

98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。

- 下列何事項僅能由中央立法並執行，而不可交由省縣執行之？
(A)司法制度 (B)教育制度 (C)警察制度 (D)全國戶口調查及統計
- 依憲法增修條文規定及司法院大法官解釋，關於「省」之設計，下列何者錯誤？
(A)省已喪失地方自治團體地位 (B)省承行政院之命，監督縣自治事項
(C)省設省主席及省政府委員 (D)省仍然保留省議會，由省民直接選出省議員
- 依憲法增修條文規定，下列何項提案之決定，毋須經由公民投票或複決之程序？
(A)總統、副總統之罷免案 (B)總統、副總統之彈劾案
(C)領土變更案 (D)憲法修正案
- 下列何者雖未見諸憲法明文規定，但仍屬實質之憲法原理？
(A)宗教自由之保障 (B)憲法施行之準備程序之制定
(C)憲法修正的實質界限 (D)提審制度
- 依司法院大法官解釋，子女獲知其血統來源，確定其真實父子關係，為憲法所保障之何種基本權利？
(A)財產權 (B)人身自由 (C)工作權 (D)人格權
- 有關財產權之敘述，下列何者正確？
(A)國家可立法限制人民財產權之行使 (B)財產權僅見權利性，完全不具社會責任
(C)個人行使財產權之利益絕對優先於公共團體之利益 (D)著作權不屬財產權保障之範圍
- 下列關於「宗教信仰自由」的敘述，何者正確？
(A)因宗教理由拒絕接受國民教育，國家應尊重之
(B)因宗教理由拒絕服兵役，國家立法處罰，並未違憲
(C)因宗教能安定人心，國家應設立國教
(D)因宗教理由而使用詐術者，國家應諒解之
- 依國家賠償法規定，國家於公務員有下列何種情形下對之有求償權？
(A)無過失 (B)抽象輕過失 (C)具體輕過失 (D)重大過失
- 有關姓名權之保障，下列陳述何者錯誤？
(A)姓名為人格之表現 (B)姓名權係親權之一部分
(C)姓名文字字義粗俗不雅，得申請改名 (D)姓名讀音會意不雅，得申請改名
- 關於我國國家賠償之內容，下列敘述何者錯誤？
(A)公有公共設施設置或管理之缺失的國家賠償責任，係採無過失責任賠償之原則
(B)國家賠償以回復原狀為原則，如回復顯有困難時則以金錢賠償
(C)國家賠償所需之經費，由各級政府編列預算支應
(D)賠償義務機關之確定，遇有爭議時，由上級機關定之
- 在憲法增修條文中，下列何者在立法委員的選舉中，有當選名額保障的規定？
(A)農人 (B)勞工 (C)婦女 (D)商人
- 下列何種情形，尚非行政院院長代行總統職權之時機？
(A)總統、副總統之罷免案經立法院提議時 (B)總統、副總統選出後均未就職時
(C)總統、副總統皆因故不能視事時 (D)總統、副總統均缺位時
- 依憲法增修條文規定，總統於下列何種情況下，不得解散立法院？
(A)國家慶典期間 (B)立法委員任期未滿一年
(C)於戒嚴或緊急命令生效期間 (D)立法院院長不同意時

- 14 下列何者之任命，不須立法院同意？
(A)司法院院長、副院長 (B)司法院大法官
(C)監察院院長、副院長、監察委員 (D)行政院主計長
- 15 依憲法規定，下列何者不屬於監察院之職權？
(A)對行政機關之糾正 (B)對公務人員違法、失職之糾舉、彈劾
(C)對公務人員為懲戒 (D)對行政院所提決算進行審核
- 16 下列何者為著作權法主管機關？
(A)財政部 (B)教育部 (C)內政部 (D)經濟部
- 17 下列敘述何者錯誤？
(A)地役權不得由需役地分離而為讓與 (B)普通抵押權不得由債權分離而為拋棄
(C)普通抵押權不得由債權分離而為讓與 (D)質權不得由債權分離而為讓與
- 18 對於勞動契約當事人之私法自治與契約自由而言，勞動基準法規定之功能在於作為：
(A)單向強行禁止 (B)雙向強行禁止 (C)單向任意規定 (D)雙向任意規定
- 19 依據性別平等工作法的規定，以下何項雇主的措施，必須得到主管機關的同意？
(A)雇主欲於勞動契約中約定，受僱者有結婚、懷孕或分娩、育兒時，應留職停薪
(B)育嬰留職停薪期滿之受僱者申請復職，雇主有法定得拒絕其復職之事由、而欲拒絕其復職
(C)受僱者依法申請育嬰留職停薪、並繼續參加原有之社會保險，雇主欲免除繳納原由雇主負擔之保險費
(D)僱用二百五十人以上之雇主，因有未滿七歲子女之受僱者未滿十人，欲免除設置托兒設施之義務
- 20 甲到乙所經營之雜貨店購買 A 廠商製造之麵包，甲將購買的麵包拿給其妻丙吃，結果丙吃了上吐下瀉，經檢查發現係該麵包製造過程不潔所致，下列敘述何者為錯誤？
(A)甲對乙可主張物之瑕疵擔保責任
(B)丙對 A 廠商可依消費者保護法第 7 條之規定，請求負商品製造者之責任
(C)丙對 A 廠商可依民法第 191 條之 1 侵權行為之規定，請求負商品製造者之責任
(D)丙對乙可主張物之瑕疵擔保責任
- 21 依公司法規定，下列何項議案得於開股東會時以臨時動議提出？
(A)變更公司章程 (B)解除董事競業禁止 (C)改選監察人 (D)公司合併案
- 22 甲教唆乙殺害丙，乙雖然答應，但是尚未進行即因他案被捕，請問下列敘述何者為正確？
(A)甲教唆乙殺人，乙雖然尚未進行，甲仍然成立殺人未遂罪之教唆犯
(B)乙答應甲之殺人要求，乙依現行刑法規定應受處罰
(C)如果甲不僅教唆乙殺人，並提供匕首給乙，儘管乙尚未進行殺人，則甲依現行刑法規定應受處罰
(D)依現行刑法規定，針對殺人部分，甲、乙皆無罪可罰
- 23 甲向乙借錢，丙擔任甲之保證人，下列關於其「保證契約」的敘述，何者錯誤？
(A)保證契約存在於甲、丙兩人之間
(B)甲向乙還清債務時，丙的保證債務也隨之消滅
(C)清償期限屆滿時，乙必須先向甲請求還款，若是乙直接向丙請求還款，丙原則上得予拒絕
(D)若是丙、丁共同為甲之保證人，則丙、丁兩人負連帶之保證責任
- 24 依司法院大法官解釋，下列何者違反比例原則？
(A)以判決命加害人公開道歉，而未涉及加害人自我羞辱等損及人性尊嚴之情事者
(B)律師接見受羈押被告時，看守所得不問理由全程予以監聽、錄音
(C)對未辦理營利事業登記而經營電子遊戲場業者，科處刑罰之規定
(D)以廣告物、電腦網路等媒介散布、播送或刊登足以引誘、媒介性交易之訊息者，處以刑罰之規定
- 25 下列各組物權同歸一人所有時，何者可發生物權之混同？
(A)同一土地上之所有權與地上權
(B)同一土地上之地役權與典權
(C)同一土地上之地上權與以該土地為標的物之抵押權
(D)同一土地上之典權與以該土地為標的物之抵押權

- 26 下列何者，原則上不直接對外發生法規範上的效力？
(A)法規命令 (B)行政規則 (C)法律 (D)自治條例
- 27 依據中央法規標準法，法規內容的劃分順序為何？
(A)章、編、節、目、款 (B)節、編、款、目、章 (C)編、章、節、款、目 (D)目、款、編、章、節
- 28 下列規定，何者屬任意法？
(A)民法第 16 條規定「權利能力與行為能力，不得拋棄。」
(B)民法第 229 條規定「給付有確定期限者，債務人自期限屆滿時起，負遲延責任。」
(C)民法第 760 條規定「不動產物權之移轉或設定，應以書面為之。」
(D)民法第 980 條規定「男未滿十八歲，女未滿十六歲者，不得結婚。」
- 29 日本殖民統治臺灣的前期（1895-1922），有關民事紛爭的解決，主要的「法源」依據是：
(A)臺灣民事舊慣 (B)日本民法規範 (C)在臺灣訂定特別法 (D)法理
- 30 英國著名法學家梅因（Maine）認為法律發展的基本趨勢為：
(A)個人到國家 (B)身分到契約 (C)行政到立法 (D)權利到義務
- 31 Of all the patients in intensive care units who are at _____ of dying, some 20 percent present difficult ethical choices—whether to keep trying to save the life.
(A) price (B) risk (C) rim (D) attempt
- 32 In summertime, higher standards of personal _____ are necessary to prevent disease.
(A) aspiration (B) commodity (C) hygiene (D) routine
- 33 The peace rally is gaining _____ every hour. By now, thousands of people have gathered in front of the parliament building.
(A) consolidation (B) momentum (C) radiation (D) ultimatum
- 34 In the Seoul Olympics of 1988, Canadian sprinter Ben Johnson won a 100-meter gold medal in 9.79 sec. His _____ came almost as fast, after it was revealed that he had used steroids to achieve his world-beating performance.
(A) basket case (B) *nom de plume* (C) fall from grace (D) standing on his head
- 35 Call-in surveys sometimes misrepresent public opinion because people who tend to call may be a small amount of people with strong ideas or certain attitudes; thus the “silent _____” might often be ignored.
(A) majority (B) maximum (C) minimum (D) minority
- 36 Tourists are often accused of being loud and rude, but they may in fact help _____ traditional cultures.
(A) abuse (B) impede (C) hinder (D) sustain
- 37 It is an excellent plan on paper, but from a practical point of view, it just isn't _____.
(A) feasible (B) visible (C) gullible (D) vulnerable
- 38 These companies claim deeper seawater contains more _____ and fewer pollutants than surface water.
(A) cankers (B) nutrients (C) incentives (D) utilities
- 39 At the airport, the customs officials usually open our bags to _____ the contents.
(A) expect (B) retrospect (C) prospect (D) inspect
- 40 We cannot say that men's characters improve in proportion _____ their knowledge increases, nor can we say the opposite.
(A) to (B) for (C) as (D) with
- 41 Rather than sailing smoothly into a crucial financial summit in December, the EU seems to be cruising for a bruising.
(A) The EU financial summit, though bruised, is expected to have a crucial sailing in December.
(B) The EU financial summit, in spite of its smooth sailing, is likely to be cancelled in December.
(C) The EU financial summit, though scheduled to be held in December, is faced with crucial financial problems.
(D) The EU financial summit, to be held in December, is proceeding with difficulties.

請依下文回答第 42 - 46 題

Division does not always require that classification follow it. Your purpose in classifying, however, is to show how things in a group are similar. 42 division and classification do work together. If you emptied the contents of a pocketbook onto a table, you would begin to divide those contents into groups. 43 division, you would identify objects relating to finances, objects relating to personal care, objects relating to school work. Once you had the divisions clear, you would place objects in each category: money, checks, and credit cards in the first; cosmetics, a comb, and perfume in the second; pencils and a notebook in the third.

When you divide and classify for writing, you have to keep several things in mind. You have to think carefully about the division of the topic so that you limit the 44 from group to group. That is best achieved by creating categories different enough from each other so there is no blending. Since, you, the writer, have to establish the groups, you need to use a principle of classification that is sensible, accurate and complete. Do not force categories just 45 making groups. You have to show how things in a group relate to each other, and this you must do without 46 their differences and without making them stereotypes. If you stereotype objects in a group, you will be oversimplifying them, taking away their individuality, and forcing them to fit your categories.

- 42 (A) Yet (B) So (C) Hence (D) Meanwhile
43 (A) Across (B) Without (C) Through (D) Between
44 (A) overlap (B) outlook (C) extension (D) extremity
45 (A) for the sake of (B) in case of (C) as a result of (D) by dint of
46 (A) noticing (B) ignoring (C) arranging (D) measuring

請依下文回答第 47 - 50 題

You ask me what is poverty? Listen to me. Here I am, dirty, smelly, and with no “proper” underwear on and with the stench of my rotting teeth near you. I will tell you. Listen to me. Listen without pity. I cannot use your pity. Listen with understanding. 47

Poverty is getting up every morning from a dirt-and-illness-stained mattress. The sheets have long since been used for diapers. 48 This is a smell of urine, sour milk, and spoiling food sometimes joined with the strong smell of long-cooked onions. 49 It is the smell of the outdoor privy. It is the smell of the milk which has gone sour because the refrigerator long has not worked, and it costs money to get it fixed. It is the smell of rotting garbage. 50 Shovels cost money.

- 47 (A) Poverty is living in a smell that never leaves.
(B) Even the cheapest soap has to be saved for the baby’s diapers.
(C) If you have smelled this smell, you did not know how it came.
(D) Put yourself in my dirty, worn out, ill-fitting shoes, and hear me.
48 (A) I can call for help, but who should I call?
(B) Poverty is living in a smell that never leaves.
(C) Even the cheapest soap has to be saved for the baby’s diapers.
(D) Put yourself in my dirty, worn out, ill-fitting shoes, and hear me.
49 (A) I can call for help, but who should I call?
(B) I could bury it, but where is the shovel?
(C) If you have smelled this smell, you did not know how it came.
(D) Even the cheapest soap has to be saved for the baby’s diapers.
50 (A) I can call for help, but who should I call?
(B) I could bury it, but where is the shovel?
(C) If you have smelled this smell, you did not know how it came.
(D) Put yourself in my dirty, worn out, ill-fitting shoes, and hear me.