

101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）

- (C)01. 行政院於會計年度結束後四個月內應向何一機關提出決算？
(A)立法院 (B)司法院 (C)監察院 (D)總統府
- (A)02. 監察委員所提出之彈劾案，須經幾人以上之審查及決定？
(A)9人 (B)7人 (C)5人 (D)3人
- (D)03. 依憲法本文及增修條文之規定，下列有關司法院大法官之敘述，何者正確？
(A)大法官係最高法院法官之尊稱
(B)大法官負責審理一般法官之彈劾案
(C)在職大法官總數依規定必須為奇數，以利二分之一可決
(D)大法官不得連任
- (B)04. 依憲法增修條文之規定，總統於立法院解散後發布緊急命令，立法院至少須於幾日內自行集會？
(A)2日 (B)3日 (C)5日 (D)7日
- (D)05. 下列何者並非行政院對立法院負責的方式？
(A)因施政方針變更涉及法定預算之停止執行，行政院院長或部會首長應向立法院提出報告並備質詢
(B)行政院對於立法院決議之條約案移請立法院覆議
(C)立法院對行政院院長提出不信任案
(D)立法院於每年集會時，得聽取行政院院長國情報告
- (C)06. 下列何者非憲法增修條文所定有關總統發布緊急命令之條件？
(A)總統為避免國家或人民遭遇緊急危難或應付財政經濟上重大變故
(B)須經行政院會議之決議
(C)發布緊急命令後二十日內，應提交立法院追認
(D)立法院若不追認，該緊急命令失效
- (D)07. 下列何種制度為憲法人身自由權保障之內容？
(A)聽證 (B)檢察一體 (C)審計 (D)提審
- (C)08. 依憲法增修條文之規定，憲法之修正須經出席立法委員多少比例之決議？
(A)二分之一 (B)三分之二 (C)四分之三 (D)五分之三
- (B)09. 下列有關信賴保護原則的敘述，何者錯誤？
(A)信賴保護原則係源於法治國原則對於人民權利與法律秩序安定之維護
(B)行政機關可對人民主張信賴利益保護
(C)倘法規預先定有施行期間者，尚不發生信賴保護問題
(D)因公益之必要廢止法規，導致人民因信賴而生之利益受損害時，應採取合理之補救措施，或訂定

過渡期間之條款

- (C)10.在人權發展史上，下列何者是一般所公認最早之人權法典？
(A)美國之獨立宣言 (B)法國之人權宣言
(C)英國之大憲章 (D)世界人權宣言
- (D)11.依憲法增修條文第12條之規定，有關修憲案複決公告之規定，下列敘述何者正確？
(A)修憲案提出後，毋須公告，應即進行複決
(B)修憲案提出後，須公告三個月後，方可進行複決
(C)修憲案提出後，須公告五個月後，方可進行複決
(D)修憲案提出後，須公告六個月後，方可進行複決
- (C)12.關於憲法第8條人身自由的保障，司法院釋字第639號解釋之敘述，下列何者錯誤？
(A)羈押之被告僅得向原法院聲請撤銷或變更該處分，不得提起抗告之審級救濟之法律規定，為立法機關基於訴訟迅速進行之考量所為合理之限制，未逾立法裁量之範疇，與憲法第16條、第23條尚無違背
(B)法律規定審判長、受命法官或受託法官得為羈押處分，與憲法第8條並無牴觸
(C)審級制度乃訴訟權保障之核心內容，立法機關不得限制
(D)憲法第8條所定之法院，包括依法獨立行使審判權之法官
- (D)13.下列有關勞工保險基金之敘述，何者錯誤？
(A)政府提供補助 (B)保險人繳納保費
(C)雇主有其分擔額 (D)為全體被保險人之私產
- (B)14.下列那一項不符合憲法上宗教信仰自由之精神？
(A)國家不應強制人民信仰宗教 (B)立法院得立法設立國教
(C)人民有傳教之自由 (D)人民不得因宗教信仰不同而受差別待遇
- (D)15.憲法第150條規定國家應普設平民金融機構，其目的為何？
(A)防止通貨膨脹 (B)促進產業升級
(C)實現住者有其屋的理想 (D)救濟失業
- (A)16.從法之淵源論，英美法系屬於不成文法系，單就美國法制，下列敘述，何者正確？
(A)有一部成文聯邦憲法
(B)尚無行政程序法典
(C)1803年Marbury v. Madison一案，樹立了州法優先原則
(D)非常重視公法與私法的區分
- (B)17.我國學者認為，判例不但有事實上的權威，而且依據法律有其拘束力，為補充法源。所謂依據法律有其拘束力，見於：
(A)司法院組織法 (B)法院組織法 (C)民事訴訟法 (D)刑事訴訟法
- (D)18.就法律行為論，表意人直接意欲發生一定的私法效果而為一定之舉動，稱之為：
(A)觀念通知 (B)意思通知 (C)情感表示 (D)意思表示
- (C)19.下列法令，何者位階最高？
(A)自治規則 (B)下級自治團體自治條例
(C)上級自治團體自治條例 (D)自律規則
- (D)20.關於自己所有之物得否為刑法第320條第1項普通竊盜罪之行為客體的爭議，若援引立法理由關於財物得為竊盜罪之客體者之五要件的陳述：「（第五）物之所有權，不問屬於自己抑屬於他人，均

得成立本罪。」而為肯定之解釋時，試問此種解釋方法為何？

- (A)立法解釋 (B)文理解釋 (C)擴充解釋 (D)歷史解釋

(B)21.行政機關依法律授權發布的規章，稱為：

- (A)職務命令 (B)法規命令 (C)行政規則 (D)職權命令

(A)22.為避免人民有朝令夕改，無所適從之感，法律往往不溯及既往生效，此為：

- (A)適用原則 (B)立法原則 (C)訓示原則 (D)變更原則

(D)23.精神狀態正常之成年人張三，平時個性尚稱溫和，但酒後極易失態惹事生非，為張家製造無數困擾，張父有意將其逐出家門，在張母斡旋勸導下，父子達成協議，簽署「父子關係終止」切結書。就法言法，此切結書：

- (A)須召開親屬會議確認
(B)須先確認張氏父子簽約時處於健全意識狀態，否則雙方都有撤銷權
(C)有效
(D)無效

(C)24.為擴大對消費者之保護，消費者保護法與民法第191條之1，均要求商品製造廠商承擔：

- (A)故意責任 (B)過失責任 (C)產品責任 (D)契約責任

(B)25.下列有關命令廢止之規定，何者錯誤？

- (A)命令廢止由原發布機關為之
(B)應經立法院通過
(C)定有施行期限者，期滿當然廢止，但應由主管機關公告
(D)命令廢止得僅發布命令名稱及施行日期

(D)26.行政程序法所稱行政機關，除了指代表國家、地方自治團體或其他行政主體表示意思，從事公共事務，具有單獨法定地位之組織外，尚包括：

- (A)各級民意機關
(B)司法機關
(C)監察機關
(D)受託行使公權力之個人或團體，在其接受委託的範圍內

(C)27.刑法第131條公務員圖利罪於民國90年進行修正時，將原規定「公務員對於主管或監督之事務，直接或間接圖利者」，修改為「公務員對於主管或監督之事務，明知違背法令，直接或間接圖自己或其他私人不法利益，因而獲得利益者」，其主要用意為：

- (A)與貪污治罪條例相關規定區隔
(B)強調防弊之政策思維
(C)強調區隔圖利與便民，以鼓勵公務員積極任事，提升行政效率
(D)配合嚴懲行為犯之刑事法潮流

(D)28.依著作權法規定，著作財產權原則上存續於著作人之生存期間及其死亡後多少年？

- (A)15年 (B)20年 (C)30年 (D)50年

(B)29.下列法律原則，何者並非本於法治國原理所衍生？

- (A)權力分立原則 (B)個人主義原則 (C)依法審判原則 (D)法律優位原則

(C)30.依地方制度法規定，人口聚居達多少人以上，且在政治、經濟、文化及都會區域發展上，有特殊需要之地區得設直轄市？

- (A)50萬 (B)100萬 (C)125萬 (D)150萬

- (D)31. I am going to choose for my main course because I love seafood.
 (A) steak (B) chicken (C) pork (D) lobster
- (A)32. To have enough food and water is a need of all people.
 (A) basic (B) false (C) bare (D) remaining
- (D)33. The computer was to our project—without it, we couldn't have finished our report in time.
 (A) efficient (B) unnecessary (C) problematic (D) indispensable
- (B)34. All Taipei- flights have been canceled due to the heavy fog. Passengers could do nothing but wait for further notice.
 (A) built (B) bound (C) concerned (D) confused
- (C)35. It is very rude of these naughty boys to their classmate's new hair style.
 (A) take advantage of (B) put an end to (C) make fun of (D) show respect for
- (D)36 The medicine does not seem to be , for all of his symptoms show no signs of improvement.
 (A) inventive (B) poisonous (C) comfortable (D) effective
- (A)37 Mike his ankle and he had to walk with crutches for at least two months.
 (A) sprained (B) sprinkled (C) squeezed (D) swelled
- (D)38 The defendant's lawyer was so that the jury believed the innocence of the accused.
 (A) courteous (B) ignorant (C) obedient (D) persuasive

請依下文回答第39 41題

Some of the most interesting words in English are the actual names of the people first involved in the activities suggested by the meanings of the words. The word *boycott*, 39 , derives from the case of Sir Charles Boycott (1832-97), a land agent in Ireland whose tenants expelled him because he refused to lower their rents. Vidkun Quisling's name quickly became an infamous addition to the English language during World War . He was a Norwegian politician who betrayed his country to the Nazis, and his name, *quisling*, means 40 . Perhaps the most common example is the word *sandwich*, 41 the fourth Earl of Sandwich (1718- 92), who created this quick portable meal so that he would not have to leave the gambling table to eat.

- (A)39. (A)for instance (B)such as (C)in short (D)as a result
- (A)40. (A)traitor (B) patriot (C) trick (D) foolishness
- (D)41. (A)following from (B) resulting in (C) divided by (D) named after

請依下文回答第42 45題

A condemned US inmate who turned from a gang leader to an anti-gang advocate 42 bars has been nominated for the 2006 Nobel peace prize, the college professor behind the nomination said Tuesday. Professor Philip Gasper of Notre Dame de Namur University in California has nominated convicted killer Stanley "Tookie" Williams for the prize five years 43 , according to Alice Kim of the Campaign to Stop the Death Penalty. A Swiss parliamentarian was the first to 44 Williams for the prize, Kim said. "I respect him for his willingness to be public with his stand against gangs and for peace, though he must 45 daily with a violent prison environment full of gang members and unfriendly prison officials, many of whom do not support his message or his work," said Gasper.

- (A)42. (A) behind (B) of (C) at (D) within
- (C)43. (A) on the scene (B) for a while (C) in a row (D) under siege
- (D)44. (A) award (B) consult (C) advise (D) recommend
- (C)45. (A) juggle (B) cooperate (C) cope (D) accord

請依下文回答第46 50題

Together with the gorilla, the chimpanzee is our closest cousin in the animal world. Most people feel an immediate kinship with this great ape, with its large range of facial gestures, body postures, and expressive sounds.

The chimp has a skill once attributed only to humans but now known to occur in various animal groups—the use of simple tools. The chimp even makes its own tools for specific purposes. It will take a leafy twig and strip the leaves to make a long, thin stick for use as a termite catcher. The chimp pokes it through a narrow entrance into a termite nest, then it extracts the stick and licks off the juicy termites.

Chimps also crush leaves in their palms for use as sponges. They hold the leaves in water that they cannot reach with their mouths, such as that in a hollow log. Then they extract the leafy sponge and suck the moisture from it.

Like the young gorillas and humans, baby chimps have a long childhood, up to ten years in some cases. During this time, they find out how to feed and groom themselves, avoid danger, and communicate with other members of their group. Their behavior is partly instinctive. They also learn by observing other members of the group, and through trial and error.

(A)46.What does "this great ape" refer to ?

- (A) Chimp (B) Gorilla (C) Cousin (D) Human

(D)47.According to the passage, which of the following does NOT know how to use tools ?

- (A) Chimps. (B) Gorillas. (C) Humans. (D)Termites.

(B)48.Paragraphs 2 and 3 emphasize the function of chimps '

- (A) feet (B) hands (C) mouths (D) tails

(A)49.For the water that the chimps cannot reach, they will use the to get it.

- (A) leaves (B) logs (C) sticks (D) twigs

(A)50.According to the last paragraph, which of the following is true about baby chimps ?

- (A)They learn from other group members.
(B)On average, their childhood lasts for more than ten years.
(C)They learn how to avoid danger by grooming themselves.
(D)They use tools like young gorillas and humans.