

98 年公務人員特種考試法務部調查局調查人員考試

等 別：三等考試

組 別：各組

科 目：法學知識與英文 (包括中華民國憲法、法學緒論、英文)

- (A) 1. 依據憲法規定，下列何者為立法院決定國家財政事務的權限？
(A)預算審查權 (B)擬定施政的支出計畫
(C)審計長之提名權 (D)中央銀行總裁之同意權
- (D) 2. 總統所發布之何種命令，應經行政院會議之議決？
(A)大法官之任免命令 (B)解散立法院之命令
(C)內政部部长之任免命令 (D)緊急命令
- (A) 3. 有關總統副總統選舉訴訟之敘述，下列何者錯誤？
(A)檢察官、候選人得以選舉機關為被告，向管轄法院提起選舉無效或當選無效之訴
(B)選舉無效之訴，經法院判決無效確定者，應定期重行選舉
(C)其違法屬選舉之局部者，應就該局部無效部分，定期重行投票
(D)選舉無效或當選無效之判決，不影響原當選人就職後職務上之行為
- (A) 4. 現住國外，返國行使總統副總統選舉權之人民，應在何處投票？
(A)最後遷出國外時之原戶籍地投票所
(B)返國後居所地之投票所
(C)其所選定之投票所
(D)主管機關指定之投票所
- (C) 5. 下列何者非屬憲法所規定之選舉原則？
(A)無記名原則 (B)普通原則 (C)公開原則 (D)直接原則
- (A) 6. 由偵查中之檢察官核發對被告或犯罪嫌疑人之通訊監察書，依司法院大法官解釋，下列敘述何者正確？
(A)未設適當之權力制衡機制，可能使人民秘密通訊自由遭受不必要侵害
(B)檢察官核發對被告或犯罪嫌疑人之通訊監察書確有通訊監察之必要，且亦已謹守最小侵害原則，應屬合理正當
(C)此為確保國家安全、維護社會秩序所必需
(D)國家基於犯罪偵查之目的，對被告或犯罪嫌疑人進行通訊監察，其對人民基本權之侵害程度並不強烈，所涉範圍亦非廣泛
- (C) 7. 依我國憲法第 111 條規定，若中央與地方權限分配，遇有爭議時，由下列何者解決之？
(A)總統 (B)行政院 (C)立法院 (D)司法院
- (A) 8. 國家以法律科處刑罰之方式，限制人民傳布任何以兒童性交易為內容之訊息，依司法院大法官解釋，下列敘述何者錯誤？
(A)此種商業性之言論，並非憲法保障之對象
(B)此項限制符合憲法第 23 條之比例原則
(C)憲法保障之言論自由並非絕對保障
(D)商業言論與學術言論應有不同之保護範疇
- (B) 9. 依憲法增修條文第 12 條規定，憲法修正案公民複決的通過門檻為何？
(A)投票率過半，有效同意票多於不同意票
(B)有效同意票超過選舉人總額之半數
(C)有效同意票多於不同意票即可
(D)有效同意票超過選舉人總額之三分之二
- (A) 10. 大陸人民經許可進入臺灣，非設籍滿十年，不得擔任公務員之規定，依司法院大法官解釋，下列敘述何者錯誤？
(A)對其擔任公務員之資格與其他臺灣地區人民差別對待，與憲法第 7 條平等原則有違
(B)以十年為期之規定，其手段仍在必要及合理之範圍內，難謂違反憲法第 23 條

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- (C)此為鑒於兩岸目前分治與對立之狀態，為確保臺灣地區安全、民眾福祉暨維護自由民主之憲政秩序所為之特別規定，仍屬合理正當
- (D)系爭法律雖未區分何種公務員之何種職務於兩岸關係事務中，足以影響臺灣地區安全、民眾福祉暨自由民主之憲政秩序，但尚無明顯重大之瑕疵
- (C) 11. 下列何者不屬於國民主權之具體表現？
- (A)總統、副總統之選舉罷免 (B)立法委員之選舉罷免
(C)訴願權及訴訟權之行使 (D)憲法修正案之公民複決
- (A) 12. 憲法明文規定具有中華民國國籍者為中華民國國民，下列對於國籍與國民之敘述，何者正確？
- (A)國民以具有國籍為要素
(B)國籍之取得大多規定於刑法
(C)本國國民若僑居外國，我國法律對其完全無效力
(D)我國國民關於國籍之得喪直接規定於憲法
- (C) 13. 有關國家安全會議之敘述，下列何者錯誤？
- (A)國家安全會議置秘書長一人，特任
(B)國家安全會議置副秘書長一人至三人，職務比照簡任第十四職等
(C)國家安全會議及其所屬國家安全局直屬總統，不受立法院之監督
(D)國家安全會議置諮詢委員五人至七人，由總統特聘之
- (A) 14. 中華民國之主權屬於全體國民。有關主權之意義，下列敘述何者錯誤？
- (A)主權為屬於國家元首以及執政政府
(B)主權乃構成國家要素
(C)主權為國家自主自決的最高權力
(D)主權為國家最高意志
- (A) 15. 國際機場、港口週邊禁止集會、遊行之範圍，應由何機關劃定公告？
- (A)內政部 (B)國防部 (C)外交部 (D)交通部
- (B) 16. 下列那一項不屬於應以法律規定之事項？
- (A)憲法有明文規定者 (B)機關認為有必要者
(C)關於人民之權利、義務者 (D)關於國家各機關之組織者
- (D) 17. 關於「特別法優於普通法」，下列敘述何者正確？
- (A)法規對其他法規所規定之同一事項而為特別之規定者，應優先適用之。其他法規修正後，應優先適用普通法規規定
(B)例示規定優先於普通規定
(C)列舉規定優先於例示規定
(D)法規對其他法規所規定之同一事項而為特別之規定者，應優先適用之。其他法規修正後，仍應優先適用
- (D) 18. 下列法規中，那一個法規居於最高位階？
- (A)鄉（鎮、市）自治規則 (B)縣（市）自治規則
(C)鄉（鎮、市）自治條例 (D)縣（市）自治條例
- (A) 19. 機車駕駛人未依規定戴安全帽者，應處新臺幣五百元罰鍰；2 丁丁騎機車未依規定戴安全帽；3 丁丁應處以新臺幣五百元罰鍰。在法律三段論法中，將 2 稱之為：
- (A)小前提 (B)大前提 (C)構成要件 (D)論證要件
- (C) 20. 下列何種權利適用消滅時效？
- (A)姓名權受侵害之除去妨害請求權
(B)因詐欺而請求撤銷之權
(C)占有人之物上請求權
(D)已登記不動產之物上請求權
- (A) 21. 下列何種法律並非因應數位科技之發展而立法？
- (A)獎勵投資條例 (B)電子簽章法

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- (C)電腦處理個人資料保護法 (D)光碟管理條例
- (D) 22. 下列何者，非屬「擬制」的規定？
- (A)民法第7條規定：「胎兒以將來非死產者為限，關於其個人利益之保護，視為既已出生。」
- (B)地方制度法第32條第3項規定：「自治法規、委辦規則須經上級政府或委辦機關核定者，核定機關應於一個月內為核定與否之決定；逾期視為核定……。」
- (C)行政罰法第6條第2項規定：「在中華民國領域外之中華民國船艦、航空器或依法得由中華民國行使管轄權之區域內違反行政法上義務者，以在中華民國領域內違反論。」
- (D)民法第191條第1項規定：「土地上之建築物或其他工作物所致他人權利之損害，由工作物之所有人負賠償責任。但其對於設置或保管並無欠缺，或損害非因設置或保管有欠缺，或於防止損害之發生，已盡相當之注意者，不在此限。」
- (B) 23. 下列何者在法學方法論上，屬於漏洞補充的方法？
- (A)擴張解釋 (B)目的性限縮 (C)反對解釋 (D)體系解釋
- (D) 24. 下列何種行政行為須有法律之授權依據？
- (A)中秋節敬老津貼之核發 (B)圖書館之設置
- (C)大學對學生學業成績之考核 (D)電玩業之禁止開設
- (B) 25. 當行政機關欲興建捷運，只須徵收甲所有之一半土地即可，而行政機關卻徵收甲之全部土地時，此為那一項原則之違反？
- (A)平等原則 (B)比例原則 (C)誠信原則 (D)信賴保護原則
- (B) 26. 刑法第2條第1項規定：「行為後法律有變更者，適用行為時之法律。但行為後之法律有利於行為人者，適用最有利於行為人之法律。」此項立法是採以下何種原則？
- (A)從新原則 (B)從舊從輕原則
- (C)從舊原則 (D)從重原則
- (A) 27. 某甲將某乙的英文著作翻譯為中文，該行為涉及某乙的何種著作權？
- (A)改作權 (B)重製權
- (C)同一性保持權 (D)編輯權
- (D) 28. 某甲看電視購物頻道時，對於其推銷的珠寶十分心動，故以電話向該購物頻道購買商品，此種交易方式屬於消費者保護法所規定之何種特種買賣？
- (A)實體買賣 (B)訪問買賣 (C)網路買賣 (D)郵購買賣
- (A) 29. 全民健康保險之主管機關為何者？
- (A)行政院衛生署 (B)中央健康保險局
- (C)縣市政府衛生局 (D)內政部
- (B) 30. 關於性騷擾之損害賠償責任的敘述，以下何者錯誤？
- (A)受僱者或求職者因職場性騷擾受有損害者，由雇主及行為人連帶負損害賠償責任
- (B)雇主在受僱者受到職場性騷擾時，雇主若能證明其已安撫受僱者，雇主即不負賠償責任
- (C)雇主知悉性騷擾，卻未採取立即有效之糾正及補救措施，致使受僱者受有損害時，雇主應負賠償責任
- (D)雇主賠償損害時，對於為性騷擾之行為人，有求償權
- (A) 31. He has finally persuaded her to come to his hometown and is now her visit.
- (A) looking forward to (B) looking after
- (C) looking out (D) looking like
- (A) 32. Don't think that your computer is safe. Hundreds of thousands of computers might now be to various kinds of powerful viruses.
- (A) vulnerable (B) compatible (C) discernible (D) numerable
- (B) 33. Although the artist was only half-Mexican, all her paintings demonstrated her Mexican. She was obviously proud of her roots.
- (A) foreboding (B) identity (C) orientation (D) significance
- (C) 34. Laura has a to put things off until the last minute.

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- (A) disparity (B) fecundity (C) tendency (D) vivacity
- (B) 35. A recent study finds that newly retired couples report the highest level of marital conflict. The good news is that after two years that tension tends to .
(A) aggravate (B) diminish (C) merge (D) rotate
- (D) 36. The speaker a short summary of the main points into the ending of her speech.
(A) incapacitates (B) incarcerates
(C) incinerates (D) incorporates
- (A) 37. Most actors hate reporters because they ask more questions than are necessary or even proper.
(A) inquisitive (B) outspoken (C) talkative (D) verbose
- (B) 38. Since high-tech industries are in desperate need of electricity supply, the government' s is to build more power plants.
(A) fidelity (B) priority (C) finality (D) peculiarity
- (C) 39. The world' s treasures are under as never before. So, get out and see as many as possible—before they disappear.
(A) privilege (B) probation (C) siege (D) temptation
- (B) 40. Don' t be so about others' business. You should learn to mind your own business.
(A) fancy (B) nosy (C) mouthy (D) easy
- (C) 41. Tom' s twice before made Daphne hesitate about accepting his marriage proposal.
(A) having to marry (B) being married
(C) having been married (D) having had married
- (A) 42. If hunting can be stopped for good, it will be a rare chance for people to watch a natural experiment take place: monkeys reclaiming their ranges of old.
(A) People will have a precious opportunity to see a test outcome occur when hunting is not allowed forever, i.e., the monkeys regaining their previous territories.
(B) It will not be difficult for people to see monkeys playing and thriving in the old parks as a natural result of a protection policy: forbidding hunting for good reasons.
(C) A natural phenomenon in the mountain areas is that the more hunting is allowed the less likely it is for people to see monkeys approaching human beings for food.
(D) Breeding monkeys for a period of time will provide a regular opportunity for people to see an experimental result that monkeys build their new homes everywhere in the park.

第43題至46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

In American ideology, the individual reigns supreme. 43. The historian Frederick Jackson Turner proposed that the westward expansion and frontier experience of the nineteenth century was a major force in shaping this aspect of our national character. He wrote, "That restless, nervous energy; that dominant individualism, working for good and for evil, and withal that buoyancy and exuberance which comes with freedom—these are traits of the frontier."

44. Indeed, from a very early age, selfhood and independence are stressed.

Children learn they must stand on their own two feet in a competitive world where self-reliance and self-realization are the name of the game. The expression “self-made” man or woman expresses that American ideal perfectly.

It is not surprising then that in comparison to many other cultures, we are more tolerant of individual differences, idiosyncracies, and non-conformity. 45. Although attitudes towards conformity have not been fixed historically and have changed over time, in general, Americans seem to dread the idea of being, acting, and looking just like their neighbors.

Indeed, Americans have ambivalent feelings about neighbors. This ambivalence reflects the tension we feel over our loyalties to group and to self and which of the two takes precedence. In other cultures, the group clearly takes precedence. However, in the United States, we draw boundaries around individuals and circumscribe their “space.” 46. It is a concept that many foreigners find odd, even offensive. But again, it is the individual that is valued over the group, whether that group is a family, corporation, or community.

- (C) 43. (A) We conceptualize this space as privacy which protects the rights of both individuals and groups.
(B) In fact, we train our children to define and distinguish themselves from their peers, to be self-reliant and autonomous.
(C) Historically, our culture has championed no single group, but it has championed the idea of the individual man or woman.
(D) In a society as pluralistic as our own, where there is little consensus on what constitutes “the greater good” and where diverse traditions, world views, and moral systems compete, it is inevitable that conflicts arise.
- (C) 44. (A) This ideology has profoundly altered the way we think about the rights of both individuals and groups.
(B) We conceptualize this space as privacy which protects the individual from the outside and from others.
(C) In fact, we train our children to define and distinguish themselves from their peers, to be self-reliant and autonomous.
(D) Historically, our culture has championed no single group, but it has championed the idea of the individual man or woman.
- (A) 45. (A) Perhaps it must be so in a culture as diverse as ours, a culture made up of so many subcultures.
(B) In fact, we train our children to define and distinguish themselves from their peers, to be self-reliant and autonomous.
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(D) In a society as pluralistic as our own, where there is little consensus on what constitutes “the greater good” and where diverse traditions, world views, and moral systems compete, it is inevitable that conflicts arise.

A newly discovered feature of dog body language may surprise pet owners and dog experts. When dogs feel positive about something or someone, their tails wag more to the right side. When they have negative feelings, their tail wagging is more to the left.

Research has shown that in most animals, including birds, fish, and frogs, the left brain specializes in behaviors involving what scientists call attachment and energy enhancement. In humans, the left brain is associated with positive feelings like love, a sense of attachment, a feeling of safety and calm. It is also associated with physiological markers like a slow heart rate. In contrast, the right brain specializes in behaviors involving withdrawal and energy expenditure. In humans, these behaviors, like fleeing, are associated with feelings like fear and depression. Physiological signals include a rapid heart rate and the shutdown of the digestive system.

Because the left brain controls the right side of the body, and the right brain controls the left side of the body, such asymmetries are usually manifested in opposite sides of the body. Thus many birds seek food with their right eyes (nourishment) and watch for predators with their left eyes (danger).

- (D) 47. What will happen when a dog sees another threatening dog?
(A) It may watch the other dog with its right eye.
(B) Its heart rate may slow down a little bit.
(C) Its tail may wag to the right.
(D) Its tail may wag to the left.
- (B) 48. Which of the following statements is true about an animal's left brain?
(A) It sends out signals to speed up the heart rate.
(B) It sends out signals to slow down the heart rate.
(C) It is associated with feelings like danger and fleeing.
(D) It is associated with feelings like fear and depression.
- (A) 49. Which of the following statements is NOT true about humans?
(A) There are no obvious brain-body asymmetries in humans.
(B) Their left brain is associated with feelings like love and a sense of attachment.
(C) Their right brain specializes in energy expenditure and withdrawal.
(D) When feeling depressed, humans may shut down their digestive system.
- (B) 50. According to the article, what do birds, fish, frogs, and dogs have in common?
(A) Their brains are relatively small for their body sizes.
(B) Their left brains specialize in attachment and energy enhancement.
(C) Their right brains are associated with positive feelings.
(D) They all seek food with their right eyes only.