

101 年公務人員特種考試關務人員考試、101 年公務人員特種考試
移民行政人員考試及 101 年國軍上校以上軍官轉任公務人員考試試題

等 別：四等移民行政人員考試

類(科)別：移民行政

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 10 條之規定，經濟及科學技術發展，應與何者兼籌並顧？
(A)商業競爭 (B)國際貿易 (C)社會救助 (D)環境及生態保護
- 2 依司法院釋字第 587 號解釋，非婚生子女請求確認與生父的血統關係，是否屬於憲法所保障的權利？
(A)是，非婚生子女獲知其血統來源，確定其真實父子身分關係，攸關子女之人格權，應受憲法保障
(B)是，基於平等原則，非婚生子女權益應完全比照婚生子女
(C)否，因憲法基本權利章並未明文規定
(D)否，非婚生子女於成年前，其法定代理人為生母，應由生母代為請求確認，自己不能請求
- 3 依憲法第 144 條之規定，有關公用事業及其他有獨佔性之企業之敘述，下列何者為正確？
(A)經總統以行政命令許可者，得由國民經營 (B)經行政院以行政命令許可者，得由國民經營
(C)經憲法正面表列者，得由國民經營 (D)經法律許可者，得由國民經營
- 4 依司法院釋字第 380 號關於大學自治的解釋，教育部邀集各大學相關人員共同研訂共同必修科目，係違反憲法關於何項自由、權利的保障？
(A)平等權 (B)財產權 (C)講學自由 (D)受教育的權利與義務
- 5 私立大學對於學生所為退學之處分，性質上屬於下列何者？
(A)私法之解約行為 (B)司法行為 (C)公法上事實行為 (D)行政處分
- 6 下列何者是社會基本權保障最重要的核心所在？
(A)生存權 (B)學習權 (C)財產權 (D)勞工三權
- 7 憲法第 11 條規定保障人民的言論自由，依據司法院釋字第 364 號解釋，下列說明何者錯誤？
(A)廣播與電視方式的表達意見，屬於憲法第 11 條言論自由的範圍
(B)為保障言論自由，國家應對電波頻率之使用為公平合理之分配
(C)人民有平等「接近使用傳播媒體」之權利，應完全優先於傳播媒體編輯自由
(D)電波頻率為有限性之公共資源，為免被壟斷與獨占，國家應制定法律，使主管機關對於開放電波頻率之規劃與分配，能依公平合理之原則審慎決定
- 8 現行公職人員選舉罷免法規定：「選舉、罷免訴訟，設選舉法庭，…，以二審終結，並不得提起再審之訴。」依司法院釋字第 442 號解釋，是否牴觸憲法第 17 條人民參政權之保障？
(A)牴觸，憲法保障人民享有司法三級三審制之訴訟權
(B)牴觸，選舉、罷免乃民主政治核心，僅以二審終結，似嫌草率
(C)不牴觸，第三審及再審訴訟乃例外訴訟程序，無須於所有訴訟均具備
(D)不牴觸，選舉、罷免訴訟儘速審結，旨在避免時間拖延，乃立法機關之合理裁量
- 9 依憲法本文之規定，下列何者非屬總統職權？
(A)締結條約 (B)法律提案 (C)發布緊急命令 (D)授與榮典
- 10 憲法本文上規定，中央與地方權限分配遇有爭議時，如何解決之？
(A)由立法院解決 (B)由行政院解決
(C)由總統召集中央及有關地方首長會商解決 (D)由監察院解決

- 11 法官於審判案件時，對於各機關依其職掌就有關法規為釋示之行政命令，下列何者敘述是錯誤的？
(A)得依據法律表示適當之不同意見 (B)僅供法官參考
(C)可予以引用 (D)受其拘束
- 12 下列中何者是憲法法庭的職權？
(A)行政院院長之彈劾 (B)政黨違憲之解散 (C)總統副總統之罷免 (D)公民投票案之審核
- 13 依憲法增修條文規定，監察院對中央與地方公務人員之彈劾程序為何？
(A)監察委員一人之提議，九人以上之審查及決定
(B)監察委員一人以上之提議，九人以上之審查及決定
(C)監察委員二人以上之提議，九人以上之審查及決定
(D)監察委員三人以上之提議，九人以上之審查及決定
- 14 依據憲法本文第 11 章地方制度，第 2 節縣之規定，下列敘述何者錯誤？
(A)縣單行規章，與國家法律或省法規牴觸者無效
(B)縣民關於縣自治事項，依法律行使創制、複決之權，對於縣長及其他縣自治人員，依法律行使選舉、罷免之權
(C)縣長辦理縣自治，並執行中央及省委辦事項
(D)縣設縣議會，縣議會議員由縣民選舉之；屬於縣之立法權，由縣民行之
- 15 「一人一票，票票等值」，是那一個選舉原則的要求？
(A)單一選舉原則 (B)普通選舉原則 (C)平等選舉原則 (D)直接選舉原則
- 16 下列何者非刑法規定的阻卻違法事由？
(A)逮捕現行犯 (B)遭受家庭暴力 (C)業務上正當行為 (D)緊急避難
- 17 17 歲之少年殺死自己的父親，法院應如何科刑？
(A)僅得科處死刑 (B)僅得科處無期徒刑
(C)得科處死刑或無期徒刑 (D)得科處 15 年以上 20 年以下有期徒刑
- 18 甲夫乙妻結婚多年膝下無子，嗣甲死亡，由甲之二位弟弟 A、B 與乙同為繼承人，則乙之應繼分為遺產之多少？
(A)三分之二 (B)二分之一 (C)三分之一 (D)四分之一
- 19 下列敘述，何者錯誤？
(A)權利能力不得拋棄 (B)自由不得拋棄 (C)行為能力不得拋棄 (D)物權不得拋棄
- 20 乙因受丙之脅迫而將其珍藏之油畫一幅出售於甲，甲不知丙脅迫乙之情事，則甲、乙間買賣契約之效力為何？
(A)乙可主張被脅迫，而撤銷其出售之意思表示 (B)乙可主張此買賣契約效力未定
(C)甲得主張此買賣契約當然無效 (D)甲得主張此買賣契約不生效力
- 21 下列何者與民法無關？
(A)契約自由 (B)私法自治 (C)權力分立 (D)公序良俗
- 22 下列何者不是命令的名稱？
(A)通則 (B)規則 (C)準則 (D)細則
- 23 下列何者不屬於司法院大法官之職權？
(A)解釋憲法 (B)統一解釋法律及命令
(C)政黨違憲解散事項之審理 (D)總統副總統之罷免
- 24 藉由立法或修法的資料、立法理由等，以了解法律用詞或法律條文的意義，稱之為何種解釋？
(A)類推解釋 (B)歷史解釋 (C)體系解釋 (D)合憲性解釋
- 25 下列何者不是行政程序法規定的行政法一般原理原則？
(A)誠信原則及信賴保護原則 (B)比例原則
(C)罪刑法定原則 (D)禁止差別待遇原則

- 26 依司法院解釋，各級法院法官審理案件時，如合理確信某法律違憲，得為何種處置？
(A)直接拒絕審判該案件 (B)逕行宣告該法律無效 (C)要求上級法院處理 (D)聲請大法官解釋
- 27 依憲法增修條文規定，下列何者應由總統提名，經立法院同意後任命之？
(A)立法院院長 (B)法務部部長 (C)司法院大法官 (D)行政院院長
- 28 下列何者為憲法未明文列舉之基本權利？
(A)秘密通訊自由 (B)一般行為自由 (C)居住及遷徙自由 (D)著作及出版自由
- 29 法律之修改、廢止若訂有「過渡期間」之條款者，依司法院解釋，主要應屬下列何種原則之表現？
(A)依法行政原則 (B)平等互惠原則 (C)法律保留原則 (D)信賴保護原則
- 30 下列何者為憲法第 170 條及中央法規標準法第 2 條規定所稱之法律？
(A)公務員廉政倫理規範 (B)道路交通管理處罰條例
(C)勞動基準法施行細則 (D)獎勵保護檢舉貪污瀆職辦法
- 31 Many people think the world of business is still _____ by the male because most of the highest positions are held by men.
(A)protested (B)distinguished (C)involved (D)dominated
- 32 Most of the workers of the factory got cancer because they had been _____ to harmful chemicals for years.
(A)adapted (B)devoted (C)exposed (D)urged
- 33 Don't beg me anymore. I will never _____ your unreasonable demand.
(A)get rid of (B)get even with (C)get over with (D)give in to
- 34 After realizing she had won the championship, the young player _____ a flood of tears.
(A)did away with (B)broke into (C)took it out on (D)got through
- 35 Mandy's parents are both high-ranking government officials. We thought they would be quite conceited. Yet, to our surprise, they turned out to be _____.
(A)contemplative (B)talented (C)arrogant (D)amiable
- 36 Since the elevator was filled to _____, Jerry had to wait for the next ride.
(A)extension (B)intensity (C)capacity (D)condition
- 37 In order to lose weight, Sandy _____ fat and sweets in her diet.
(A)looks up to (B)stands up for (C)hands down to (D)cuts down on
- 38 The teacher answered the question _____ in class.
(A)which asked (B)that were asked (C)was asked (D)asked
- 39 A: What do you think of the flight?
B: Not bad. At least, _____.
A: I ate all the cakes they offered. I didn't know I was that hungry.
B: It sounds we are both satisfied with this flight.
(A)it was hard to imagine (B)it didn't offer any discount
(C)I had a nap for half an hour (D)I agreed with you
- 40 Tom: Did you hear they have decided to cut down the old pine tree in the park?
Huck: Too bad. _____.
Tom: You bet! I still remember the time we collected bird eggs and pine cones there.
(A)It's good to have a park nearby. (B)The pine tree is standing in everybody's way.
(C)Why don't they plant more trees? (D)We've had so much fond memory there.
- 41 Bob: Hey, Amy. _____.
Amy: I'm just posting something on my web log.
Bob: You mean "blog"?
Amy: Yeah. Blog is short for web log. It's like an online diary.
(A)What's going on? (B)How do you do?
(C)Where are you going? (D)What's the matter with you?

請依下文回答第 42 題至第 45 題

While you're visiting Southern California, take a short drive and enjoy the natural beauty of Temecula, best known for its award-winning wineries and restaurants, 42 the extremely exciting sport of hot air ballooning. Temecula is 43 just 20 miles inland from the Pacific Ocean, reachable by taking the 91 Freeway in north Orange County east to Interstate 15 south. As you approach Temecula, you will see spectacular natural splendor and hills dotted with magnificent vineyards. And if you happen to arrive early in the morning, look upward for a stunning sight of colorful hot air balloons filling the sky.

Before you leave the ground, watch as your balloon rises up from a canvas bag into a colorful, teardrop-shaped life form, 44 the help of cold air fans and millions of BTUs of heat. It's an exciting sight to behold. 45 you're floating up in the air, a sense of relaxation overcomes you. There is simply nothing better than a hot air balloon ride to capture that perfect moment.

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|----|----------------|--------------------|----------------|---------------|
| 42 | (A) instead of | (B) as a result of | (C) as well as | (D) owing to |
| 43 | (A) planted | (B) calculated | (C) located | (D) connected |
| 44 | (A) by | (B) of | (C) from | (D) with |
| 45 | (A) Once | (B) Then | (C) Meanwhile | (D) Never |

請依下文回答第 46 題至第 50 題

Have you ever been troubled by the question of whether to buy a wine with a cork or a screw top? In fact, the way to seal wines is also a tough problem for the wineries.

The root of the problem lies in "cork taint." When some wine is sealed with a bad cork, there will be cork taint. Corks are made from a special oak tree growing around the Mediterranean. In the process of making corks and sealing wine bottles, a certain type of mold may start to grow in some corks. Over time, this mold may make the wine taste musty. Since cork taint affects one out of every ten bottles of wine, no packaging industry in the world would put up with such a high rate of failure.

Some wine makers try to solve the problem by sealing bottles with screw tops. However, many wineries are still playing it safe and sticking to corks for two reasons. First, cork users believe a small amount of oxygen is able to penetrate corks, not screw tops, and the oxygen is necessary for the proper aging of fine wines. The other problem arises from the image screw tops have with the public. In most people's minds, screw tops are only found on cheap, low-quality wines. In addition, there is the problem of losing the romantic mood produced by the popping of the cork.

For the reasons above, it will take a lot of efforts for wineries to re-educate the public if they want to change the habit of the public.

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|----|---|---|---------|---------|
| 46 | What is this passage mainly about? | | | |
| | (A) How to choose a good wine. | (B) Where to find the best wines. | | |
| | (C) How to seal wines. | (D) Why corks get tainted. | | |
| 47 | What does "cork taint" affect? | | | |
| | (A) The age of wine. | (B) The air in wine. | | |
| | (C) The color of wine. | (D) The taste of wine. | | |
| 48 | What is the chance of "cork taint" affecting bottled wine? | | | |
| | (A) 1% | (B) 5% | (C) 10% | (D) 20% |
| 49 | Why do some wineries hesitate to use screw tops to seal wine bottles? | | | |
| | (A) Screw tops are too expensive. | (B) Screw tops are difficult to open. | | |
| | (C) Screw tops can't seal the air in the bottle. | (D) Screw tops affect the image of a good wine. | | |
| 50 | Which of the following statements may NOT be true? | | | |
| | (A) A small amount of oxygen is believed to be able to penetrate corks. | | | |
| | (B) The mold in some corks makes wine tasty. | | | |
| | (C) The material of corks comes from the Mediterranean. | | | |
| | (D) Most people think screw tops are only found on low-quality wines. | | | |