

九十八年地方政府特種考試試題及解答

三等考試

法學知識與英文

功名文教機構

周品毅、吳律師、陳永華老師

www.exschool.com.tw www.exschool.com.tw www.exschool.com.tw

- (A)01.自治法規須經上級政府核定，核定機關若未於法定期限內核定，且未依法函告延長核定期限者，其法定效果如何？
- (A)視為核定 (B)原案視為撤回
(C)函報機關得依法訴請核定 (D)全案無限期擱置
- (B)02.公職人員選舉罷免法規定候選人懸掛標語、旗幟、布條等廣告物之限制，下列敘述何項正確？
- (A)不得妨礙市容 (B)不得妨礙交通秩序
(C)不得批評基本國策 (D)不得主張共產主義
- (C)03.關於立法委員選舉，下列何者正確？
- (A)立法委員全國不分區候選人須年滿30歲 (B)投票日得從事助選活動
(C)有婦女保障名額之規定 (D)雙重國籍者仍可出任立法委員，不受影響
- (C)04.對於總統、副總統之選舉，下列敘述何者錯誤？
- (A)回復中華民國國籍者，不得為總統、副總統候選人
(B)投票日前10日內，不得發布有關候選人之民意調查資料
(C)無競選經費上限之規定
(D)不得接受大陸地區人民之競選經費補助
- (B)05.依憲法增修條文第10條之規定，下列之敘述何者錯誤？
- (A)國家應保障僑民之政治參與
(B)經濟發展與環境保護相衝突時以環境保護為優先
(C)國民就業之救濟性支出應優先編列
(D)教育、科學、文化之經費應優先編列
- (C)06.依憲法第163條之規定，邊遠地區之教育文化經費如何籌措？
- (A)由縣補助之 (B)由省補助之 (C)由國庫補助之 (D)由地方自籌經費
- (C)07.下列何國沒有成文憲法？
- (A)日本 (B)美國 (C)英國 (D)智利
- (A)08.有關人身自由之規定，下列敘述何者錯誤？
- (A)法院對於提審之聲請，應先令逮捕拘禁之機關查覆
(B)人民經合法逮捕拘禁時，得聲請該管法院於24小時內提審
(C)人民非經司法或警察機關依法定程序，不得逮捕拘禁
(D)逮捕拘禁之機關對於法院之提審，不得拒絕或遲延
- (C)09.下列何者得作為限制遷徙自由之事由？
- (A)未成年人 (B)精神疾病患者 (C)假釋之人犯 (D)愛滋病患

- (B)10. 道路交通管理處罰條例規定曾犯故意殺人、搶劫、妨害性自主之罪，經判決罪刑確定者，不准辦理營業小客車職業駕駛人登記。依據司法院大法官釋字第584號解釋，此一規定對人民之何種基本權構成限制？
- (A)財產權 (B)職業選擇自由
(C)請求給予適當工作機會之自由 (D)生存權
- (C)11. 衛生主管機關對藥商刊播廣告之審查核准行為，依司法院大法官釋字第414號解釋，認為是：
- (A)侵害憲法第11條之言論、出版自由權 (B)侵害人民之經濟活動自由
(C)合乎憲法第23條規定意旨 (D)違反憲法第15條人民之財產權應予保障規定
- (A)12. 下列何者隸屬於總統府？
- (A)國史館 (B)故宮博物院 (C)國父紀念館 (D)文建會
- (C)13. 下列何者是憲法增修條文就立法院對行政院院長提出不信任案的要求？
- (A)行政院院長就任未滿1年前，不得提出不信任案
(B)總統就任未滿1年前，不得提出不信任案
(C)不信任案須由立法委員以記名投票表決
(D)不信任案提出前應先徵詢總統意見
- (B)14. 有關立法院在政府組織中作用之敘述，下列何者錯誤？
- (A)立法院是國民的代表機關，行使立法權 (B)立法院擁有條約締結權
(C)立法院行使監察院院長人事同意權 (D)立法院有補選副總統的權限
- (C)15. 依憲法增修條文之規定，立法院通過對行政院院長之不信任案後10日內，總統應經諮詢下列何者後，得宣告解散立法院？
- (A)行政院院長 (B)司法院院長 (C)立法院院長 (D)監察院院長
- (A)16. 下列有關「習慣」之敘述，何者錯誤？
- (A)習慣得適用於民事法與刑事法
(B)習慣必須不違背公序良俗
(C)民事上的習慣必須是法律所未規定之事項
(D)民事上的習慣必須一般人對其有「法的確信」
- (A)17. 依性別工作平等法的規定，僱用受僱者多少人以上者，應訂定性騷擾防治措施、申訴及懲戒辦法，並在工作場所公開揭示？
- (A)30人以上 (B)20人以上 (C)15人以上 (D)10人以上
- (C)18. 以受聘人為著作人時，如未約定著作財產權之歸屬，其著作財產權及利用權之歸屬情形為何？
- (A)著作財產權歸出資人所有，受聘人有利用權 (B)著作財產權歸出資人所有，受聘人無利用權
(C)著作財產權歸受聘人所有，出資人有利用權 (D)著作財產權歸受聘人所有，出資人無利用權
- (B)19. 下列關於刑法上中止犯之敘述，何者為錯誤？
- (A)已著手於犯罪行為之實行，而因己意中止或防止其結果之發生者，減輕或免除其刑
(B)結果之不發生，非防止行為所致，而行為人已盡力為防止行為者，不得減輕或免除其刑
(C)正犯或共犯中之一人或數人，因己意防止犯罪結果之發生，亦適用減輕或免除其刑之規定
(D)中止犯之規定係個人解除刑罰事由
- (D)20. 下列何者非刑法上的阻卻違法事由？
- (A)逮捕現行犯 (B)自助行為

(C)業務上的正當行為

(D)他人間接強制

(C)21.甲欠乙新台幣5百萬元，為了逃避乙之查封拍賣，乃與丙通謀虛偽意思表示，將甲自己之房子登記於丙名下，實際上丙並未出任何價金。結果，丙趁機將登記於其名下之該房子賣給不知情之丁。請問甲有何權利可以主張？

(A)甲可向丁要回房子

(B)甲可向丁索取房價

(C)甲可向丙請求損害賠償

(D)甲可要求乙直接查封丁之房子

(B)22.甲委由乙律師替其打離婚訴訟，下列何者為錯誤？

(A)甲乙間之委任契約及代理權之授與均應以文字為之

(B)因乙律師太忙遂擅自請丙律師代為處理，可毋庸徵求甲的同意

(C)乙的報酬請求權，當事人間未約定時，原則上應於契約終止及為明確報告顛末後，方得請求

(D)當事人任何一方，均得任意終止契約

(B)23.以下對於除斥期間與消滅時效之敘述，何者為錯誤？

(A)消滅時效適用於請求權，除斥期間適用於形成權

(B)消滅時效有中斷或不完成，除斥期間也有中斷或不完成

(C)消滅時效完成後請求權不消滅，僅發生抗辯問題；除斥期間完成後，形成權則消滅

(D)消滅時效自請求權可行使時起算；除斥期間則自權利成立時起算

(C)24.唐律規定：「諸斷罪而無正條，其應出罪者，則舉重以明輕，其應入罪者，則舉輕以明重。」此相當於現今法學方法論上的何種解釋方法？

(A)體系解釋

(B)反對解釋

(C)當然解釋

(D)限縮解釋

(D)25.關於公法與私法之敘述，下列何者是錯誤的？

(A)國家為一方當事人之法律關係，可能為公法，亦可能為私法

(B)公私法所涉及之法律救濟途徑不同

(C)公私法法律關係所本之基本原則不同

(D)國家機關與私人間不可能成立私法上法律關係

(D)26.下列關於「定有施行期限之法規，其效力之延長」的敘述，何者正確？

(A)法律定有施行期限，主管機關認為需要延長者，應於期限屆滿前3個月送立法院審議

(B)法律定有施行期限，主管機關認為需要延長者，應於期限屆滿前2個月送立法院審議

(C)命令定有施行期限，主管機關認為需要延長者，應於期限屆滿前1個月送立法院審議

(D)命令定有施行期限，主管機關認為需要延長者，可不須送立法院審議，但應於期限屆滿1個月前，由原發布機關發布之

(C)27.甲將乙寄託的樹苗種植於丙之土地上，附合成為土地之一部分，依民法規定該樹苗所有權歸屬於：

(A)甲所有

(B)乙所有

(C)丙所有

(D)乙丙共有

(C)28.法規明定自公布或發布日施行者，何時發生效力？

(A)公布日或發布之日即生效力

(B)自公布日或發布日之次日發生效力

(C)自公布或發布之當日起算至第3日起發生效力

(D)自公布日或發布日起算至第30日始發生效力

(D)29.以下有關性別工作平等法中，得為撫育未滿3歲的子女而向雇主請求減少工作時間的規定，何者正確？

- (A)受僱於僱用30人以上之雇主的受僱者，每天得請求減少工作兩小時
 (B)每天得請求減少工作1小時，就其減少的工作時間得請求一半的報酬
 (C)受僱於僱用15人以上之雇主的受僱者，得請求每天減少工作時間1小時
 (D)受僱於僱用30人以上之雇主的受僱者，就其減少的工作時間不得請求報酬
- (D)30.下列何者非屬訴訟外紛爭解決 (ADR) 的方式之一？
 (A)勞資爭議處理法的調解 (B)政府採購法的仲裁
 (C)公害糾紛處理法的裁決 (D)稅捐稽徵法的復查
- (A)31.The danger of heart disease is a family affair. Women whose husbands suffer a heart at-tack often to share many of their husbands' cardiovascular risk factors.
 (A)turn out (B)make sense (C)lose out (D)take pains
- (A)32.The corporation can offer more opportunities to the efficient and employees and thus se-cure top-flight personnel.
 (A)ambitious (B)anxious (C)ambivalent (D)ambiguous
- (D)33.Although I live in an English-speaking environment,I still read Chinese books. does having an English name reduce the importance of Chinese culture in my heart.
 (A)Thus (B)Neither (C)Nor (D)In no way
- (A)34.A doctor's schedule is always subject to change. He may try to finish his job by midnight but get emergency cases. He will have to change his schedule then.
 (A)caught up with (B)tired of (C)accustomed to (D)held off
- (C)35.Although the Enlightenment may have overestimated the power of reason to guide human conduct, it nevertheless opened to men and women a more humane view of their fellow passengers.
 (A)Although the Enlightenment failed to guide human conduct with reasoning
 (B)The Enlightenment advocates its main tenet in guiding human behaviors with a more humane view of their fellow passengers.
 (C)The Enlightenment may not make human beings more rational
 (D)Both humanity and reasoning power are the fundamental doctrines of the Enlightenment although reasoning has lost its function.

請依下文回答第36題至第40題

Binge eating is not yet officially classified as a psychiatric disorder. But it may be more common than anorexia and bulimia. 36 all three eating disorders appear in the *Diagnostic and Statistical Manual of Mental Disorders*, binge eating disorder is not considered a definitive diagnosis like anorexia and bulimia. The 37 study of eating disorders was published by Harvard researchers in the journal *Biological Psychiatry*. It found 38 in the general population of 0.6 percent for anorexia, 1 percent for bulimia, and 2.8 percent for binge-eating disorder. The survey was carried out from 2001 to 2003 among adults 18 and older. Eating disorders are commonly accompanied by other psychiatric illnesses. In the survey, more than half of the people with bulimia had major depression and 50 percent had phobias. 39, more than 94 percent of people with bulimia, 56 percent of those with anorexia, and 79 percent of those with

binge-eating disorder had at least one other psychiatric diagnosis. Dr. Hudson said the most significant limitation of the study was its basis on self-reports, explaining that people tend to 40 their problems with eating disorders. So the true occurrence, he said, is probably higher than the statistics.

- (B)36. (A)Lest (B)While (C)If (D)Since
(D)37. (A)outrageous (B)deceptive (C)presentable (D)representative
(C)38. (A)popularity (B)extinction (C)prevalence (D)expiration
(A)39. (A)Over all (B)After all (C)Honestly speaking (D)To a certain degree
(D)40. (A)clarify (B)address (C)grip (D)underreport

請依下文回答第41題至第45題

Most Americans do not realize that the tradition of Halloween comes from Ireland and Scotland. It originated from Celts who lived in what is now France and the British Isles over 2000 years ago. A harvest festival was celebrated on October 31st and it also marked the beginning of the long, dark, People then believed that the spirits of the dead walked upon the earth in the darkness so great fires were built on the hills to protect the people from bad spirits. Turnips were hollowed out and put a candle inside. When people went outside, they carried them to protect themselves from evil spirits. When the settlers came to America, they brought this custom with them. But they did not have turnips, so they used pumpkins instead. Now, children especially look forward to Halloween and the carving of pumpkins. As Halloween approaches, jack-o'-lanterns pop up on doorsteps everywhere.

- (A)41. What is the best title for this passage?
(A)The History of Halloween (B)The Value of Pumpkins
(C)The History of the Settlers (D)The Popularity of the Pumpkin
- (D)42. The phrase "pop up" is best replaced by _____.
(A)glow (B)ripen (C)shine (D)appear
- (D)43. Which of the following can be inferred from the passage?
(A)The settlers did not celebrate Halloween any more when they arrived in America.
(B)The settlers brought turnips from Europe to America.
(C)Only children celebrate Halloween.
(D)The settlers might not have seen pumpkins before they came to America.
- (B)44. Why did people carry a hollowed turnip with a candle in it 2000 years ago?
(A)They used the hollowed turnip as light source.
(B)They tried to protect themselves from bad spirits.
(C)They worked at night.
(D)They needed to keep themselves warm.
- (C)45. According to the passage, where did Halloween originate from?
(A)France (B)America
(C)Ireland and Scotland (D)Germany

請依下文回答第46題至第50題

Linguists subscribe to the belief that the languages of about one-third of the human race all developed from one Indo-European language. But who were the speakers of this ancient

language? Linguistic detective work offers some clues: you can deduce a people's history from the words they use. Study of some fifty ancient vocabularies has led to a reconstruction of the lifestyle of the first Indo-Europeans, a vanished people. From the words they used, it seems likely that they lived a half-settled, half-nomadic existence. They worshipped gods who are clear ancestors of Indian, Mediterranean, and Celtic deities. However, exactly who the original Indo-Europeans were and when they lived remain a hotly debated mystery. According to an early theory, they lived in Mesopotamia, but this idea was exploded by nineteenth-century archaeology. Today, some argue for the Krugan culture of the Russian steppes, others for the farming culture of the Danube valley. The most widely accepted theory locates the Indo-Europeans in a cold, northern climate where common words for snow and wolf were important. None of these prehistoric languages had a word for the sea. From this, and from our knowledge of nature, it is clear that the Indo-Europeans must have lived somewhere in northern central Europe.

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

- (A) The intellectual climate of the Indo-Europeans
- (B) A study of prehistoric lifestyles
- (C) A search for ancient Indo-Europeans
- (D) Prehistoric ways of living

(A)47. According to the passage, what does the underlined word "exploded" mean?

- (A) Disproved
- (B) Burst
- (C) Arranged
- (D) Destroyed

(A)48. According to the passage, who might have created the Krugan culture?

- (A) The original Indo-Europeans
- (B) A tribe of Celtic origin
- (C) A farming people in ancient Mesopotamia
- (D) A tribe that led a settled life

(D)49. According to the passage, what kind of study plays a major part in helping us understand the history of the Indo-Europeans?

- (A) A study of prehistoric plants
- (B) A study of prehistoric deities
- (C) A study of prehistoric climate
- (D) A study of prehistoric languages

(A)50. According to the passage, which of the following statements is true?

- (A) None of the prehistoric languages studied had a word for *sea*.
- (B) About two-thirds of human languages stemmed from Latin.
- (C) The Indo-Europeans did not worship their gods and goddesses.
- (D) There was an explosion in ancient Mesopotamia.