

100年公務人員高普考試試題及解答

普通考試

■ 法學知識與英文 ■

功名文教機構

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測驗題部分：（100分）

- (B)01.憲法本文及其增修條文中關於「邊疆民族地位」與「原住民族」之規範設計，下列說明何者錯誤？
- (A)國家肯定多元文化，並積極維護發展原住民族語言及文化
 - (B)國家對於邊疆地區各民族之教育文化事業應積極舉辦，但不包括經濟社會事業
 - (C)國家應依民族意願，保障原住民族之地位及政治參與
 - (D)國家對於邊疆地區各民族之土地，應予以合法之保障，並於其地方自治事業，特別予以扶植
- (A)02.關於夫妻婚後之住所，依司法院釋字第452號解釋，下列說明何者錯誤？
- (A)夫妻有同居義務，夫妻婚後所設定之住所亦應同一
 - (B)住所雖得由夫妻約定之，不能協議約定者，應准許訴請法院決定之
 - (C)如法律規定妻以夫之住所為住所，贅夫以妻之住所為住所，有違男女平等原則
 - (D)住所選擇乃人民權利，夫妻婚後未設定住所者，亦應尊重其決定
- (D)03.總統副總統選舉罷免法規定，被連署人應繳交保證金新臺幣100萬元，依司法院釋字第468號解釋，是否合憲？
- (A)違憲，侵害人民被選舉之權利
 - (B)違憲，逾越比例原則
 - (C)合憲，對人民服公職權利並無影響
 - (D)合憲，係避免耗費社會資源之合理規範
- (B)04.所謂人性尊嚴，下列敘述何者錯誤？
- (A)係指人的尊嚴不可侵犯，尊重及保護人的尊嚴是所有國家機關之義務
 - (B)屬於我國憲法第一條所明定，居於基本權之首位
 - (C)屬於我國憲法未明文例示而為司法院憲法解釋所承認之人權
 - (D)世界人權宣言亦明揭：人皆生而自由平等，享有尊嚴與權利
- (C)05.憲法本文及其增修條文中關於修改憲法之規定，均未包括下列何種事項？
- (A)提案機關
 - (B)修憲程序
 - (C)修憲之界限
 - (D)如須複決者，複決機關為何
- (C)06.依憲法第153條之規定，有關國家與勞資雙方關係之敘述，下列何者正確？
- (A)基於契約自由原則，國家不應介入勞資雙方所定之勞動條件
 - (B)基於計劃經濟原則，國家應訂出固定勞動條件，勞資雙方不得以合意改變
 - (C)為改良勞工生活，增進其生產技能，國家應制定保護勞工之法律
 - (D)基於濟弱扶傾原則，國家應要求資方一律提繳盈餘之一定比例給國家，以照顧勞工
- (B)07.下列有關基本人權保障之敘述，何者正確？
- (A)憲法平等權保障僅限於男女、宗教、種族、階級、黨派之形式平等
 - (B)受基本人權保障之主體除自然人之外，還包括公司、財團法人等私法人

- (C)言論自由並非絕對，國家得因公益需要，雖無法律依據仍得為事前之檢查
- (D)大陸地區人民來臺設有戶籍後，即可立即比照臺灣地區人民，享有應考試服公職之權利
- (D)08.教育、科學、文化之經費，依憲法增修條文之規定，中央、省、縣各占預算總額多少百分比？
- (A)5%、10%、15% (B)10%、15%、20%
- (C)15%、25%、35% (D)不受百分比之限制
- (B)09.依司法院釋字第574號解釋，憲法第16條所規定之訴訟權，係以人民於其權利遭受侵害時，得依下列何者請求法院救濟為其核心內容？
- (A)三級三審 (B)正當法律程序 (C)職權進行主義 (D)自力救濟
- (D)10.依憲法增修條文之規定，副總統缺位時，應如何處置？
- (A)不須補選 (B)由行政院長兼任
- (C)開放登記，人民補選之 (D)總統提名候選人，立法院補選之
- (D)11.依憲法及其增修條文規定，下列何者非屬行政院院長之職權？
- (A)總統、副總統均缺位時，代行總統職權
- (B)提請總統任命行政院副院長之權
- (C)總統發布命令之副署權
- (D)預算執行完畢後，向立法院提出審核報告之權
- (D)12.依憲法增修條文第4條規定，有關總統彈劾，何者正確？
- (A)由全體監察委員四分之一以上提議，全體監察委員過半數審查及決議後向國民大會提出
- (B)由全體監察委員三分之一以上提議，全體監察委員三分之二以上審查及決議後向國民大會提出
- (C)由全體立法委員三分之一以上提議，全體立法委員三分之二以上之決議
- (D)由全體立法委員二分之一以上提議，全體立法委員三分之二以上之決議
- (C)13.依憲法增修條文第1條規定，有關領土變更案之敘述，下列何者正確？
- (A)領土變更案涉及受變更地之住民權益，應先由當地住民公投通過後方得成案
- (B)領土變更案涉及國家安全，應由國家安全局負責向立法院提出
- (C)領土變更案依規定須交由我國自由地區選舉人投票複決
- (D)領土變更案為國際法問題，我國應依聯合國之決定辦理
- (A)14.依據司法院釋字第384號解釋，秘密證人制度違反下列何一原則？
- (A)比例原則 (B)一事不再理原則
- (C)罪疑唯輕原則 (D)罪刑法定主義原則
- (C)15.依據憲法增修條文第9條規定，省議會之組織如何規定？
- (A)省設省議會，為省之立法機關，省議員由省民選舉之
- (B)省設省參議會，置參議員若干人，由行政院院長任命之
- (C)省設省諮議會，置省諮議會議員若干人，由行政院院長提請總統任命
- (D)省設省諮議會，置省諮議會議員若干人，由縣（市）議會選舉產生之
- (B)16.有關強行法與任意法之敘述，下列何者正確？
- (A)公法領域內都是強行法 (C)私法領域內有強行法
- (B)民法規定都是任意法 (D)公司法規定都是任意法
- (B)17.直轄市之自治條例規定有罰則時：
- (A)須送行政院備查 (B)須送行政院核定 (C)須送立法院備查 (D)須送立法院核定

- (C)18. 甲、乙就A屋成立買賣契約，但甲卻誤將B屋移轉於乙，此種錯誤稱為：
- (A)動機錯誤 (B)債權行為錯誤
(C)物權行為錯誤 (D)債權行為及物權行為錯誤
- (D)19. 下列何者非司法院釋字第491號解釋所揭示法律明確性原則之要件？
- (A)可經由司法審查加以確認 (B)為受規範者所得預見
(C)意義並非一般人難以理解 (D)行政機關享有判斷餘地
- (B)20. 甲在百公尺外埋伏欲射殺仇人乙，當時乙、丙站在一起談話，甲明知可能會誤射中丙，仍執意開槍，丙果真中槍死亡。甲對丙之死亡應負何種罪責？
- (A)過失殺丙既遂 (B)故意殺丙既遂 (C)過失殺丙未遂 (D)故意殺丙未遂
- (B)21. 雇主修改工作規則，作不利於勞工之單方變更，我國法院基本上依據下列何一原則判斷其合法性？
- (A)工作規則集體合意原則 (B)工作規則合理變更原則
(C)工作規則契約合意原則 (D)工作規則法規制定原則
- (D)22. 殺人罪之追訴時效期間為幾年？
- (A)20年 (B)10年 (C)15年 (D)30年
- (B)23. 下列關於股份有限公司董事會之敘述何者錯誤？
- (A)公司董事人數不得少於3人
(B)公司董事必須是公司股東
(C)董事會為決議時，有利益衝突的董事於表決時必須迴避，否則此一決議無效
(D)每年度會計終了，董事會必須編造相關財務與業務表冊送監察人查核並經股東會決議
- (D)24. 下列關於司法機關適用「不告不理原則」之敘述，何者錯誤？
- (A)其內涵係指非經當事人請求，法院不得對於法律爭議逕為裁判
(B)民事案件適用之
(C)行政案件適用之
(D)刑事案件不適用之
- (B)25. 下列有關員工權利之敘述，何者正確？
- (A)員工分配紅利之成數，由董事會定之
(B)員工取得認股權憑證，不得轉讓
(C)員工分紅取得之股份，公司得限制在一定期間內不得轉讓
(D)公司發行新股時，應保留百分之二十由員工優先認購
- (B)26. 就他人之財產或營業概括承受其資產及負債者，債務人關於未到期之債權所負之責任為何？
- (A)自到期時起，2年內單獨負擔其責任
(B)自到期時起，2年內與承擔人連帶負擔其責任
(C)自到期時起，2年內與承擔人個別負擔其責任
(D)自到期時起，與承擔人個別負擔其責任
- (C)27. 下列對自由法運動的敘述，何者錯誤？
- (A)自由法運動主張司法造法 (B)自由法運動認為法律體系並不完美
(C)自由法運動拒絕法官從事利益衡量 (D)自由法運動批判概念法學
- (D)28. 關於刑法中之故意，下列何者錯誤？
- (A)刑法以處罰故意犯為原則

- (B)故意分為直接故意與間接故意
 (C)故意分為確定故意與不確定故意
 (D)行為人對於構成犯罪之事實，明知並有意使其發生者，為間接故意

(A)29.家庭暴力通常保護令失效前，當事人及被害人得聲請法院延長期限最長為幾年？

- (A)1年 (B)2年 (C)3年 (D)4年

(B)30.勞動基準法有關終止勞動契約之預告期間規定，下列何者錯誤？

- (A)雇主依同法第11條終止勞動契約者，如勞工繼續工作達3年以上者，應於30日前預告之
 (B)勞工於預告期間內，得於工作時間請假外出以另謀工作，請假時數每星期不得超過1日
 (C)雇主依同法第11條終止勞動契約者，如未為預告，應給付勞工預告期間之工資
 (D)不定期契約，勞工終止契約時，應準用同法第16條之預告期間

(D)31.Simon goes through the same _____ whenever he makes a mistake.—First he says he didn't do it, and then he tries to blame it on someone else.

- (A) destination (B)speculation (C)loophole (D)routine

(B)32.The avian flu is highly _____, so be sure to wear a mask when you go out.

- (A)contaminated (B)contagious (C)influential (D)recommended

(D)33.I want to join the club, but its _____ fee is so high that I can't afford it.

- (A) attention (B)anticipation (C)adaptation (D)membership

(D)34.I If we impose a heavy _____ on littering, no one will dare to throw away their garbage at will.

- (A)charity (B)obstacle (C)reputation (D)penalty

(C)35.The fans were very disappointed when they learned that the outdoor concert was _____ due to the coming typhoon.

- (A)repeated (B)failed (C)anceled (D)closed

(D)36.The government has decided to take a series of measures to help _____ the wildlife native to our land.

- (A)conceal (B)conceive (C)condemn (D)conserve

(D)37.If our insurance agency does not improve the way our complaints are dealt with, we will seriously consider their contract and finding a more reliable service carrier.

- (A)illuminating (B)discriminating (C)nominating (D)terminating

(C)38.Pizza _____ came from Italy. Italian immigrants brought this food to the United States in the 1890s.

- (A)deliciously (B)gradually (C)originally (D)eventually

(D)39.The Mexican woman who was denied the job opportunity was believed to be a victim of _____ against both her race and gender.

- (A)temptation (B)stimulation (C)resolution (D)discrimination

(A)40.Thousands of workers were laid off in the economic _____ of the early 1980s.

- (A)recession (B)evolution (C)compensation (D)recovery

(B)41. After _____ the project, he decided to publish it as soon as possible.

- (A)complete (B)having completed (C)being completed (D)to complete

請依下文回答第42 45題

When we discuss contrasting economic systems and principles, we often compare socialism with capitalism. In a capitalistic economy, most businesses are privately owned. Both owners and workers are motivated by profit. In early capitalist countries, the government had little control over private business affairs. This led to problems regarding

workplace safety, worker pay, and the environment. In modern capitalist countries, government regulations put many restrictions on business owners.

Capitalist economies have traditionally created major class divisions between the rich and the poor. Socialism aims to eliminate these divisions, although no socialist state has been entirely successful in reaching this goal. In a socialist economy, ownership of capital and distribution of wealth are managed by a centralized government. This is a difficult task because of the sheer amount of work involved in managing an entire economic machine. If a government can provide each citizen with basic necessities, it has achieved its most fundamental task.

(B)42.What is this passage mainly about?

- (A)The dangers of capitalist systems and free markets.
- (B)The comparison between two dominant economic systems.
- (C)The efficiency of the government to run an entire economic system.
- (D)The government's law to regulate business owners.

(D)43.In which economic system is the government most powerful?

- (A)Industrial injuries.
- (B)Low wages for workers.
- (C)Environmental pollution.
- (D)Strict government restrictions.

(C)44.Which problem below did NOT exist in early capitalist countries?

- (A)Early capitalism.
- (B)Modern capitalism.
- (C)Socialism.
- (D)Feudalism.

(C)45.According to the passage, which of the following statements is true?

- (A)Early capitalist governments care most about social justice and people's welfare.
- (B)No business in the socialist country is managed by the government.
- (C) Making money is the driving force of capitalist employers and employees.
- (D)Most socialist countries have eliminated the class divisions in society.

請依下文回答第46 50題

On the night of April 14, 1912, the *Titanic* steamed at a high speed into an ice field in the North Atlantic. The sea was calm and its surface was covered with heavy fog. At 11:40 p.m. a lookout suddenly spotted an iceberg dead ahead. The ship turned sharply and, as it scraped by, was opened up like a tin can with a gash below the water line three hundred feet long. The captain determined that they were going to sink fast and at 12:15 a.m. ordered his wireless operator to send the distress call. Within a few minutes the airwaves were rippling with signals as over a dozen ships became aware of the disaster. At 1: 20 a.m. the world began to get news of the tragedy.

Because of the *Titanic* tragedy, people came to realize the magical power of wireless telegraphy. The *New York Times* commented,"Through the roar of the big city there are constantly speeding messages between people separated by vast distances, and that over housetops and even through the walls of buildings and in the very air one breathes are words written by electricity." An officer of the American Telephone and Telegraph Company also praised the wireless communication that made it possible to follow the rescue. Without wireless technology, the *Titanic* tragedy would have been a different story.

(C)46.What is this passage mainly about?

- (A)The *Titanic* tragedy.
- (B)The rescue after the shipwreck.
- (C)The magic of wireless telegraphy.
- (D)The *Titanic's* voyage in the North Atlantic.

(C)47.How long did it take for the world to know the news of the shipwreck after the captain sent out the message?

- (A)100 minutes.
- (B)85 minutes.
- (C)65 minutes.
- (D)35 minutes.

(B)48.In this article, what does "words written by electricity" mean?

(A)Television signals.

(B)Wireless messages.

(C)The communication through phone lines.

(D)Text messages through mobile phones.

(C)49.According to this passage, what's the direct cause of the sinking of the *Titanic*?

(A)The ship's high speed.

(B)The low temperature.

(C)The iceberg.

(D)The fog.

(A)50.Which of the following statements is true?

(A)With wireless telegraphy, people in different places can communicate easily.

(B)People in New York received the news of the *Titanic* tragedy first.

(C)The other ships near the *Titanic* didn't have wireless technology.

(D)Wireless messages can be disrupted by walls in the big city.