

等 別：四等海岸巡防人員考試

類(科)別：海洋巡護科輪機組

科 目：法學知識與英文（包括中華民國憲法、法學緒論、英文）

考試時間：1 小時

座號：\_\_\_\_\_

※注意：(一)本試題為單一選擇題，請選出一個正確或最適當的答案，複選作答者，該題不予計分。

(二)共 50 題，每題 2 分，須用 **2B 鉛筆** 在試卡上依題號清楚劃記，於本試題上作答者，不予計分。

(三)禁止使用電子計算器。

- 1 關於憲法解釋，下列何項敘述為正確？
  - (A)法官審判案件時，確信法律牴觸憲法者，得停止訴訟並聲請大法官解釋
  - (B)法官之裁判違憲，人民不得請求釋憲
  - (C)大法官解釋憲法，但不得宣布法律牴觸憲法為無效
  - (D)大法官解釋憲法，只拘束聲請者，不拘束其他政府機關
- 2 依憲法增修條文第 2 條規定，總統之立法院解散權，以下何者正確？
  - (A)在立法院通過行政院院長之不信任案後 7 日內
  - (B)戒嚴或緊急命令生效期間，不得解散立法院
  - (C)立法院解散後，應於 90 日內舉行立法委員選舉
  - (D)立法委員選舉結果確認後，應於 7 日內自行集會
- 3 法律規範之構成要件，其意義應非一般人難以理解，且為受規範者所得預見，並可經由司法審查加以確認。此為何種憲法原則？
  - (A)法律明確性原則
  - (B)授權明確性原則
  - (C)誠信原則
  - (D)處罰法定原則
- 4 依司法院釋字第 543 號解釋對緊急命令之見解，下列何者錯誤？
  - (A)緊急命令可暫時替代或變更法律效力，故其內容應力求周延
  - (B)細節性、技術性事項可以行政命令補充，但應於緊急命令中明文規定其意旨
  - (C)為應付緊急危難或重大變故，補充規定得於立法院追認同意緊急命令前，先行發布
  - (D)補充規定應隨緊急命令有效期間屆滿而失其效力
- 5 憲法第 24 條規定國家賠償責任，公務員在國家賠償法上所應負的責任為：
  - (A)無過失責任
  - (B)過失責任
  - (C)推定過失責任
  - (D)危險責任
- 6 下列有關於憲法第 7 條平等原則的敘述，何者錯誤？
  - (A)平等原則只拘束司法、行政機關，而立法機關基於立法裁量不受拘束
  - (B)憲法所謂之「在法律上平等」，並非機械的絕對平等而屬於實質的平等
  - (C)平等原則禁止公權力機關，恣意地為差別的待遇
  - (D)平等原則容許因個案差異，為合理之差別待遇
- 7 依司法院釋字第 577 號解釋，現行菸害防制法規定強制所有菸品，均應於菸品容器上，以中文標示所含之尼古丁及焦油含量，此舉是否合憲？
  - (A)違憲，此舉係強制菸商在菸品上標示尼古丁及焦油含量之言論，過度侵害人民有不言論的消極自由
  - (B)違憲，因酒類無需標示，而所有菸品均一律標示所含之尼古丁及焦油含量，違反平等原則
  - (C)合憲，菸品一律標示所含之尼古丁及焦油含量，係出於國民衛生健康之重大公益，屬於對言論自由依法的合理限制
  - (D)合憲，菸品上是否標示所含之尼古丁及焦油含量，係菸商如何處分菸品容器，僅屬私法自治，無關言論自由
- 8 有關法官的停職規定敘述，下列何者正確？
  - (A)法官有不受停職之絕對保障
  - (B)符合法律之規定法官仍得被停職
  - (C)各級法院得自由決定是否對法官為停職處分
  - (D)司法院得自由決定是否對法官為停職處分

- 9 政黨何時得被解散？  
(A)違反集會遊行法經制止 3 次仍不聽從時 (B)違反刑法經法院判決有罪確定  
(C)經內政部審議委員會決議解散 (D)經憲法法庭審理確定政黨違憲
- 10 立法院審查中央政府總預算所為下列何項決議違憲？  
(A)刪減國防預算 (B)刪除行政院院長購車預算  
(C)軍購預算改為社會福利預算 (D)刪減司法院專案研究費
- 11 依憲法增修條文第 3 條規定，立法院對行政院移請之覆議案，至遲應於送達幾日內作成決議？  
(A) 7 日 (B) 10 日 (C) 15 日 (D) 20 日
- 12 依憲法第 52 條規定，總統之法律責任豁免權，以下何者錯誤？  
(A)係指刑事豁免權 (B)也包含民事責任之豁免  
(C)犯內亂罪、外患罪不得豁免 (D)豁免權不及於副總統
- 13 依憲法增修條文之規定，立法院提出之總統、副總統彈劾案，由下列何者審理？  
(A)國民大會 (B)監察院 (C)司法院憲法法庭 (D)全國人民
- 14 依憲法增修條文第 8 條規定，有關立法委員報酬或待遇的敘述，下列何者正確？  
(A)應以命令定之  
(B)於個案特殊考量，得隨時調整實施  
(C)除年度通案調整者外，單獨增加報酬或待遇之規定，應自次屆起實施  
(D)只要是增加立法委員的報酬或待遇，一律均須自次屆起實施
- 15 依憲法增修條文第 4 條規定，總統於立法院解散後發布緊急命令，立法院應於 3 日內如何集會，以決定是否追認？  
(A)由總統召集 (B)由行政院院長召集 (C)由立法院院長召集 (D)自行集會
- 16 下列何者為大陸法系最重視的法源？  
(A)判例 (B)法理 (C)立法院制定的法律 (D)習慣
- 17 下列何者為普通法與特別法的關係？  
(A)民法與動產擔保交易法 (B)公司法與票據法  
(C)刑法與社會秩序維護法 (D)消費者保護法與公寓大廈管理條例
- 18 夫以妻有不治之惡疾向法院訴請離婚，由此如何看待法律與道德之關係？  
(A)道德許可，法律亦許可 (B)道德不許可，但法律許可  
(C)道德許可，但法律不許可 (D)道德不許可，法律亦不許可
- 19 依中央法規標準法規定，下列何者並非機關發布命令的名稱？  
(A)規程 (B)規則 (C)辦法 (D)綱領
- 20 關於法律之施行日期，下列敘述何者正確？  
(A)得授權以命令規定施行日期 (B)不得特定施行日期，一律自公布日施行  
(C)僅得由總統決定施行日期，不得由立法院定之 (D)僅得由立法院決定施行日期，不得委由命令定之
- 21 人民信賴授益之違法行政處分，其信賴利益顯然大於撤銷所欲維護之公益者，行政機關不得予以撤銷，係基於何種法理？  
(A)法安定性原則 (B)平等原則 (C)比例原則 (D)公益原則
- 22 關於法律優越原則，下列何者錯誤？  
(A)目的在防止行政行為違背法律 (B)又稱為消極的依法行政  
(C)一切行政行為均不得抵觸法律 (D)一切行政行為皆須有法律之明文依據
- 23 關於刑法適用之敘述，下列何者錯誤？  
(A)行為之處罰，以行為時之法律有明文規定者為限 (B)行為後法律有變更者，適用裁判時之法律  
(C)非拘束人身自由之保安處分，適用裁判時之法律 (D)刑法之法律漏洞不得以類推適用方法加以補充
- 24 民法第 6 條規定，「人之權利能力，始於出生，終於死亡。」張三於某年某月某日出生，所以張三擁有權利能力。此在法學方法論上，係下列何種選項的應用？  
(A)反對解釋 (B)類推適用 (C)限縮解釋 (D)法律三段論法
- 25 下列何者係針對法律漏洞為法律補充之方法？  
(A)限制解釋 (B)歷史解釋 (C)擴張解釋 (D)類推適用
- 26 以下之物中，具有主物與從物關係的是：  
(A)汽車與駕照 (B)原子筆與筆芯 (C)電視機與電視遙控器 (D)腳踏車與腳踏車的輪胎

- 27 非婚生子女與其生母之關係如何？  
(A)經認領後視為婚生子女 (B)無須認領視為婚生子女  
(C)經收養後成為婚生子女 (D)經準正後成為婚生子女
- 28 下列何者非我國刑法上的主刑？  
(A)有期徒刑 (B)拘役 (C)沒收 (D)罰金
- 29 有關現行勞動基準法退休之規定，何者錯誤？  
(A)勞工於同一事業單位工作 15 年以上年滿 55 歲者，得自請退休  
(B)勞工於同一事業單位工作 25 年以上，得自請退休  
(C)勞工年齡滿 60 歲，雇主得強制勞工退休  
(D)勞工心神喪失或身體殘廢不堪勝任工作者，雇主得強制勞工退休
- 30 無限公司章程之訂定屬於何種行為？  
(A)契約行為 (B)共同行為 (C)單獨行為 (D)物權行為
- 31 One of the senior students in our school \_\_\_\_\_ me today. He said he would beat me up if I didn't give him my sneakers.  
(A) threatened (B) opposed (C) elected (D) arrested
- 32 The navy worked around the clock to help \_\_\_\_\_ the survivors of the shipwreck.  
(A) rescue (B) research (C) retain (D) retreat
- 33 Jerry: Excuse me. Do you happen to have some change?  
Leo: Let me see. What do you need it for?  
Jerry: \_\_\_\_\_  
(A) Nickels and dimes will do. (B) I have to make a phone call right now.  
(C) I'm glad I'm not in your shoes. (D) Your world is set to change for the better.
- 34 Joe: I don't think walkmans are necessary anymore.  
Susan: \_\_\_\_\_ This amazing stereo, iPod, can store nearly ten thousand songs.  
Joe: What's more, one can also store digital data, like recorded books and pictures in it.  
(A) You can say that again. (B) What a shame!  
(C) Don't mention it. (D) It's a piece of cake.
- 35 Greg: Let's call it a day. I'm too tired to do anything now.  
Oscar: Fine with me. \_\_\_\_\_  
Greg: Sounds like a good idea. I want it black.  
(A) Do you care for a brandy? (B) What about a glass of iced tea?  
(C) What do you say to a cup of coffee? (D) Do you mind drinking some red wine with me?
- 36 Willy: Are you ready or not?  
Rachel: Yes, I am. There is no need to yell.  
Willy: \_\_\_\_\_ You haven't even put on your shoes yet. Why shouldn't I push you?  
Rachel: You are yelling again! Why can't you talk in a nice way?  
(A) I appreciate that. (B) You name it. (C) Why bother? (D) Come on!

DEAR ABBY: My family and I have lived in this area for 10 years. We are friendly with our neighbors. The children here are 37 various ages but play together wonderfully. One of my neighbors, Rachel, and I were very close at one time, but we are recovering from a fallout. We are trying to repair the friendship, but it has reached the point 38 I hate living here.

Rachel is jealous of anyone I spend time with if it's not her. She is constantly out in her yard, and I feel like she watches everything I do and who comes and goes. When I spend time with other neighbors, she retaliates with rudeness and with negative, insulting comments and behavior. How can I 39 her that although we may have been close friends at one time, we're now only friendly neighbors?

—Mary

Dear Mary: It appears Rachel has emotionally regressed to the elementary school level, 40 children assume that if they are friends, they "own" each other. I see no reason to issue any proclamations. Continue to have an active social life with neighbors you enjoy and 41 her anger. If she makes a nasty comment, tell her: "You know, sniping is a very unattractive trait. It makes me want to see less of you rather than more."

- 37 (A) by (B) of (C) upon (D) within  
38 (A) that (B) which (C) whatever (D) in which  
39 (A) set in (B) come up for (C) give over to (D) get across to  
40 (A) that (B) whom (C) where (D) which  
41 (A) omit (B) slash (C) ignore (D) conquer

*Being Famous* is the first novel from Lee Gray, lead guitarist for the world-famous rock band, The Rumor. Gray tells the story of his own real-life climb to fame through a fictional character named Ringo.

The tale begins with Ringo in high school—a shy, unpopular teenager with bad grades in everything except art and music. Ringo leaves school and gets a job cleaning toilets and making tea in a recording studio, hoping that the producers who work there will one day notice his music. We follow Ringo’s story as he is rejected by five different record companies, breaks up with his girlfriend three times, and loses numerous jobs. Eventually Ringo, penniless and heart-broken, gets a recording deal with a big record company. He goes on a world tour with his band, and becomes very successful before returning to his hometown, rich and famous. The story describes the people Ringo meets and the humorous situations he finds himself in—from his early days making tea in the recording studio to his travels on the road with his band.

Anyone who has ever lost a love, lost a job, or lost all hope, but can still laugh about it will enjoy this funny, interesting, and true story.

- 42 What is the purpose of the author in writing this passage?  
(A) To provide traveling information. (B) To write a book review.  
(C) To introduce a rock band. (D) To tell a story of a recording company.
- 43 Which of the following statements about *Being Famous* is true?  
(A) Its leading character is called Lee Gray. (B) It tells an adventurous story of a traveler.  
(C) It is the most successful work of the author. (D) It describes how a man works his way up to fame.
- 44 Which of the following statements about Ringo is true?  
(A) He is good at art and music. (B) He likes to make friends in high school.  
(C) He works as a technician after he leaves school. (D) He works in the studio because the job is well paid.
- 45 Which of the following best describes Ringo’s life before he got a recording deal?  
(A) Happy and satisfactory. (B) Smooth but monotonous.  
(C) Miserable and depressing. (D) Challenging but profitable.

There has been a raging debate over whether cell phones—or more specifically the electromagnetic radiation that they emit—increase a person’s cancer risk. In one of the latest research, Ronald Herberman, director of the University of Pittsburgh Cancer Institute, warned consumers to limit exposure to cell phone radiation and alerted parents to beware of possible effects on their kids. Although the evidence remains controversial, he is convinced that the radiation poses a risk to human health. As he pointed out, a number of countries, including France, Germany, and India, have already issued such warnings to their citizens. Herberman outlined 10 ways to reduce exposure. Among them: reduce cell phone use, use a hands-free earpiece, switch ears while chatting to limit radiation concentration in one spot, and avoid using mobile phones in public places to limit second-hand radiation. In particular, he indicated that kids should only be allowed to use these devices in cases of emergency, as their developing brains are more likely to be susceptible to possible side effects. But that doesn’t mean you should hang up altogether, Herberman says. As he noted in his memo: “Our society will no longer do without cell phones.” But he says there’s enough biological data to indicate that consumers should take precautions.

- 46 Where could you possibly read a passage like this?  
(A) In a user’s manual. (B) In a scientific report. (C) In a history textbook. (D) In a fashion magazine.
- 47 What does the word “controversial” mean in the passage?  
(A) Conclusive. (B) Disputable. (C) Objective. (D) Substantial.
- 48 Which method is NOT recommended to avoid too much exposure to radiation?  
(A) Avoid holding cell phones close to only one ear. (B) Avoid talking too frequently on cell phones.  
(C) Use cell phones in open areas. (D) Use a hands-free earpiece.
- 49 According to Herberman, who are more likely to be affected by cell phone radiation?  
(A) Adults. (B) Children. (C) Senior citizens. (D) Patients.
- 50 According to the passage, which of the following statements is true?  
(A) Cell phones are a necessary evil. (B) Radiation-free cell phones are available nowadays.  
(C) Cell phones should be discarded. (D) Second-hand cell phones have lower side effects.