

102 年公務人員普通考試試題

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）

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)本科目共 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 依憲法增修條文第 9 條第 1 項第 2 款之規定，省諮議會議員如何產生？
(A)由省政府主席提請總統任命 (B)由行政院院長提請總統任命
(C)由總統提名，經立法院同意任命 (D)由行政院院長直接任命
- 2 下列何者由憲法法庭審理之？
(A)總統之罷免案 (B)總統之彈劾案 (C)行政院院長之彈劾案 (D)行政院院長之不信任案
- 3 依司法院釋字第 328 號解釋之見解，我國領土固有疆域範圍係屬下列何種問題，不應由行使司法權之釋憲機關予以解釋？
(A)統獨問題 (B)歷史爭議問題 (C)重大政治問題 (D)內政問題
- 4 司法院釋字第 613 號解釋認為，國家通訊傳播委員會組織法中規定該會委員原「由各政黨（團）接受各界舉薦，並依其在立法院所占席次比例共推薦十五名、行政院院長推薦三名」，主要有違下列何原則？
(A)平等原則 (B)比例原則 (C)法律保留原則 (D)權力分立原則
- 5 以下何機關，為中央行政機關組織基準法所稱之獨立機關？
(A)行政院農業委員會 (B)國家通訊傳播委員會 (C)國防部 (D)行政院衛生署
- 6 下列關於總統與副總統的描述何者錯誤？
(A)總統逝世時，由副總統繼任
(B)總統與副總統均缺位時，由行政院院長代行其職權，並依法補選
(C)總統經彈劾去職後，副總統應一併解職
(D)副總統無特定職權
- 7 有關選舉、罷免、創制、複決事項，下列說明中之何者並不屬於我國憲法上的明文規定？
(A)創制、複決兩權之行使，以法律定之
(B)被選舉人得由原選舉區依法罷免之
(C)選舉訴訟一律由行政法院審判之
(D)憲法上所規定之各種選舉，原則上以普通、平等、直接及無記名投票之方法行之
- 8 各大學院校教師關於教師升等之評審，依司法院釋字第 462 號解釋，受評審之教師於依教師法或訴願法用盡救濟途徑後，仍有不服者，為保障其訴訟權，仍可循下列何途徑請求救濟？
(A)經與任職大學院校協議不成後，向民事法院提起民事訴訟
(B)向行政法院提起行政訴訟
(C)向司法院公務員懲戒委員會聲明異議
(D)向司法院大法官聲請統一解釋法令
- 9 依司法院解釋，因軍事審判法令遭受冤獄之人民，不能依冤獄賠償法行使賠償請求權，係違反下列何種原則？
(A)民主原則 (B)平等原則 (C)權力分立原則 (D)信賴保護原則
- 10 下列關於選舉平等的說明，何者錯誤？
(A)憲法規定對於弱勢族群的特殊保障，違反平等選舉之要求
(B)我國憲法增修條文規定，每一縣市均有立法委員席次
(C)平等選舉所要達成之目標為票票等值
(D)不分區席次之分配，設定一定門檻，雖限制選舉平等，但乃是有一定的正當化事由
- 11 有關出版自由之敘述，下列何者正確？
(A)國家應於出版品上市前加以審查，並得要求修改出版品內容
(B)國家不得於事前或事後限制任何出版品上市，一律由業者自律
(C)國家得要求出版品不得發表政治性言論，否則以刑法相繩
(D)出版品有妨害善良風俗及公共秩序等情形者，國家得依法予以限制

- 12 有關人民之生存權、工作權及財產權應予保障之敘述，下列何者錯誤？
(A)依司法院大法官歷年來之解釋得知，我國現行死刑制度尚難謂抵觸憲法對生存權保障之規定
(B)財產權之保障並非絕對，惟對於所謂之特別犧牲，國家不僅應予以補償，更應儘速
(C)為增進公共利益之必要，國家得對人民從事工作之方法、應具備之資格或其他要件，以法律為適當之限制
(D)一律限制明眼人不得從事按摩業，係屬對視障人士工作權之確保，應屬合憲
- 13 依司法院解釋，下列何者屬憲法中具有本質之重要性，如修改條文予以變更，則憲法整體規範秩序將形同破毀？
(A)國民主權原則 (B)民意代表之選舉制度 (C)立法院議事規則 (D)基本國策
- 14 下列有關原住民族之保障，何者非憲法增修條文所明定？
(A)保障原住民族之地位及政治參與
(B)對其教育文化及衛生醫療予以保障扶助
(C)對原住民族保障耕者有其田，促進高經濟農業發展
(D)對其經濟土地及社會福利予以保障扶助
- 15 依憲法增修條文第 10 條之規定，國家應消除性別歧視，促進何種目的之實現？
(A)父母子女地位之認同 (B)夫妻地位之平等發展 (C)兩性地位之實質平等 (D)親權地位之真正平等
- 16 勞動基準法有關童工之規定，下列敘述何者為錯誤？
(A)15 歲以上未滿 17 歲之受僱從事工作者，為童工
(B)童工每日工作不得超過 8 小時，例假日不得工作
(C)未滿 15 歲，但國民中學畢業者，得為雇主僱用，準用童工保護之規定
(D)未滿 15 歲，但經主管機關認定工作性質及環境無礙身心健康者，得為雇主僱用，準用童工保護之規定
- 17 一日，甲在家中，多年不見的國中同學乙忽然上門推銷男士保養品。甲本想婉拒，但因迫於人情壓力，只好買下一套護膚產品。事後，甲反悔，於是打電話給乙要求退貨，但卻遭到拒絕。下列敘述，何者正確？
(A)登門推銷，不適用消費者保護法關於解除契約之規定
(B)甲與乙之間是朋友關係而非消費關係，不適用消費者保護法之規定
(C)甲得於 7 日內解除契約，且不須說明理由
(D)甲得撤銷其迫於人情壓力所為之意思表示，使買賣契約自始不成立
- 18 以視聽機向現場觀眾傳達視聽著作之內容，涉及著作權人之何種權利？
(A)公開播送權 (B)公開演出權 (C)公開傳輸權 (D)公開上映權
- 19 下列何者並非刑法上的主刑？
(A)死刑 (B)無期徒刑 (C)拘役 (D)罰鍰
- 20 小璇與大慶是男女朋友，兩人同居已有 1 年。大慶由於失業開始酗酒，每在酒醉後毆打小璇，使小璇身心受傷。請問小璇是否可以依照家庭暴力防治法的規定，向法院聲請核發民事保護令，命大慶搬離兩人的同居住所？
(A)不可以，因為小璇與大慶未結婚，不是夫妻
(B)不可以，因為小璇與大慶同居未滿 3 年
(C)可以，依照家庭暴力防治法，同居關係可以聲請保護令
(D)可以，依照近年法院的見解，同居男女朋友可以涵蓋在家庭暴力防治法所保障的配偶關係內
- 21 甲基於殺害的意思舉槍瞄準政客 A，子彈擊發後卻出乎甲所料，擊中了站在一旁的助理 B，這種現象在刑法上稱為：
(A)違法性錯誤 (B)客體錯誤 (C)禁止錯誤 (D)打擊錯誤
- 22 下列何者不為我國所規定的離婚方式？
(A)經法院調解和解之離婚
(B)分居 5 年而解消婚姻之離婚
(C)夫妻合意依法為戶籍登記之離婚
(D)夫妻有法律所規定之離婚事由而向法院請求裁判之離婚
- 23 甲 19 歲，受監護宣告後，其法律效果為何？
(A)甲成為無權利能力人 (B)甲成為無意思能力人 (C)甲成為無識別能力人 (D)甲成為無行為能力人
- 24 19 歲已婚之甲男，購買一房屋作為新居，該買賣契約之效力為何？
(A)有效 (B)效力未定 (C)得撤銷 (D)無效
- 25 出賣人以買受人拒絕支付價金為由，而拒絕交付買賣標的物，此種權利屬於：
(A)請求權 (B)支配權 (C)形成權 (D)抗辯權
- 26 依司法院解釋，教師法規定教師行為不檢而有損師道，經解聘者，禁止終身再任教職，違反下列何種原則？
(A)比例原則 (B)公益原則 (C)誠實信用原則 (D)明確性原則

- 27 有學者在解釋我國民事訴訟法第 284 條規定時，參考德國民事訴訟法第 294 條規定，請問這種法律解釋方法是：
(A)文義解釋 (B)當然解釋 (C)比較法解釋 (D)反面解釋
- 28 依中央法規標準法之規定，下列何者為法律之名稱：
(A)辦法 (B)規則 (C)通則 (D)細則
- 29 法院於審理繼承事件中，進行 DNA 檢驗以確認血緣關係之行爲，屬法律適用過程的何種活動？
(A)認定事實 (B)解釋法律要件
(C)涵攝事實與法律要件得出法律效果 (D)執行法律效果
- 30 所謂「私不舉，官不究」是指司法機關在適用法律時，那一種原則的表現？
(A)一事不二罰原則 (B)一事不再理原則 (C)法官不得類推適用 (D)不告不理原則
- 31 The woman sued her company for gender _____ because she was laid off for her pregnancy.
(A)distinction (B)discrimination (C)inspection (D)examination
- 32 It is a _____ that the kid fell from the tenth floor and survived with only some abrasions.
(A)misery (B)muscle (C)medal (D)miracle
- 33 Many people took _____ surgery to make themselves look prettier.
(A)electric (B)historic (C)realistic (D)plastic
- 34 It is customary that Chinese _____ red color with good luck.
(A)associate (B)communicate (C)operate (D)resolve
- 35 Although the company did not make profits this season, the manager is still _____ about the prospect.
(A)imaginative (B)optimistic (C)realistic (D)objective
- 36 Jewish teaching says that at death the body returns to God, so funerals take place within 24 hours to get the _____ there all the quicker.
(A)adherent (B)deceased (C)eccentric (D)veteran

請依下文回答第 37 題至第 40 題：

Robert Frost (1874-1963) is one of the most well-known 20th century American poets. People like to talk about his nature poems, which seem to show a spontaneous love of nature and simple little pleasures in life. But little do most people know about the 37 side of the great poet's life. Robert Frost lost his first son and second daughter when they were little. And in his sixties, two years after his beloved wife's death, his son, long 38 from depression and suspiciousness, committed suicide with a deer hunting rifle. In his last years, 39 still keeping a terribly busy and active public life, he was tortured by pneumonia, cancer, and embolism. Having learned about the 40 of the poet, we can finally fully appreciate the death wish shown in one of his famous poems of his last years, "Stopping by Woods on a Snowy Evening."

- 37 (A)organic (B)optimistic (C)symbolic (D)traumatic
38 (A)refraining (B)issuing (C)suffering (D)coming
39 (A)as (B)while (C)yet (D)because of
40 (A)myths (B)morals (C)misfortunes (D)mistakes

請依下文回答第 41 題至第 45 題：

Many people feel jealous from time to time. Jealousy is easy to deal with, once you understand what it's teaching you. Here are some pointers on working through your feelings of jealousy.

First of all, you should understand your emotions. Jealousy is a combination of fear and anger; a fear of losing something, and anger that someone is "moving in on" something that you feel belongs only to you. When you start feeling jealous, ask yourself: is it more fear based, or more anger based? If you feel a dropping or clutching sensation in your stomach, it's probably fear. If you feel a burning, tight sensation in your shoulders and jaw, then you're likely feeling anger. You might also feel a combination of those sensations.

Secondly, understand that jealousy can alert you to what you want, and what is important to you. If you're jealous of someone talking to a friend of yours, personal relationships may be important to you. If you're jealous about money, you may have an underlying need for security. When you begin to understand what makes you jealous, you can begin to take positive steps to maintain those things, without the cloud of negative emotion that accompanies jealousy.

- 41 What is the best title for this passage?
(A) The Consequences of Jealousy (B) How to Better Understand Jealousy
(C) The Importance of Personal Relationships (D) Understanding What You Want
- 42 Which of the following is true about jealousy?
(A) Fear is the primary reason for jealousy. (B) Jealousy can cause stomachache.
(C) It is not possible to figure out why we are jealous. (D) People are jealous about the things they dislike.
- 43 What is a symptom of anger-based jealousy?
(A) Coldness in the stomach. (B) A burning heart.
(C) Lack of appetite. (D) Tightness in the shoulders.
- 44 What does the author suggest for dealing with jealousy?
(A) Earn more money to be secure. (B) Talk to an important friend about your jealousy.
(C) Take medicine to deal with fear-based jealousy. (D) Understand what contributes to your jealousy.
- 45 If you are jealous of someone talking to your good friends, which of the following statements may be true?
(A) You value this relationship greatly. (B) You do not have financial security.
(C) You are not sociable. (D) You do not understand your emotions.

請依下文回答第 46 題至第 50 題：

A young woman went to her mother and told her how life was so hard for her. She did not know how she was going to make it and wanted to give up. Her mother took her to the kitchen. She filled three pots with water and placed each on a high fire. Soon the pots came to boil. In the first she placed carrots, in the second she placed eggs, and in the last she placed ground coffee beans. She let them sit and boil. In about twenty minutes she turned off the burners. She ladled out the carrots, the eggs, and the coffee and placed each in a bowl. Turning to her daughter, she asked, "Tell me what you see." "Carrots, eggs, and coffee," she replied.

Her mother brought her closer and asked her to feel the carrots. She noted that they were soft. The mother then asked the daughter to take an egg and break it. After pulling off the shell, she observed the hard boiled egg. Finally, the mother asked the daughter to sip the coffee. The daughter smiled as she tasted its rich aroma. The daughter then asked, "What does it mean, mother?"

Her mother explained that each of these objects had faced the same adversity: boiling water. Each reacted differently. The carrot went in strong, hard, and unrelenting. However, after being subjected to the boiling water, it softened and became weak. The egg had been fragile. Its thin outer shell had protected its liquid interior, but after sitting through the boiling water, its inside became hardened. The ground coffee beans were unique, however. After they were in the boiling water, they had changed the water.

"Which are you?" she asked her daughter. "When adversity knocks on your door, how do you respond? Are you a carrot, an egg, or a coffee bean?"

- 46 What is this story mainly about?
(A) How to cook carrots, eggs, and coffee beans. (B) The importance of cooking for a woman.
(C) A mother's affection for her daughter. (D) Different attitudes when facing difficulties.
- 47 How did the mother cook carrots, eggs, and coffee beans?
(A) She mixed and boiled them in one pot. (B) With a pot, she cooked each in order.
(C) She boiled them in separate pots. (D) She placed them directly above the oven.
- 48 What lesson would the daughter learn from the eggs?
(A) Birds of a feather flock together. (B) God helps those who help themselves.
(C) The harder the life is, the stronger one becomes. (D) Don't bite off more than you can chew.
- 49 According to the story, which of the following is NOT true?
(A) Like the carrots, one may surrender in a tough situation.
(B) Like the eggs, one may be still as fragile as the shell even after struggling for a long time.
(C) Like the ground coffee beans, one may change the circumstance that brings the pain.
(D) Like the carrots, one may become weaker after a series of adversities.
- 50 What does "adversity" mean in the third paragraph?
(A) Hardship. (B) Value. (C) Failure. (D) Luck.