

# 99 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。

- 有關公民投票法中公民投票訴訟之敘述，下列何者正確？  
(A)以二審終結，且不得提起再審之訴  
(B)以二審終結，但得提起再審之訴  
(C)以一審終結，且不得提起再審之訴  
(D)以一審終結，但得提起再審之訴
- 相較於憲法本文之規定，憲法增修條文針對我國地方制度所為之重大變革為：  
(A)廢除省之組織  
(B)廢除省自治  
(C)增列鄉（鎮、市）之組織  
(D)增列鄉（鎮、市）之自治
- 依司法院大法官釋字第 487 號解釋意旨，冤獄賠償法與國家賠償之關係為何？  
(A)冤獄賠償法為國家賠償責任之特別立法  
(B)冤獄賠償與國家賠償可同時請求  
(C)冤獄賠償法為普通法，國家賠償法為特別法  
(D)冤獄賠償法為國家賠償法之基本法
- 有關現行監察院及監察委員之敘述，下列何者正確？  
(A)監察委員在院內所為之言論及表決，對院外不負責任  
(B)監察院為國家最高監察機關，行使彈劾、糾舉及審計權  
(C)監察委員，除現行犯外，非經監察院許可，不得逮捕或拘禁  
(D)監察院設監察委員，由各省市議會、蒙古西藏地方議會及華僑團體選舉之
- 若有政黨主張將中華民國改變為「專制極權國家」，並積極從事相關活動，請問在憲法上有何方式予以處理？  
(A)由內政部逕以行政處分撤銷該政黨之設立登記  
(B)內政部應轉知監察院，由監察院對該政黨提出糾舉案  
(C)不能為任何處理，只能依靠人民選舉時之抉擇  
(D)由內政部之「政黨審議委員會」檢具該政黨相關違憲之事證，聲請司法院憲法法庭解散之
- 司法院之年度預算應如何編列？  
(A)司法院所提出之年度司法概算，行政院刪減後，編入中央政府總預算案，送立法院審議  
(B)行政院所提出之年度司法概算，編入中央政府總預算案，送立法院審議  
(C)司法院所提出之年度司法概算，行政院得加註意見，編入中央政府總預算案，送立法院審議  
(D)司法院所提出之年度司法概算，行政院得刪減或加註意見，編入中央政府總預算案，送立法院審議
- 依司法院釋字第 401 號解釋，有關立法委員言論免責權範圍之敘述，下列何者正確？  
(A)所免除之「法律責任」，不僅不受刑事追訴，也免除民事責任  
(B)所免除之「法律責任」，僅排除刑事責任之追訴  
(C)免除一切法律責任，因此也不受任何形式之懲戒處分  
(D)免除一切法律責任，故不得以免責之言論作為罷免之事由
- 依公職人員選舉罷免法之規定，有下列何種情事者，不得登記為公職人員選舉之候選人？  
(A)動員戡亂時期終止前，曾犯內亂、外患罪，經依刑法判刑確定  
(B)曾犯貪污罪，經判刑確定  
(C)判處有期徒刑以上之刑確定，受緩刑宣告  
(D)曾受禁治產宣告但已撤銷
- 下列機關之隸屬何者正確？  
(A)中央研究院隸屬於總統府  
(B)審計部隸屬於行政院  
(C)公務人員保障暨培訓委員會隸屬於考選部  
(D)公務員懲戒委員會隸屬於法務部
- 凡屬限制人民權利之事項，立法者非不得授權行政機關發布命令以為法律之補充，惟其授權之目的、內容及範圍應具體明確，始屬合憲。此等要求稱之為：  
(A)信賴保護原則  
(B)法安定性原則  
(C)授權明確性原則  
(D)比例原則
- 憲法第 22 條規定凡人民之其他自由及權利，不妨害社會秩序、公共利益者，均受憲法之保障。依大法官解釋，下列何者可列入憲法第 22 條所保障之基本權利？  
(A)隱私權  
(B)請願權  
(C)訴訟權  
(D)工作權
- 依司法院大法官有關平等權之解釋，下列敘述何者錯誤？  
(A)憲法之平等原則係指相對平等而非絕對平等  
(B)基於憲法之價值體系得為差別對待  
(C)基於事物之本質得為差別對待  
(D)憲法之平等原則只在保障人民在法律形式上的平等

- 13 根據司法院大法官釋字第 392 號解釋，憲法第 8 條之羈押權應由何人行使之？  
(A)法官 (B)檢察官 (C)警察 (D)調查局
- 14 憲法規定中華民國之主權，屬於國民全體，而此國民主權則以各種方式呈現，下列何項方式是錯誤的？  
(A)公民投票 (B)選舉 (C)宣布戒嚴 (D)制定憲法
- 15 憲法前言表徵的是制憲的意志，而依據前言所述，下列何者並非制定中華民國憲法的目的？  
(A)擴張國土 (B)鞏固國權 (C)保障民權 (D)奠定社會安寧
- 16 某美食餐廳於報紙上刊登徵才廣告，徵求外場服務生，並說明是因為女性特質較為細膩且有耐心，因此限定女性才能應徵，下列何者為性別工作平等法有關該種徵才廣告的相關規定？  
(A)雇主對於求職者之招募，得敘明理由，限定僅特定性別才能應徵  
(B)雇主不得基於性別或性傾向而對於受僱者給予差別待遇，但對於求職者之招募，不受此限  
(C)雇主對於求職者之招募，不得因性別或性傾向而有差別待遇，除非該工作性質僅適用於特定性別  
(D)雇主對於求職者的招募，得限定特定性別，但應給付與其他工作價值相同的員工相同的薪資
- 17 在我國現行法秩序中，劃分公、私法的實益，並不包含下列何者？  
(A)影響實體法律規定的適用  
(B)影響程序法律規定的適用  
(C)影響訴訟管道的劃分  
(D)人民之公法上的法律地位必然優於其在私法上的法律地位
- 18 下列法律行為中，那一項為無效？  
(A) 19 歲之小陳未得父母同意與 50 歲之麗麗結婚  
(B) 17 歲之阿西自書遺囑  
(C) 30 歲受監護宣告之王先生，意識突然清醒，隨即自行購買一本英漢字典  
(D) 16 歲之東東不讓父母知道，單獨至機車行購買機車
- 19 關於法律時的效力，下列敘述何者正確？  
(A)立法機關制定溯及既往之法律時，應兼顧既得權的保障  
(B)法律不溯既往原則僅適用於刑事法律  
(C)新法優於舊法的原則並無例外  
(D)法律定有施行期限者，期滿仍應經立法院通過廢止案，始喪失效力
- 20 下列民事裁判的法源，何者相當於自由法運動提倡的「法律的自由創造」？  
(A)法律 (B)憲法 (C)法理 (D)命令
- 21 關於權力分立原則之敘述，下列何者正確？  
(A)中央與地方之權限劃分係屬垂直分權  
(B)立法院應享有行政院各委員會委員之提名權及決定權  
(C)立法院對於刑事案件享有完全之調查權及強制處分權  
(D)行政、立法、司法、考試、監察之五權分立係屬垂直分權
- 22 歐洲大陸地區繼受羅馬法運動始自下列何者？  
(A)德國 (B)法國 (C)義大利 (D)瑞士
- 23 法律適用上，對於適用法律之際，為避免落入拒用或無法律可用之尷尬，進而由法院創造規範之行為，法學方法論稱之為下列何者？  
(A)擴充解釋 (B)整體類推 (C)體系解釋 (D)法律續造
- 24 當行政機關欲修改或廢止某一授予人民利益之法規時，首應留意那一項原則之遵守？  
(A)比例原則 (B)平等原則 (C)信賴保護原則 (D)合義務裁量原則
- 25 2006 年 7 月 1 日起施行之修正刑法廢除刑法第 56 條連續犯規定，下列何者是刑法修正理由內所提出之說明？  
(A)連續犯之處罰不符合訴訟經濟原則 (B)連續犯之處罰過於嚴苛  
(C)連續犯之處罰能達到尊重人權，迅速審判之目的 (D)實務上對連續犯範圍認定過寬，不無鼓勵犯罪之嫌
- 26 「甲在飲水中下毒，結果乙丙因此中毒而亡」，甲構成那一種競合類型？  
(A)想像競合 (B)實質競合 (C)不真正競合 (D)法條競合
- 27 中國舊律所稱之「比附援引」，即現代法學方法所謂之何種補充法律之方式？  
(A)目的限縮 (B)法律續造 (C)類推適用 (D)當然解釋
- 28 關於著作財產權之敘述，下列何者正確？  
(A)共同著作人未約定應有部分者，依各著作人參與創作之程度定之  
(B)著作財產權讓與之範圍，如當事人約定不明，視為未讓與  
(C)共有之著作財產權，非經著作財產權人全體二分之一以上同意，不得行使之  
(D)非專屬授權之被授權人，得任意將該權利再授權予第三人利用

- 29 為提供全民健康保險政策、法規之研究及諮詢事宜，依法應設置何組織？  
(A)全民健康保險爭議審議委員會 (B)全民健康保險監理委員會  
(C)全民健康保險醫事服務機構 (D)全民健康保險政策委員會
- 30 甲到 A 渡假中心住宿渡假，結果甲的鑽錶不翼而飛，則下列敘述何者正確？  
(A) A 渡假中心與甲無任何契約存在，所以甲不得向 A 渡假中心請求負場所主人責任  
(B)場所主人之責任為法定責任，即使甲未交付該鑽錶給 A 渡假中心，A 渡假中心仍要負責  
(C)鑽錶為貴重物品，非經報明價值及數量並交付保管者，A 渡假中心不負場所主人責任  
(D) A 渡假中心本身不屬民法所規定之場所主人責任之對象
- 31 Upon seeing the police car behind him, the suspect \_\_\_\_\_ his pickup truck and disappeared into a gravel road.  
(A) accelerated (B) alleviated (C) allocated (D) authorized
- 32 Falling greenbacks used to induce economic panic. Now, it seems the dollar's \_\_\_\_\_ may actually be a good thing for America and the rest of the world.  
(A) auction (B) publication (C) elimination (D) depreciation
- 33 The new president of the university strives for efficiency and democracy. His plan is to eliminate unnecessary \_\_\_\_\_ on campus.  
(A) bureaucracy (B) commotion (C) diplomacy (D) liquidation
- 34 I am an accounting major, but I have no \_\_\_\_\_ for accountancy. Maybe I should consider changing my career path.  
(A) altitude (B) attitude (C) archive (D) aptitude
- 35 Students around the world are demanding \_\_\_\_\_ to higher education. But it is not always easy to provide.  
(A) access (B) resistance (C) bonus (D) reward
- 36 The bloody acts \_\_\_\_\_ by terrorists got on the nerves of the public.  
(A) acted (B) made (C) committed (D) did
- 37 As human beings, we often vacillate between selfish and \_\_\_\_\_ desires.  
(A) benevolent (B) eloquent (C) prevalent (D) salient
- 38 If revenge is so sweet that people crave it like candy, then what chance do societies have of rising above it?  
(A) The more people wish to have their revenge, the more chance societies will have to free them from revenge.  
(B) People feel so satisfied with the sweetness of revenge that they give societies little chance to encourage revenge.  
(C) If people crave the sweetness of revenge so much, they will rarely show their forgiving nature valued by societies.  
(D) If people feel so tempted to have their sweet revenge, societies will have little chance to make them forgive others.
- 39 The job requires its applicants to be literate in English and be \_\_\_\_\_ with several computer software packages.  
(A) competent (B) satisfied (C) compatible (D) satiated
- 40 Of all the different topics of controversy, from religion to the environment, nothing appears to get people \_\_\_\_\_ as the topic of politics.  
(A) so inflamed (B) with anger (C) being furious (D) more outrageous
- 41 The past decade has seen the rise of something Mao sought to stamp out forever: a Chinese middle class.  
(A) The Chinese middle class has been rising for ten years; Mao had never thought of this before.  
(B) Contrary to Mao's expectation, the Chinese middle class has been growing in the last decade.  
(C) The Chinese middle class, which Mao had tried to eliminate, has thrived in the past ten years.  
(D) Mao aimed to totally destroy the Chinese middle class in ten years; yet it was getting stronger.

請依下文回答第 42-45 題

Stereotypes are a kind of gossip about the world, a gossip that makes us pre-judge people before we ever lay eyes on them. 42 Explore most prejudices and you will find a cruel stereotype at the core of each one.

Why is it that we stereotype the world in such irrational and harmful fashion? In part, we begin to typecast people in our childhood years. 43 Some years ago, a social psychologist showed very clearly how powerful these stereotypes of childhood vision are. He secretly asked the most popular youngsters in an elementary school to make errors in their morning gym exercises. Afterward, he asked the class if anyone had noticed any mistakes during the gym period. "Oh, yes," said the children. 44.

We not only grow up with standardized pictures forming inside of us, but as grown-ups, we are constantly having them thrust upon us. 45 Still other stereotypes are perpetuated by the advertisements we read, the movies we see, and the books we read.

- 42 (A) We tend to stereotype because it helps us to make sense out of the highly confusing world.  
(B) Hence it is not surprising that stereotypes have something to do with the dark world of prejudice.  
(C) Surprisingly, most children could hardly wait to turn in their popular classmates—the “good guys”—who fouled.  
(D) Some of them, like the stereotypes of mothers-in-law or cops, are dinned into us by the stock jokes we hear and repeat.
- 43 (A) Early in life, we learn to spot the Good Guys from the Bad Guys on TV shows or in movies.  
(B) We tend to stereotype because it helps us to make sense out of the highly confusing world.  
(C) But it was the unpopular members of the class—the “bad guys”—they remembered as being out of step.  
(D) Some of them, like the stereotypes of mothers-in-law or cops, are dinned into us by the stock jokes we hear and repeat.
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請依下文回答第 46-50 題

Johnson Kinyago, a sun-dried Masai herder, has two sons. “One is a genius—he can identify every animal and find water anywhere. So he’s with the goats,” he says proudly. “The other is stupid so he’s in school.” At a cattle market in Laikipia in northern Kenya, other Masai elders nod their approval. Herding is for bright sparks, school for “thickies,” all of them say. Only 35% of Masai children attend school. The reason is that pastoralists depend on their children’s labor, so even if persuaded of the merits of school, few could spare their ablest offspring. The result is an illiteracy rate of over 90%, leaving the Masai vulnerable to abuse from their more worldly neighbors.

With their stretched ear lobes, their ochre-stained warriors, and gap-toothed brides, the Masai live much as they have for centuries, but in a world which has changed radically. When their—illiterate—forebears made peace with the first British settlers, they unwittingly signed away 90% of their land. The remaining arid patch no longer supports their swollen population. During a recent three-year drought, more than 89% of their animals died, and the proud Masai are now humiliatingly dependent on food aid.

- 46 According to the Masai tradition, who is considered smart?  
(A) One who knows much about animals and water (B) One who goes to school  
(C) One who can work part-time to make money (D) One who can talk business with the British settlers
- 47 What does “thickies” mean in the passage?  
(A) Those who are sloppy (B) Those who are stupid (C) Those who are heavy (D) Those who are dark
- 48 Which of the following statements is related to the high illiteracy rate of the Masai?  
(A) The schools do not teach Masai tradition. (B) There are too few schools in Laikipia, Kenya.  
(C) Most Masai children are slow in learning. (D) Most Masai children have to help with herding.
- 49 What immediate effect does the high illiteracy rate have on the Masai?  
(A) Foreign countries change Masai’s fighting strategies.  
(B) The Masai change their life style and their ideas of beauty.  
(C) The Masai believe in their tradition even more.  
(D) The Masai are easily taken advantage of.
- 50 Which of the following statements is NOT related to why the Masai are now dependent on food aid?  
(A) It had not rained for 3 years. (B) The Masai do not have fertile land.  
(C) The Masai are proud. (D) Most of the animals died.