

101年公務人員高等考試三級考試試題

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 關於法定預算之敘述，依司法院大法官解釋，下列何者錯誤？
(A)法定預算為措施性法律
(B)預算案經立法院通過並公布者即為法定預算
(C)倘行政院停止法定預算執行致影響法定機關存續者，即非法之所許
(D)即使行政院重要政策變更涉及法定預算之停止執行時，立法院亦無參與決策權
- 2 依據憲法第 111 條規定，中央與地方權限分配遇有爭議時，由下列何機關解決？
(A)總統府 (B)行政院 (C)立法院 (D)監察院
- 3 依司法院釋字第 499 號解釋，下列何者不屬於憲法中「具有本質之重要性而為規範秩序存立之基礎」而不得任意修改者？
(A)人民基本權利的保障 (B)行政國原則 (C)國民主權原則 (D)權力分立與制衡原則
- 4 有關立法院審議法律案程序中一讀會的進行，下列敘述何者錯誤？
(A)一讀會由主席將議案宣付朗讀行之
(B)立法委員提出之法律案，得於一讀會時經大體討論後，議決不予審議
(C)政府機關提出之法律案，應先送程序委員會，然後提報院會朗讀標題
(D)立法委員提出之法律案，應先送程序委員會，然後提報院會朗讀標題
- 5 依憲法增修條文規定，立法院對於行政院院長提出不信任案通過之議決人數為何？
(A)全體立法委員二分之一以上贊成
(B)全體立法委員三分之二以上贊成
(C)全體立法委員三分之一以上出席，出席委員二分之一以上贊成
(D)全體立法委員二分之一以上出席，出席委員三分之二以上贊成
- 6 依憲法本文及增修條文之規定，有關總統、副總統均缺位時之敘述，下列何者錯誤？
(A)應重新辦理總統、副總統之選舉 (B)繼任者任期重新起算
(C)由行政院院長代行總統職權 (D)行政院院長代行總統職權時，其期限不得逾三個月
- 7 憲法保障居住及遷徙的自由，以下敘述何者正確？
(A)國民有權利移居外國 (B)即使患有法定傳染病，政府亦不可限制居所
(C)保釋在外的嫌疑犯可以自由旅行 (D)政府對於犯罪的國民可以拒絕其入境
- 8 下列何種言論相較之下，可受較大之限制？
(A)鼓吹臺灣獨立 (B)主張共產主義
(C)藥物廣告 (D)在網際網路上徵求 16 歲少女當援交對象
- 9 依司法院大法官解釋，下列何者並非就人民財產權加以限制？
(A)主管機關依法為禁止設攤之公告或為道路擺設攤位之許可
(B)九二一大地震災區住屋全倒、半倒者，發給慰助金之對象，以是否實際居住於受災屋作為判斷依據
(C)法規規定電動玩具業不得容許未滿 18 歲之兒童及少年進入其營業場所
(D)法律規定商標專用權人於商標專用期間內廢止營業者，其商標專用權當然消滅
- 10 依憲法增修條文之規定，現行立法委員之選舉採下列何種制度？
(A)單一選舉一票制 (B)單一選區兩票制 (C)複數選區一票制 (D)複數選區兩票制
- 11 總統、副總統當選人之當選票數不實，足認有影響選舉結果之虞者，候選人得提起何種訴訟？
(A)撤銷當選公告之訴 (B)撤銷選舉公告之訴 (C)當選無效之訴 (D)選舉無效之訴
- 12 國家賠償，其所應適用之法律，依國家賠償法第 5 條及第 6 條之規定，除國家賠償法本身外，尚有民法及其他特別法；至於其適用之順序，則為何？
(A)先適用國家賠償法，再適用民法，最後適用特別法
(B)先適用特別法，再適用國家賠償法，最後適用民法
(C)先適用國家賠償法，再適用特別法，最後適用民法
(D)先適用特別法，再適用民法，最後適用國家賠償法
- 13 下列關於中華民國國籍之敘述，何者錯誤？
(A)有國籍者，始有國民身分
(B)我國法律規定，選舉權之行使，以有國籍之人為前提
(C)憲法本文對於雙重國籍，未有明文規定
(D)中華民國國民取得外國國籍者，不影響登記為總統、副總統候選人之權利

- 14 有關選舉、罷免訴訟之選舉法庭的審理，下列何者錯誤？
(A)採合議制方式審理 (B)判決確定，得提起再審 (C)應先於其他訴訟審判之 (D)審判審級，採二審終結
- 15 地方自治之法規中，自治規則得依其性質，定名為何者？
(A)法律、命令、條例 (B)通則、地方命令、自治條例
(C)規程、規則、辦法 (D)地方通則、地區命令、自治通則
- 16 關於成文法與不成文法，下列敘述，何者錯誤？
(A)成文法較為明確，易於施行 (B)成文法與不成文法的區別，在於有無文字記載
(C)習慣與法理皆為不成文法 (D)成文法須經過立法程序及公布程序
- 17 下列何項為立法院通過總統公布之法律？
(A)建築技術規則 (B)監督寺廟條例 (C)商標識別性審查基準 (D)立法院秘密會議注意事項
- 18 下列何者為間接法源？
(A)憲法 (B)條約 (C)自治法規 (D)判例
- 19 下列何者非屬法律之補充？
(A)類推 (B)擬制 (C)目的限縮 (D)法律續造
- 20 對於因精神障礙或其他心智缺陷，致其為意思表示或受意思表示，或辨識其意思表示效果之能力，顯有不足者，法院得因特定人之聲請，而為：
(A)保護措施 (B)即時強制 (C)監護宣告 (D)輔助宣告
- 21 父母於子女出生登記前，應以書面約定子女從父姓或母姓。其未約定或約定不成者，應如何處置？
(A)依其他子女所從姓氏 (B)原則從父姓 (C)於戶政事務所抽籤決定 (D)由申請者自行決定
- 22 司法院大法官解釋：槍砲彈藥刀械管制條例第 8 條第 1 項：未經許可製造、販賣、運輸具殺傷力之空氣槍，不論情節輕重，處以無期徒刑或五年以上有期徒刑之規定違憲。係因違反下列何項法原則？
(A)平等原則 (B)比例原則 (C)法律保留原則 (D)法律優位原則
- 23 關於刑法褫奪公權之規定，下列敘述，何者錯誤？
(A)宣告無期徒刑者，宣告褫奪公權終身 (B)褫奪公權者，不得為公務員，但可參選民意代表
(C)褫奪公權，應於裁判時併為宣告 (D)褫奪公權之性質為從刑
- 24 甲申請山坡地開發許可作集合住宅使用，於申請後許可前，因山坡地保育利用條例修正規定：山坡地不得為建築使用。則建管機關應為如何之處理？
(A)適用新法駁回甲之申請 (B)適用舊法許可甲之申請
(C)適用新法駁回甲之申請，並予信賴補償 (D)適用舊法修正許可甲之申請
- 25 行政院院會通過之預算案須經立法院審議通過，係本於下列何項憲政原則？
(A)法治國原則 (B)權力分立原則 (C)法律優位原則 (D)國會主權原則
- 26 設臺北市府擬訂「臺北市商業區管理自治條例」規定：違反營業時間規定者，處新臺幣十萬元以下罰鍰，並得命令歇業。本項自治條例經臺北市議會通過後，須報下列何機關核定？
(A)行政院 (B)內政部 (C)經濟部 (D)法務部
- 27 身心障礙者權益保障法原有規定：非視覺障礙者，不得從事按摩業。因違反下列何原則，經司法院大法官解釋應自 100 年 10 月 31 日失其效力？
(A)比例原則 (B)信賴保護原則 (C)平等原則 (D)誠信原則
- 28 突破我國傳統各種訴訟之分野就特定類型案件，可以綜理其民、刑事訴訟及行政訴訟，於 97 年 7 月全新設置之專業法院為：
(A)交通事件法院 (B)智慧財產法院 (C)行政法院 (D)行政執行法院
- 29 下列何項得為著作權之標的？
(A)司法院委請學者譯成英文出版之大法官會議解釋彙編
(B)內政部編印出版之營建法令彙編
(C)財政部舉行學術研討會出版之研討會論文集
(D)立法院就法案審議過程出版之法律案專輯
- 30 全民健康保險被保險人對於核定之投保金額不服者，應循下列何項程序救濟？
(A)爭議審議、訴願及行政訴訟 (B)爭議審議及行政訴訟
(C)訴願及行政訴訟 (D)民事訴訟
- 31 Mary's absence made her mother feel lonely and _____.
(A)conceited (B)devoted (C)neglected (D)resolved
- 32 Jesus Christ in the West and Confucius in the East both had a lot of _____ who were influenced by their teachings and tried to follow their good examples.
(A)descendants (B)offsprings (C)siblings (D)disciples

- 33 Nearly 1,000 tornadoes ripped across the U.S. heartland in 2011, killing more than 500 people and _____ \$9 billion in damage.
(A)evolving (B)inflicting (C)conjuring (D)meditating
- 34 The dynamic workforce of design professionals has enabled the industry to perform well and gain customer _____.
(A)patronage (B)consumption (C)supplement (D)warranty
- 35 Student numbers are growing as the economy places knowledge at a _____, and traditional blue-collar jobs migrate in search of lower wages and production costs.
(A)pendulum (B)premium (C)uranium (D)vacuum
- 36 The “Hero Worship” phenomenon among young people has long been studied by sociologists, and there is a _____ of information about this on the Internet and in books.
(A)sustenance (B)gluttony (C)dichotomy (D)plethora
- 37 The world’s cities are _____ at the seams: by 2050, an estimated 6.4 billion people—compared to about 3.5 billion today—will be living in cities.
(A)crawling (B)bursting (C)flocking (D)melting
- 38 The task of the scientist is to see what the case is rather than to make up a case.
(A)The task of the scientist is to see and to invent.
(B)The responsibility of the scientist is to look for a case.
(C)The task of the scientist is to investigate instead of inventing a case.
(D)The task of the scientist is seeing and believing.
- 39 To compensate for all the greenhouse gases his plane trips spewed into the atmosphere, Mr. Grover began paying Climate Care to help make the world a little greener.
(A)Mr. Grover was aware of the environmental burden his air travels have created, so he started to contribute fees to Climate Care to help reduce greenhouse gases.
(B)Mr. Grover was charged by Climate Care, which found him guilty for his role in producing the greenhouse effect when he traveled by plane.
(C)Mr. Grover’s plane trips inevitably spewed a lot of carbon dioxide into the atmosphere. He felt so guilty that he decided to travel only with Climate Care.
(D)The goal of Climate Care was to accelerate the global warming process, a cause supported by many environmentally insensitive persons like Mr. Grover.
- 40 Whether or not the artistic quality of the bullfight outweighs the moral question of the animals’ suffering is something that each person must decide for themselves.
(A)Everyone has his/her interpretation on whether the beauty of the bullfight is more important than the suffering of the bull.
(B)People in our society are forced to decide whether the artistic quality of the bullfight is more valuable than the suffering of the animal.
(C)Whether the bullfight is an art or a moral issue is a question to which each person has an answer.
(D)In our society, some consider the bullfight an artistic performance rather than an act of murder and of inflicting pain.
- 41 The American Dream is so associated with immigrants’ hopes that incomers’ experiences are a good place to start sampling a widespread literary dissatisfaction with America.
(A)The American Dream is all about immigrants’ hopes for a better life, but many Americans start writing about the dark side of America in order to stop the influx of immigrants.
(B)The American Dream is built upon immigrants’ dreams for a better future and also their fear of not being able to fulfill their dreams.
(C)The American Dream is built upon immigrants’ wishful thinking for a better life, and yet many accounts of the immigrants speak of their disillusion with such a dream place.
(D)The American Dream is all about immigrants’ dreams for a better life, but many new immigrants start experiencing the bitterness of such sweet dreams.

請依下文回答第 42～46 題。

The seventeenth century was a period of great advances in science. For example, early in this century, Galileo perfected the telescope and in 1609 published “The Sidereal Messenger,” in which he reported the results of his 42 of the Milky Way, the moon, and the planet Jupiter. Only a few years later, the Dutch scientist Anton van Leeuwenhoek performed 43 research with the microscope, discovering among other things that weevils, fleas, and other 44 creatures come from eggs rather than being spontaneously generated. Not long after this, William Harvey, an English physician, discovered the method 45 which blood circulates in humans and other animals and in 1628 published his findings in the historic treatise “On the Motion of the Heart and Blood in Animals.” 46, in the 1660s, Isaac Newton discovered the law of gravitation and the laws governing the physics of light, and he also invented differential calculus.

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| 42 (A) observations | (B) descriptions | (C) abstractions | (D) generalizations |
| 43 (A) traditional | (B) pioneering | (C) inconsistent | (D) falsifiable |
| 44 (A) spineless | (B) earthly | (C) minute | (D) mysterious |
| 45 (A) on | (B) to | (C) at | (D) by |
| 46 (A) Finally | (B) Obviously | (C) Evidentially | (D) Previously |

請依下文回答第 47～50 題。

The United States is awash in debt. Median household debt has risen to more than \$100,000 from less than \$60,000 in 1990, even as median incomes have increased only slightly. Much of the debt is held by workers who are building up loans on credit cards, or obtaining dubious mortgages in a bid to secure some fraction of the lifestyle of an upper class that keeps getting richer. This increase in debt has occurred as the gap between the rich and the poor has continued to widen and the visibility of coveted luxury goods on television and the Internet has continued to grow.

Some laud the democratization of credit, seeing its availability to wider swaths of the American population as broadening opportunity; some criticize it as the ruthless seduction by financial institutions of working people who will one day face bankruptcy because they will be unable to pay credit card bills and mortgages.

But this is much clear: the spread of debt is one of the most significant social phenomena in the United States today, allowing the less affluent to spend more than they have. As long as interest rates do not rise steeply, this will continue to happen.

- 47 What is the main idea of this passage?
- (A) The US is deeply in debt and credit cards are to blame.
 (B) The gap between the rich and the poor is bridged by the poor borrowing more.
 (C) The spread of debt is a social phenomenon and can't be changed.
 (D) Opinions about heavy borrowing vary, but the spread of debt is likely to continue.
- 48 What does the sentence “The United States is awash in debt” mean?
- (A) The United States' national treasury is stuck with debts.
 (B) Many people in the United States are cleansed of debt.
 (C) Americans borrow so much money that they are washed away.
 (D) Many people borrow so much that the US is like floating in a sea of debt.
- 49 Why are many workers building up loans on credit cards?
- (A) They want to enjoy the lifestyle of the rich.
 (B) They want to bridge the gap between the rich and the poor.
 (C) They want to take part in the democratization of credit.
 (D) They want to test their ability to pay.
- 50 On the last line of the last paragraph, what does “this” refer to?
- (A) The rise of interest rates
 (B) The availability of credit cards
 (C) The spread of debt
 (D) The United States