 6. 依憲法增修條文第 2 條之規定，下列有關總統、副總統選舉之敘述，何者錯誤？
(A)總統、副總統應聯名登記
(B)在選舉上同列一組圈選
(C)以得票最多之一組當選
(D)在國外之自由地區人民返國行使選舉權，以命令定之
- (A) 7. 司法院釋字第 452 號解釋宣告「妻以夫之住所為住所」之規定違憲。該規定係違反：
(A)男女平等 (B)種族平等 (C)階段平等 (D)宗教平等
- (D) 8. 依大法官解釋意旨，下列何者不訴訟權保障之範圍？
(A)人民有依法提起訴訟程序之權利
(B)享受公平審判之權利
(C)訴訟制度細部設計屬立法機關權限
(D)任何訴訟種類皆應有三級三審
- (D) 9. 信仰宗教自由不包括下列何種自由？
(A)不信宗教自由 (B)宗教活動之自由
(C)傳教自由 (D)設立國教之自由
- (A) 10. 依據司法院釋字第 576 號解釋，契約自由在憲法上的地位為何？
(A)屬憲法第 22 條所保障其他自由權利之一種
(B)只受民法的保障，不受憲法之保障
(C)必須透過憲法對人民財產權保障的規定，才具憲法上之地位
(D)屬於憲法第 8 條人身自由的保障範圍
- (B) 11. 「任何人在被宣告有罪確定之前，都應視為無罪」的原則，稱為：
(A)禁止事前推定原則 (B)無罪推定原則
(C)審判有罪原則 (D)審判定罪原則
- (B) 12. 大學教育之學術自由不包括：
(A)研究自由 (B)人身自由 (C)教學自由 (D)學習自由

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- (A) 13. 針對憲法第 171 條規定「法律與憲法牴觸者無效」與第 172 條規定「命令與憲法或法律牴觸者無效」，下列何者錯誤？
(A)命令之法位階，低於憲法，高於法律
(B)命令不得牴觸憲法或法律
(C)憲法之法位階最高
(D)憲法作為命令與法律之審查基準
- (C) 14. 依司法院釋字第 485 號解釋，有關社會政策立法之敘述，下列何者正確？
(A)涉及福利資源之分配者，因屬授益行政，故給予明顯過度之照顧亦屬合憲
(B)受益人之身分或特定職位可為立法區別對待之唯一依據
(C)此種立法應注意與一般國民之平等關係
(D)給付額度應力求與受益人之基本生活需求相當，無須考量國家之經濟與財政狀況
- (C) 15. 依憲法增修條文第 5 條之規定，自民國 92 年起，大法官法定人數為多少人？
(A) 9 人 (B) 13 人 (C) 15 人 (D) 17 人
- (C) 16. 依據地方制度法之規定，下列何者得規定罰則？
(A)自治規章 (B)自治規則 (C)自治條例 (D)自治規約
- (C) 17. 有關於「擬制」和「規定」的概念，下列何者敘述正確？
(A)擬制是法律以事實為基礎的常情推斷；推定是與事實相反的規定
(B)擬制是法律規範基於公益的需要，簡化法律關係，就存在或不存在先為架設之規定
(C)經由法律的規定，真實存在之事實亦可被擬制為不存在
(D)就擬制之事實，如有反證，可予推翻
- (A) 18. 依司法院大法官審理案件法第 5 條規定，下列何者不得聲請解釋憲法？
(A)人民對於中央或地方機關之行政處分不服者
(B)中央或地方機關行使職權，適用憲法發生疑義者
(C)人民於其憲法上所保障之權利，遭受不法侵害，經依法提起訴訟，對於確定終局裁判所適用法令發生有牴觸憲法之疑義者
(D)依立法委員一定人數之聲請，就其行使職權，適用憲法發生疑義者
- (B) 19. 依行政程序法第 51 條規定，行政機關對於人民申請之處理期間，如未訂定者，其處理期間為：
(A) 2 星期 (B) 2 個月 (C) 4 個月 (D)依各機關首長決定
- (D) 20. 依司法院釋字第 533 號解釋，中央健保局與各醫事服務機構締結「全民健康保險特約醫事服務合約」，約定由特約醫事服務機構提供被保險人醫療保健服務，其法律關係如何定性？
(A)職務移轉 (B)行政委辦 (C)行政協助 (D)行政契約
- (A) 21. 罪刑法定主義是刑法基本原則之一，下列敘述何者錯誤？
(B) (A)罪刑法定，否定不定期刑
(C) (B)刑法禁止類推適用
(D) (C)刑法應以成文法為法源
(D)刑法不排斥習慣法的運用
- (D) 22. 依地方制度法第 25 條規定，地方政府得就其自治事項或依法律及上級法規之授權，制定自治法規。下列關於自治法規之敘述，何者正確？
(A)經地方立法機關通過者稱自治細則，經地方行政機關訂定者稱自治規約
(B)經地方立法機關通過者稱自治規程，經地方行政機關訂定者稱自治命令
(C)經地方立法機關通過者稱自治規則，經地方行政機關訂定者稱自治條例
(D)經地方立法機關通過並由各該行政機關公布者，稱自治條例；經地方行政機關訂定並發布或下達者，稱自治規則
- (B) 23. 著作人死亡或消滅時，下列關於其著作人格權保護之敘述，何者正確？
(A)存續於著作人之生存期間及死亡後 50 年
(B)視同生存或存續

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(C)隨之消滅

(D)視同公共財，任何人可以改變或使用其著作內容

(C) 24. 19 世紀後各國政府以公權力積極介入勞動契約中，明定勞動契約的最低標準。我國在民國 73 年公布施行的勞動法為何？

(A)勞動契約法 (B)工廠法 (C)勞動基準法 (D)就業服務法

(B) 25. 依性別工作平等法第 13 條第 2 項規定，下列何人於知悉性騷擾之情形時，應採取立即有效之糾正及補救措施？

(A)主管機關 (B)雇主 (C)法院 (D)受雇者

(B) 26. 依據民法之規定，下列何者不是姻親？

(A)血親之配偶 (B)血親之血親 (C)配偶之血親 (D)配偶之血親之配偶

(B) 27. 行政機關依法對營業場所予以斷水斷電之措施是屬下列何種行政執行方法？

(A)間接強制 (B)直接強制 (C)管收 (D)查封

(A) 28. 依據中央行政機關組織基準法之規定，機關組織以法律制定者，其內部單位之分工執掌，以下列何者定之？

(A)處務規程 (B)作業規定 (C)辦事細則 (D)分層負責明細表

(C) 29. 社會秩序維護法明定自民國 80 年 6 月 29 日公布日施行。請問：該法自下列何日期起發生效力？

(A)民國 80 年 6 月 29 日 (B)民國 80 年 6 月 30 日
(C)民國 80 年 7 月 1 日 (D)民國 80 年 7 月 2 日

(D) 30. 下列有關法律之敘述，何者為錯誤？

(A)法律應經立法院通過 (B)法律應經總統公布
(C)法律不得抵觸憲法 (D)總統得向立法院提出法律案

(B) 31. I don' t think he _____ sent you those obscene messages. His e-mail system must have been attacked by some kind of virus.

(A) objectively (B) intentionally
(C) considerably (D) suspiciously

(C) 32. It was useless to try to persuade Shirely to change her mind; so _____ was she that she would not even consider others' suggestions.

(A) allergic (B) masculine (C) obstinate (D) tentative

(C) 33. Seeing that there was no point arguing with his father, Sam _____ to his room.

(A) admitted (B) obliged (C) retreated (D) surrendered

(C) 34. Who is _____ the company during the absence of the manager?

(A) in place of (B) in touch with (C) in charge of (D) in view of

(B) 35. Not wishing to displease Jack, Amy avoided _____ the question.

(A) to answer (B) answering
(C) not to answer (D) answer

(D) 36. _____ he was warned against the danger, he went ahead with that experiment.

(A) Despite (B) As soon as (C) As long as (D) Even though

(B) 37. _____ difficulty you are facing, don' t despair. Every cloud has a silver lining.

(A) Whether (B) Whatever (C) No matter (D) Any

(C) 38. If you _____ to your sister, she might have forgiven you.

(A) apologize (B) apologized
(C) had apologized (D) have apologized

Mum and Dad took my brother Louis, my older sister Tess, and me out to dinner. We hardly ever went out to dinner as a family unless it was a special occasion, so I was 39. Over dinner, they broke the news to us that Mum had been diagnosed with breast cancer. We all just sat there, completely stunned. Louis, Tess and I all 40

the news in different ways, probably because of our ages. My sister was in her sulky teenage stage, so she got angry about it. My brother did the usual boy thing of shutting out his emotions.

Luckily for us, Mum and Dad were both very strong about it. They made it clear that while the tumor in Mum's breast was 41 and therefore serious, she still had a very good chance of beating it. She decided to have the breast with the cancer removed immediately. 42, Mum's operation was a complete success. After the worst of her treatment was over, Mum got involved with the National Breast Cancer Foundation (NBCF). She became a (an) 43 so she could help raise money for a cure. I think my involvement with the foundation is the best way to thank all the brilliant researchers, doctors and nurses because if they weren't around, my Mum might not be alive today.

- (D) 39. (A) trustful (B) upright (C) innocent (D) suspicious
(C) 40. (A) kept at (B) showed up (C) dealt with (D) pulled along
(B) 41. (A) mild (B) malignant (C) numerous (D) controversial
(B) 42. (A) Proudly (B) Thankfully (C) Contentedly (D) Ungratefully
(A) 43. (A) ambassador (B) patient (C) intern (D) lawyer
(B) 44. A: Excuse me. Could you show me the way to the City Museum?
B: The City Museum? Sorry, I really don't know.
A: Well, _____.
(A) it's a friendly city (B) thanks anyway
(C) you're so tired (D) you have been of great help
(B) 45. Andy: What are the chances of getting a raise this year?
Jenny: Very slim!
Andy: That's too bad. Did you ever think of working somewhere else?
Jenny: _____.
Andy: Good Luck!
(A) I will be laid off next month.
(B) In fact, I will have an interview next Monday.
(C) Yes, I am fed up with my job.
(D) Forget about it. I can't afford to lose the job.

In North America and Europe, a slim woman is regarded as a beautiful person. But in many parts of Africa, a fat woman is a beautiful woman, and people think she is healthy and rich. If you are slim, that means you are a worker with little money and not enough food to eat. Also, people believe a slim woman is sick and can't have children.

To help girls look healthy and beautiful, people in central Africa send them to a fattening room. In the fattening room, the girl does not move much. She can only eat, sleep, and get fatter. Elder woman come to teach her about housework and chores. In Nigeria, brides go to a fattening house before they get married. At the end of time, but before the wedding, the brides walk through the village so everyone can admire their big bodies. A married woman can also go to a fattening room. A man wants his wife to be fat so other people will think that the man is rich and that he is a responsible husband.

If parents don't send their daughter to a fattening room, their friends and relatives will say the parents are not doing their duty. In the old days, girls sometimes stayed in a fattening room for two years. Today some families cannot afford more than a few months. Also, fattening rooms are not popular in cities now.

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In cities, health education and Western culture have a big effect on people's ideas. But in villages, this traditional custom continues.

- (A) 46. What is the passage mainly about?
(A) A traditional idea and practice of beauty in Africa.
(B) The management of the fattening house.
(C) The changing concept of beauty with time.
(D) The methods to get a good husband in Africa.
- (D) 47. Which of the following is NOT the purpose of African women going to fattening rooms?
(A) To get fat. (B) To marry good husbands.
(C) To learn to do housework. (D) To sell foods.
- (C) 48. Which of the following is suggested by the author?
(A) The concept of beauty has a common standard.
(B) The custom of going to fattening rooms will continue forever.
(C) Eating and little moving will make a girl fat in a short time.
(D) Big cities in Africa are full of fat women nowadays.
- (B) 49. Why do African girls spend less time in the fattening houses today?
(A) They do not want to get that fat.
(B) The expense is getting higher these years.
(C) They don't want to get married so early.
(D) The doctors warn them about the danger of being fat.
- (A) 50. Which of the following statements is true?
(A) In traditional African villages, husbands are proud of their wives' huge bodies.
(B) The concept of beauty is one and universal, and it will never change.
(C) Fattening houses are designed to punish those lazy women who do not do housework.
(D) Women are allowed to enter the fattening houses only after getting married.

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王