

96年特種考試地方政府公務人員考試試題

等 別：三等考試

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 依司法院大法官釋字第 499 號解釋，下列何者非具憲法上本質重要性，而得透過修憲方式予以修改之？
(A)民主國原則 (B)共和國原則 (C)權力分立原則 (D)中央政府政治體制
- 2 國營事業員工對民營化政策不滿，上街頭示威，途中被警方制止，係何項基本權受限制？
(A)結社自由 (B)集會自由 (C)工作權 (D)遷徙自由
- 3 下列何者為總統之職權？
(A)行使副署權 (B)任免文官權 (C)提出法律案權 (D)提出預算案權
- 4 某縣長因廢弛職務，遭公務員懲戒委員會懲戒，請問下列何種懲戒方式可適用於該縣長？
(A)撤職 (B)休職 (C)減俸 (D)記過
- 5 地方政府規費之範圍及課徵原則，其未經法律規定者，須經下列何者之決議徵收之？
(A)各該地方立法機關 (B)各該地方政府 (C)立法院 (D)上級監督機關
- 6 各級地方自治團體立法機關之組織，應由下列何者擬訂準則？
(A)行政院法規委員會 (B)立法院 (C)內政部 (D)地方行政機關
- 7 下列何者為地方立法機關所訂定？
(A)自治規則 (B)自律規則 (C)委辦規則 (D)行政規則
- 8 集會遊行法第 11 條第 1 款規定違反同法第 4 條規定者，為不予許可之要件，乃對「主張共產主義或分裂國土」之言論，使主管機關於許可集會、遊行之前，得就人民政治上之言論而為審查，依司法院大法官解釋係與何種憲法保障之意旨有違？
(A)信仰自由 (B)人身自由 (C)表現自由 (D)結社自由
- 9 有關國家賠償法制之敘述，下列何者錯誤？
(A)國家賠償法係以憲法為法源
(B)外國人均得為國家賠償之請求權人
(C)冤獄賠償法為國家賠償法之特別法
(D)公務員如有輕微過失，賠償義務機關不得對之求償
- 10 縣（市）選舉委員會中同一黨籍之委員不得超過委員總額多少？
(A)三分之一 (B)五分之二 (C)二分之一 (D)無規定
- 11 依憲法第 52 條之規定，總統有刑事豁免權。當現職總統競選連任時，於法定競選活動期間，上述規定應如何適用？
(A)因其候選人之身分，故無刑事豁免權適用
(B)因總統身分未變，仍適用憲法第 52 條
(C)無刑事豁免權，但僅得依總統副總統選舉罷免法中有關刑罰之規定予以訴究
(D)無刑事豁免權，但僅得適用刑法中相關刑罰之規定予以訴究
- 12 依憲法增修條文規定，行政院向下列何者負責？
(A)總統 (B)國民大會 (C)立法院 (D)無負責之對象
- 13 依司法院大法官釋字第 262 號解釋，監察院對軍人提出彈劾案時，應移送何機關審議？
(A)國防部 (B)各軍種司令部
(C)公務員懲戒委員會 (D)公務人員保障暨培訓委員會
- 14 中央選舉委員會在組織上隸屬於：
(A)總統府 (B)行政院 (C)內政部 (D)司法院

- 15 鄉民代表會代表之任期為幾年？
(A) 2 年 (B) 3 年 (C) 4 年 (D) 5 年
- 16 有關憲法解釋的敘述，下列那一項有錯誤？
(A) 憲法解釋是憲法變遷的途徑之一
(B) 機關適用法令有疑義時，應立即聲請憲法解釋
(C) 人民聲請釋憲屬違憲審查之一環
(D) 各級法院於審判時，有合理確信法律有違憲者，得聲請釋憲
- 17 下列何者對其作品享有著作權？
(A) 立法院對於著作權法 (B) 荷蘭王國對於梵谷之畫作向日葵
(C) 孔子第七十代後裔對於論語 (D) 諾貝爾文學獎得主得獎時對其所創作之小說
- 18 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
- 19 民法規定，法人之目的或其行為有違反法律者，法院得因主管機關、檢察官或利害關係人之請求宣告解散。此屬何種類型之民事制裁？
(A) 人格之剝奪 (B) 身分權之剝奪 (C) 返還利益 (D) 損害賠償
- 20 依司法院大法官解釋，有關警察臨檢與人身自由之關係，下列敘述何者正確？
(A) 警察勤務條例係純屬組織法的規定，不得作為警察臨檢之依據
(B) 警察臨檢對人實施，須以有相當理由足認其行為已構成或即將發生危害者為限
(C) 臨檢實施之手段完全由警察決定之，以使警察發揮人民褫母之職責
(D) 警察勤務條例有關臨檢之規定，已授權警察人員得任意臨檢、盤查，以確保治安
- 21 有關行政裁量之敘述，下列何者為正確？
(A) 行政裁量來自法律及行政規則之授與
(B) 行政裁量的結果只要還在法律規定範圍內，概屬合法
(C) 一般行政裁量應受到行政法院完全的審查
(D) 行政裁量雖在法律規定的範圍內，仍必須符合不當聯結禁止原則，否則仍屬違法
- 22 甲想教訓乙，以普通傷害的意思，將乙打傷，乙送醫，因傷勢過重死亡。甲的行為屬於：
(A) 危險犯 (B) 結果加重犯 (C) 接續犯 (D) 吸收犯
- 23 授予利益之違法行政處分，如受益人無信賴不值得保護之情形，行政機關得否撤銷該處分？
(A) 任何情形皆得撤銷
(B) 任何情形皆不得撤銷
(C) 受益人之信賴利益大於撤銷所欲維護之公益時，得撤銷之
(D) 受益人之信賴利益小於撤銷所欲維護之公益時，得撤銷之
- 24 下列何者是憲法增修條文明定停止適用之法規？
(A) 憲法第 57 條有關行政院對立法院負責之規定 (B) 動員戡亂時期臨時條款
(C) 戒嚴法 (D) 九二一震災重建暫行條例
- 25 下列陳述，何者錯誤？
(A) 刑事案件，原則上只能根據成文刑法作為處罰依據
(B) 刑事案件，不能以習慣法作為處罰的直接依據
(C) 行政罰法，禁止類推適用
(D) 法官審理刑事案件，不能以類推適用方式創設新的犯罪構成要件，但對於刑罰與保安處分，則仍然可以類推適用

- 26 以下何者並非我國大法官在法制發展及人權史上曾做出的解釋？
(A)動員戡亂時期臨時條款違反憲法保障之人民自由權
(B)刑事訴訟法賦予檢察官羈押被告之處分權，違反憲法人身自由保障之規定
(C)各級學校對學生所為之退學處分，受處分之學生得依法提起訴願及行政訴訟
(D)國家徵收人民財產時，應給予合理之補償，且補償與損失必須相當
- 27 下列那一項法律是民國 90 年開始施行，作為機關行政行為的原則性規範？
(A)行政作用法 (B)行政執行法 (C)行政行為法 (D)行政程序法
- 28 依據我國刑法規定，瘖啞人是：
(A)減輕責任能力人 (B)完全責任能力人 (C)無責任能力人 (D)沒有規定
- 29 下列何者為違反任意法的效果？
(A)應處罰，但不妨害其效力
(B)無效，但不處罰
(C)無效，且應處罰
(D)只要當事人之間無異議，則意思表示或行為仍屬有效
- 30 下列何者非一公司取得他公司經營權之方式？
(A)合併 (B)聯合行為 (C)資產收購 (D)股份收購
- 31 A committee _____ students, faculty, staff and alumni was appointed by the president of the university to help select a commencement speaker for the 2004 graduation.
(A) excluded from (B) expelled from (C) consisted in (D) composed of
- 32 The wedding was held in an elegant hall with the glitter of the crystal _____ that hung from the ceiling.
(A) chandelier (B) felicity (C) shimmer (D) translucence
- 33 Jane never gave up, no matter how bad the situation was. Her _____ was incredible.
(A) captivity (B) publicity (C) tenacity (D) vanity
- 34 The audience should be encouraged to enjoy rather than _____ the movie.
(A) analyze (B) have analyzed (C) analyzing (D) analyzed
- 35 Jane _____ to meet me at 2 o'clock. She's an hour late.
(A) supposed (B) was supposed (C) would suppose (D) was supposing
- 36 Hahn and Meitner used to work as a team at the same lab. During the 1920s, Hahn continued developing radiochemical techniques, _____ Meitner entered the new field of nuclear physics.
(A) whereas (B) unless (C) until (D) if
- 37 Charisma is a personal attractiveness that enables one to influence others. _____, the standards of good leadership tend to differ from culture to culture.
(A) So (B) Then (C) However (D) Although
- 38 Random testing of cold refreshments _____ at fast food chains showed a number of outlets failing health standards.
(A) serve (B) served (C) serving (D) having served

No wonder the rich get richer. They have 39 that the rest do not. Their wealth gives them 40 to eager-to-please private bankers, bespoke money-management services, and sophisticated investment vehicles that are out of reach for the merely solvent. But when it 41 investing, does membership of the supposed elite truly provide an edge worthy of envy? 42, the rich can buy kid-glove professional guidance, but they pay dearly for it, with no guarantee of superior performance. Investing is sufficiently difficult that the most talented private bankers and brokers often make costly mistakes. They can also be tempted to sell their clients investment products that generate the highest fees rather than those with the highest returns.

- 39 (A) advances (B) advantages (C) benefits (D) utilities
40 (A) access (B) leeway (C) keys (D) solutions

- 41 (A) costs (B) is (C) comes to (D) goes with
- 42 (A) No way (B) Sure (C) Unfortunately (D) On the one hand
- 43 With the effort of environmental protection groups, some of the once contaminated rivers now teem with life.
 (A) Environmental protection groups team up to save the contaminated rivers on earth.
 (B) Environmental protection groups sacrifice their lives to clean up the contaminated rivers on earth.
 (C) The once polluted rivers still show no sign of life regardless of the effort of environmental protection groups.
 (D) The once polluted rivers are now full of life because of the effort of environmental protection groups.
- 44 Over the decades, a few psychological researchers have ventured out of the dark realm of mental illness into the sunny land of the mentally hale and hearty.
 (A) Some psychologists have focused their research on what makes people happy and healthy than on what makes people mentally ill.
 (B) A few psychologists have recovered from mental illness and resumed their health.
 (C) A few psychologists like to take more care of the problems of healthy people than those of sick people.
 (D) Some psychologists have discovered how to make the mentally ill find their happiness again.
- 45 Some English structures unacceptable a generation ago may have become established usages.
 (A) Different concepts of English usage result in generation gap.
 (B) Judgments of the grammaticality of English sentences change all the time.
 (C) Old people do not accept the English expressions used by young people.
 (D) People tend to use some English structures adopted by the general public.

For the last decade, Pennebaker has pioneered research on the role of confession in health. He found that not only talking but also writing about traumas can be healing. “Just putting upsetting experiences into words,” he explains, “has profound psychological and physical benefits for our participants.”

Trauma, it seems, is the great leveler. Few of us escape it, even in our first two decades of life. Moreover, the recovery movement of the 1980s and 1990s has taught us that we as a society have kept a smothering blanket of secrecy over our traumas, covering up the truth in order to protect others and protect ourselves from pain. We’re learning that speaking out often ends the cycle of abuse and liberates us from both pain and isolation. Pennebaker’s writing method, while not a public form of confession, is a personal form of acknowledgment, emotional expression, and completion. Pennebaker says that the writing method works because people confide both to others (namely, the psychologists who read the essays) and to themselves. In fact, he believes that confiding one’s deepest thoughts and feelings to one’s self is perhaps the most healing aspect of his technique.

- 46 According to the passage, trauma is “the great leveler,” because _____.
 (A) it makes people calm down (B) it is a common experience
 (C) it leaves painful memory (D) it can never be predictable
- 47 The traditional treatment of traumas is to _____.
 (A) provide warm blankets for victims (B) seek help from family and friends
 (C) discuss the pain privately (D) avoid talking about it
- 48 Which of the following statements about the writing method is NOT true?
 (A) By making a confession, people are forgiven. (B) It is a psychological curing method.
 (C) It helps people examine and admit the fact. (D) People going through the process feel better.
- 49 Pennebaker thinks that the best way for people to heal trauma is to _____.
 (A) forgive themselves (B) forget the experience
 (C) confess to themselves (D) participate in group discussion
- 50 The author writes the passage to _____.
 (A) introduce a healing method (B) tell people how to avoid trauma
 (C) acknowledge Pennebaker’s contribution (D) explain the evolution of recovery movement