

97 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 依據司法院大法官釋字第 499 號解釋，下列何者非憲法修改之界限？
(A)憲法第 1 條之民主共和國原則 (B)憲法第 2 章保障人民權利之原則
(C)憲法第 2 條之國民主權原則 (D)憲法之基本國策
- 2 立法院質詢行政院院長及各部會首長，為下列何者之體現？
(A)法律優位原則 (B)機關忠誠原則 (C)民主原則 (D)國會自律原則
- 3 憲法第 140 條規定，現役軍人不得兼任文官。下列有關本條之敘述，何者錯誤？
(A)正在服役之現役軍人不得同時兼任文官職務
(B)未屆退役年齡前辦理外職停役而轉任文官，即與憲法牴觸
(C)後備軍人，已無現役軍人身分，即可任文官
(D)本法規定係為防止軍人干政
- 4 依地方制度法之規定，下列何者為地方立法機關？
(A)省政府委員會 (B)省諮議會 (C)鄉民代表會 (D)里民大會
- 5 下列有關言論自由之敘述，何者為正確？
(A)政治、學術、宗教及商業言論等，不分性質有相同之保護範疇及限制之準則
(B)言論自由乃在保障意見之自由流通，使人民有取得充分資訊及自我實現之機會
(C)以廣告物刊登足以暗示促使人為性交易之訊息，屬於商業言論，不應受限制
(D)法律規定人民團體之組織與活動不得主張分裂國土，符合憲法保障言論自由之意旨
- 6 憲法第 19 條規定，人民有依法律納稅之義務。所謂「依法律納稅」，下列敘述何者錯誤？
(A)係指租稅主體、租稅客體應依法律明定之
(B)係指稅基、稅率應依法律明定之
(C)係指規定租稅構成要件之法律內容均應符合累進課稅原則
(D)係指規定租稅構成要件之法律內容應符合公平原則
- 7 下列何者產生之損害涉及國家賠償法之賠償責任？
(A)在公園被甫獲減刑出獄之更生人打傷
(B)偷渡客被人蛇集團推入海中溺斃
(C)遊客於國家公園內之餐廳用餐後發生食物中毒
(D)海軍進行深水區「懲罰式加強訓練」致新兵溺水
- 8 依司法院大法官解釋，下列何項規定違反憲法第 7 條所保障之平等原則？
(A)中央警察大學碩士班拒色盲者入學
(B)農業用地在依法作農業使用時，移轉與自行耕作之農民繼續耕作者，免徵土地增值稅
(C)因軍事審判所造成之冤獄不予賠償
(D)大陸地區人民經許可進入臺灣地區者，非在臺灣地區設有戶籍滿十年，不得擔任公務人員
- 9 有關總統赦免權之敘述，下列何者正確？
(A)已受罪刑之宣告經大赦者，其宣告為無效 (B)特赦案須經立法院議決
(C)減刑皆為全國性 (D)復權者，溯及既往恢復被褫奪之公權
- 10 下列有關憲法上隱私權之敘述，何者錯誤？
(A)隱私權包括「獨處的權利」
(B)隱私權包含個人的資訊自主決定權
(C)我國憲法並無明文規定隱私權，因此隱私權不受我國憲法保障
(D)個人生物特徵亦屬隱私權保障之範圍

- 11 依據憲法增修條文規定，立法院得對行政院院長提出不信任案，下列敘述何者正確？
(A)不信任案提出四十八小時後，立法院應於二十四小時內以記名投票表決之
(B)如經全體立法委員三分之二以上贊成，行政院院長應於十日內提出辭職
(C)不信任案經立法院通過，行政院院長應於十五日內提出辭職，並得同時呈請總統解散立法院
(D)不信任案如未獲通過，一年內不得對同一行政院院長再提不信任案
- 12 依憲法增修條文之規定，副總統缺位時，應如何處理？
(A)由立法院補選之
(B)由人民直接選舉補選之
(C)副總統一職從缺，不再補選之
(D)由行政院院長代行其職權
- 13 國家對於公務員於離職後三年內，不得擔任與其離職前五年內之職務直接相關之營利事業董事、監察人、經理、執行業務之股東或顧問等之限制規定，依司法院大法官解釋，下列敘述何者錯誤？
(A)此種對離職公務員選擇職業自由之限制，目的尚屬正當
(B)所採取之限制手段與目的達成間具實質關聯性
(C)已違背憲法保障人民工作權之意旨，牴觸憲法第 23 條之規定
(D)乃維護公務員公正廉明之重要公益
- 14 司法院大法官釋字第 392 號解釋中謂實質意義之司法，乃指國家基於法律對爭訟之具體事實所為宣示以及輔助裁判權之作用，據此，下列何者非屬此處所謂實質意義之司法？
(A)公證
(B)訴訟上之和解
(C)刑事訴訟之管轄錯誤裁判
(D)少年事件處理法中之少年保護事件
- 15 司法院大法官釋字第 435 號針對憲法第 73 條有關立法委員在院內所為之言論與表決作出解釋，下列何者並非此解釋所認為應保障之事項？
(A)院內黨團協商
(B)公聽會之發言
(C)蓄意的肢體動作
(D)院會之提案與質詢
- 16 我國法律體制主要屬於何一法系？
(A)大陸法系
(B)英美法系
(C)東亞法系
(D)社會主義法系
- 17 依中央法規標準法之規定，下列何者是法律廢止的原因？
(A)法律施行甚久時
(B)地方已制定相關之自治條例時
(C)制定該法律之立法委員的任期已屆滿時
(D)法律規定之事項已執行完畢並無繼續施行之必要時
- 18 關於法律之適用，下列敘述何者正確？
(A)任意法優於強制法
(B)普通法優於特別法
(C)原則上採不溯及既往原則
(D)刑法之適用採從新從重原則
- 19 有關受僱從事漁業生產之勞動者加入社會保險之說明，何者正確？
(A)自由加入勞工保險
(B)強制加入勞工保險
(C)自由加入農民健康保險
(D)強制加入農民健康保險
- 20 行政程序法規定，公法上請求權，除法律有特別規定外，因幾年期間不行使而消滅？
(A)一年
(B)二年
(C)三年
(D)五年
- 21 下列有關法律優位原則之敘述，何者正確？
(A)中央之法規命令皆不得牴觸中央法律
(B)中央之法規命令皆不得牴觸自治條例
(C)地方之自治條例皆不得牴觸自治規則
(D)地方之自治規則皆優於中央法規命令
- 22 有關婚約之規定，下列敘述何者錯誤？
(A)婚約應由男女當事人自行訂定
(B)男未滿十七歲，女未滿十五歲，不得訂定婚約
(C)婚約不得請求強迫履行
(D)解除婚約者，不得請求返還因訂婚而贈與之贈與物
- 23 關於民法上的「抵押權」，下列敘述何者錯誤？
(A)供擔保的標的限於不動產
(B)所擔保的範圍不及於原債權之利息
(C)第三人的財產亦得為供擔保的標的
(D)抵押權之設定須經登記始生效力
- 24 我國刑法對於法律變更採取何種原則？
(A)從新
(B)從舊
(C)從新從輕
(D)從舊從輕

- 25 下列有關消費者保護法中「定型化契約」之敘述，何者錯誤？
(A) 定型化契約條款如有疑義時，應為有利消費者之解釋
(B) 訂立定型化契約前，應有合理期間供消費者審閱
(C) 定型化契約條款牴觸個別磋商條款之約定者，其牴觸部分仍然有效
(D) 定型化契約違反誠信原則，對消費者顯失公平者，無效
- 26 依「中央法規標準法」規定，下列何者非屬法律的一種？
(A) 道路交通管理處罰條例 (B) 行政罰法
(C) 地方稅法通則 (D) 營利事業資產重估價辦法
- 27 下列何事項得於股份有限公司股東會中以臨時動議提出？
(A) 修改章程 (B) 公司轉投資 (C) 選任董事 (D) 公司合併
- 28 下列何者非我國刑法中所規定的刑罰？
(A) 罰金 (B) 有期徒刑 (C) 拘役 (D) 強制工作
- 29 性別工作平等法對於性騷擾之防治與處罰有詳細之規定，以下對於性騷擾的敘述何者正確？
(A) 性騷擾僅發生於異性之間 (B) 性騷擾亦可能發生於同性之間
(C) 性騷擾僅發生於男性騷擾女性 (D) 性騷擾僅存在於上下部屬的關係間
- 30 下列何者無民事訴訟法上之當事人能力？
(A) 精神病患 (B) 植物人 (C) 公司 (D) 獨資商號
- 31 Many people fled the city after a high _____ disease broke out.
(A) contaminated (B) contagious (C) copulated (D) cretaceous
- 32 Samuel Beckett is best known for his _____ reprised 1953 play *Waiting for Godot*, about two men expecting someone who never arrives.
(A) ceremoniously (B) centennially (C) perennially (D) prematurely
- 33 As a man of _____ habits, Brian usually works in the night.
(A) nocturnal (B) nightmare (C) nightingale (D) nominal
- 34 New evidence has _____ that reading comic books enhances learning.
(A) brought a light (B) enlightened (C) a light (D) come to light
- 35 Credit titles in a motion picture _____ contributions of those who participated in it.
(A) acknowledge (B) alleviate (C) delegate (D) improvise
- 36 European governments are starting to recognize that it is no longer _____ to continue providing wholly free higher education and many are considering charging fees.
(A) charitable (B) feasible (C) notorious (D) unanimous
- 37 Popular music appeals _____ the majority of young people.
(A) for (B) at (C) by (D) to
- 38 The owner of the shop said that his business could never _____ without the Internet.
(A) have succeeded (B) succeed (C) a success (D) as successful

編號第 39 至第 43 題為題組

The theory of *cognitive dissonance* is based on the premise that people have a need for order and consistency in their lives and that a state of tension is created when beliefs or behaviors conflict with one another. A state of dissonance occurs when there is a psychological 39 between two or more beliefs or behaviors. It often occurs when a consumer must make a choice between two products, both of which usually possess both good and bad qualities. By choosing one product and 40, the person gets the bad qualities of the chosen product and loses out on the good qualities of the unchosen one. This 41 creates an unpleasant, dissonant state that the person is motivated to reduce. People tend to 42 themselves, after the fact, that the choice they made was the smart one by finding additional reasons to support the alternative they chose, or perhaps by “discovering” 43 with the option they did not choose. Thus the arising conflict is resolved through *cognitive dissonance reduction*, a process whereby people are motivated to eliminate unpleasant tension.

- 39 (A) maintenance (B) inconsistency (C) predicament (D) inevitability
40 (A) not the other (B) the other (C) not another (D) another
41 (A) belief (B) loss (C) reduction (D) quality
42 (A) believe (B) condemn (C) promise (D) convince
43 (A) secrets (B) benefits (C) flaws (D) functions

- 44 No hour is too early or too late to call Jefferson Plumbing Company.
- (A) If you call at an early hour, Jefferson Plumbing Company will never be late.
 - (B) Jefferson Plumbing Company accepts calls at any hour of the day.
 - (C) Jefferson Plumbing Company does not answer calls that are too early or too late.
 - (D) Whether you call early or late, Jefferson Plumbing Company will come in an hour.
- 45 Fashion experts may preach the aesthetic qualities stilettos have on an outfit, but podiatric experts believe quite the contrary.
- (A) High-heel shoes may be good for women's feet, but doctors think there may be some health risks with the trend.
 - (B) Magazine editors say that stilettos are in style, but fashion designers have already moved on.
 - (C) Foot specialists don't agree with stylists who say stilettos can make many different styles of clothing look better.
 - (D) Footwear designers don't agree with clothing designers that stilettos are in style.

Israeli scientists have germinated a date seed nearly 2,000 years old.

The seed was taken from an excavation at Masada, the cliff fortress where, in A.D. 73, 960 Jewish zealots died by their own hand rather than surrendered to the Romans. The point is to find out what was so exceptional about the date palm of Judea, praised in the Bible for its shade, food, beauty and medicinal qualities, but long ago destroyed by the crusaders.

Dr. Sallon, who runs a project on medicinal plants of the Middle East, said the date palm in ancient times symbolized the tree of life. But Sallon's co-worker, Dr. Solowey, who is growing the seed in quarantine, said plants grown from ancient seeds "usually keel over and die soon."

Three date seeds from the Masada dig were found in a storeroom and are presumably from dates eaten by the defenders, Dr. Sallon said.

Dr. Solowey planted the date seeds at the end of January. "It wasn't a project with a high priority," she said. "I had no idea if the food in the seed was still good. But about six weeks later, one of these came up."

Radiocarbon dating showed the seed to be 1990 years old, plus or minus 50 years. So it dates from 35 B.C. to A.D. 65, shortly before the Roman siege.

Dates need to grow 30 years to reach maturity and can live as long as 200 years. It is the female date that is considered holy and that bears fruit. "If it's a male, it will just be a curiosity," Dr. Solowey said.

- 46 The date seed was probably left by ____.
- (A) the Jewish zealots who died in A.D. 73
 - (B) the Romans who killed the Jewish in A.D. 73
 - (C) the Jewish who surrendered to the Romans in A.D. 73
 - (D) the crusaders who conquered the people at Masada in A.D. 73
- 47 According to the passage, the major purpose of planting the date seed is ____.
- (A) to find out how long the date tree can live
 - (B) to reconstruct the history of the Middle East
 - (C) to discover the peculiarity of the date palm in Judea
 - (D) to extract its medicinal elements to cure rare diseases
- 48 Which of the following is a synonym of "excavation" in the 2nd paragraph?
- (A) Dig
 - (B) Cliff
 - (C) Desert
 - (D) Fortress
- 49 Which of the following statements is correct?
- (A) Growing the seeds is the most important part of Dr. Solowey's project.
 - (B) The date palm had been considered extinct before the seeds were found.
 - (C) Dr. Solowey is very curious about what they can do with a male date palm.
 - (D) The date seeds were planted with other medicinal plants of the Middle East.
- 50 What is the best title for this passage?
- (A) A Holy Date Seed
 - (B) A 2000-Year-Old Palm
 - (C) A Seed in Quarantine
 - (D) A Seed Sprouts after 2,000 Years