

九十八年地方政府特種考試試題及解答

四等考試

法學知識與英文

功名文教機構

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- (A)01.下列各民族之間的關係，何者在憲法本文及增修條文中並無規定？
- (A)國家語言的統一 (B)維護各民族的語言
(C)尊重各民族的意願 (D)肯定各民族的多元文化
- (B)02.下列關於制憲、修憲之敘述，何者不合民主憲政原理？
- (A)憲法制定權應能隨時發動，不受既存憲法的拘束
(B)一定是建立新國家的時候才能制憲
(C)修憲的結果應該經由國民主權做最後決定
(D)修憲權是從屬於憲法制定權的一部分
- (C)03.依司法院釋字第542號解釋，主管機關「計劃遷村之手段」，係涉及何種基本權利的保障？
- (A)秘密通訊自由 (B)言論自由 (C)居住自由 (D)集會自由
- (D)04.依司法院釋字第509號解釋，下列關於「指摘傳述誹謗事項」的相關敘述，何者正確？
- (A)指摘傳述誹謗事項之人，若無法證明所言為真，即應受刑法制裁
(B)凡指摘傳述誹謗事項之人，即屬侵害他人權益，應受刑法制裁
(C)於此類案件，原告無須就指摘傳述誹謗事項之人是否有誹謗故意負舉證責任
(D)指摘傳述誹謗事項之人，若能證明其有相當理由確信所指摘傳述之內容為真，即無刑責
- (A)05.兵役體位判定後，受判定之役男如認為有違法情事，經訴願後依法得提起何種訴訟？
- (A)行政訴訟 (B)民事訴訟 (C)請願 (D)刑事訴訟
- (D)06.下列有關秘密通訊自由之說明，何者錯誤？
- (A)秘密通訊自由具有防禦權的作用
(B)刑法第315條規定，無故開拆他人之封緘信函，處拘役或三千元以下罰金之規定，係保護人民秘密通訊自由免於受到第三人之侵害
(C)通訊保障及監察法限制國家對於人民通訊之監聽，是保障人民之秘密通訊自由
(D)監獄受刑人，服刑期間享有秘密通訊自由
- (A)07.憲法上有關人身自由之保障，下列敘述何者與司法院釋字第384號解釋相符？
- (A)限制人身自由之法律規定內容須實質正當 (B)現行犯之逮捕無須遵守正當法律程序原則
(C)人身自由保障僅及於刑事被告 (D)違警罰法未牴觸人身自由保障之意旨
- (C)08.中華民國國民至少年滿多少歲，得被選為總統、副總統？
- (A)30歲 (B)35歲 (C)40歲 (D)45歲
- (D)09.依憲法本文規定，各種選舉，除憲法別有規定外，其行使之方法不包括下列何者？
- (A)普通 (B)平等 (C)直接 (D)記名
- (C)10.我國在那一年舉行第一次總統直接民選？

- (A)民國36年 (B)民國52年 (C)民國85年 (D)民國89年
- (D)11.依憲法增修條文規定，立法委員自第七屆起，各政黨當選名單中，婦女不得低於幾分之幾？
(A)五分之一 (B)四分之一 (C)三分之一 (D)二分之一
- (B)12.依憲法增修條文規定，下列那個機關掌理公務人員任免、考績、級俸、陞遷、褒獎之法制事項？
(A)司法院 (B)考試院 (C)法務部 (D)行政院人事行政局
- (D)13.依憲法增修條文規定，自民國92年起，下列關於司法院大法官任期的說明，何者正確？
(A)得連任一次 (B)得連任二次 (C)連任並無限制 (D)不得連任
- (C)14.依司法院釋字第325號解釋所述，下列何者得行使調查權？
(A)總統 (B)考試院 (C)監察院 (D)行政院
- (A)15.依憲法及司法院大法官解釋，立法院對行政院所提出之預算案，下列何者正確？
(A)不得為增加支出之提議 (B)不得刪減公債發行
(C)得移動預算之項目 (D)不得刪減國防預算
- (D)16.受僱者於工作場所遭受性騷擾，那些法律責任不是性別工作平等法所規定？
(A)雇主於知悉性騷擾之情形，應採立即有效之糾正及補救措施
(B)受僱者受有損害，由雇主與行為人連帶負賠償責任
(C)若受僱人向地方主管機關提出申訴，地方主管機關可對雇主處以罰鍰
(D)受僱者受有損害，地方主管機關可對雇主處以停業處分
- (C)17.勞動基準法有關技術生之規定，下列何者錯誤？
(A)雇主不得招收未滿十五歲之人為技術生
(B)技術生之相關規定，於事業單位之養成工、見習生、建教合作班之學生準用之
(C)雇主不得向技術生收取有關訓練費用，且須準用同法第21條第1項之規定，給付不得低於基本工資之工資
(D)技術生人數不得超過勞工人數四分之一，如勞工人數不滿四人，則以四人計
- (D)18.下列何者為負擔行為？
(A)債務承擔 (B)債務免除 (C)債權讓與 (D)不良債權之拍賣
- (A)19.下列關於著作權保護期間之敘述，何項錯誤？
(A)著作人於著作公開發表時享有著作權
(B)攝影著作之著作財產權存續至公開發表後五十年
(C)著作人格權之保護為永久
(D)共同著作之著作財產權，存續至最後死亡之著作人死後五十年
- (B)20.下列何者係刑法上的阻卻違法事由？
(A)行為不能發生犯罪之結果，又無危險者
(B)業務上之正當行為
(C)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
(D)行為時因精神障礙，致不能辨識其行為違法者
- (D)21.下列何種行為無暴利行為之適用？
(A)債權行為 (B)物權行為
(C)債權行為及物權行為 (D)身分行為
- (B)22.甲持槍連續朝乙頭部扣擊扳機2下，惟因子彈未上膛，乙倖免於死。試問甲殺害乙之行為如何論處？

- (A)其犯罪結果不能發生，且沒有危險，甲不受處罰
 (B)甲成立殺人未遂罪，僅得減輕其刑
 (C)甲僅成立殺人預備罪
 (D)甲成立殺人未遂罪，應減輕其刑
- (D)23.以下法律行為何者是附停止條件？
 (A)甲於五月一日已通過考試取得駕照，乙不知，於五月三日見甲時，向甲表示：若甲取得駕照，即送甲一台二手轎車
 (B)我的兒子結婚時，您應即返還所借公寓
 (C)租約中約定，終止租約應早一個月通知
 (D)甲向乙批發運動服，約定月底結算貨款，有出售者算錢，未出售者退還
- (C)24.下列何者不屬於著作財產權？
 (A)公開口述權 (B)公開展示權 (C)公開發表權 (D)公開上映權
- (B)25.法律適用三段論中的小前提，所指為下列何者？
 (A)法律規範 (B)具體事件 (C)涵攝過程 (D)最後結論
- (A)26.依中央法規標準法之規定，法規有下列情形之一者，廢止之：
 (A)法規規定之事項已執行完畢者 (B)法規與其他法規內容矛盾者
 (C)法規解釋上發生重大爭議者 (D)法規有窒礙難行之情形者
- (B)27.下列關於法律生效的敘述，何者正確？
 (A)法律之制定及修正，經立法院三讀通過之後，便已生效
 (B)法律之制定及修正，未經總統公布之前，尚未生效
 (C)總統收到立法院通過之法律案，應於十五日內公布之
 (D)總統若逾期不公布立法院通過之法律案，立法院得自行公告後法律生效
- (A)28.下列有關我國行政法的發展趨勢，何者正確？
 (A)委任立法甚為普遍
 (B)行政裁量權萎縮至零
 (C)行政罰不以故意或過失為限
 (D)行政機關對所有之不確定法律概念皆有判斷餘地，而不受法院審查
- (B)29.因可歸責於債務人之事由，致為不完全給付，但其瑕疵可為補正者，債務人應依何規定負其責任？
 (A)依給付不能負責 (B)依給付遲延負責
 (C)依受領遲延負責 (D)依侵權行為負責
- (C)30.下列各法源，何者必須經由訴訟過程產生？
 (A)制定法 (B)成文法 (C)判例 (D)法律學說
- (A)31.Unfortunately, the hotel is extremely limited in space and cannot large groups of tourists.
 (A)accommodate (B)anticipate (C)inhabit (D)dwell
- (D)32.I am sure I had made quite a good on the personnel manager in the interview because I got the job.
 (A)interpretation (B)expression (C)transition (D)impression
- (A)33.The boss was Ted's laziness and decided to fire him.

- (A)fed up with (B)fond of (C)filled with (D)fascinated by

(C)34. Mary's watch is as expensive as her husband's. Her father's watch is theirs.

- (A)as much as twice (B)twice more
(C)twice as much as (D)as twice more

(B)35. You shouldn't your parents' love ; instead, you should cherish and reward it.

- (A)put...into consideration (B)take...for granted
(C)bear...in mind (D)know...by sight

請依下文回答第36題至第40題

The saying "Dogs are people's best friends" is an old one. People and dogs 36 together since ancient times. Many dogs serve 37 as pets. But some dogs have real jobs to do. They work as police dogs and as guide dogs for the blind. Some breeds of dogs do these jobs 38 others. Very often, people choose German shepherds for this work. What makes these dogs so good at it? German shepherds have many 39 that make them good work dogs. For one thing, they are the right size. They are quite large and strong. They also look alert and are very smart. So it is easy to train them to do hard jobs. What's more, German shepherds have the right traits. They are patient and can wait 40 for a long time. The dogs' calm and gentle natures show that they can be well trained.

- (C)36. (A)are living (B)had lived (C)have lived (D)would be living
(D)37. (A)even (B)not just (C)so long (D)only
(A)38. (A)better than (B)more than (C)as well as (D)the same as
(C)39. (A)abilities (B)experiences (C)qualities (D)species
(D)40. (A)casually (B)eagerly (C)carelessly (D)quietly

請依下文回答第41題至第43題

Schools can contribute to the socialization of gender roles. Books that children use in learning to read influence their ideas about 41 is suitable behavior for males and females. Traditionally, males have been more likely to be portrayed as clever, heroic, and adventurous in these books, 42 females have been more likely to be shown doing domestic chores. As youngsters progress through the school system, they are often channeled in career directions considered appropriate for their sex. For example, males have been more likely to be encouraged to study mathematics and to work toward becoming engineers or doctors. Females have 43 been encouraged to take classes in home economics and to work toward becoming nurses or homemakers.

- (D)41. (A)it (B)that (C)which (D)what
(A)42. (A)while (B)as (C)since (D)however
(C)43. (A)remotely (B)never (C)often (D)primitively

請依下文回答第44題至第47題

Buying overpriced indulgences may feel good in the short term, but you pay the price later. Or at least that's the conventional wisdom. But a study by a couple of business-school professors says splurging now makes you happier later. Even more surprising: *not* splurging now gives you pangs of regret later.

One study in the *Harvard Business Review* polled college students and alumni on the subject of spring breaks. Regret about not having spent more money or traveling during breaks increased with time, whereas regret about not having worked, studied, or saved money during breaks decreased with time.

The authors write: "We saw a similar pattern in a study of how businesspeople perceived past choices between work and pleasure. Over time, those who had indulged felt less and less guilty about their choices, whereas those who had been dutiful experienced a growing sense of having missed out on the pleasures of life."

The authors also did a study of mall shoppers, asking about their regret about buying an expensive item of clothing. Those who anticipated short-term regret bought less-expensive items, while those who anticipated long-term regret splurged.

Luxury-goods makers, of course, will eat this up. I can see the slogan now: "Luxury: It's Good for Life." Well, whether luxury is good for your finances is another matter.

Wealth Report readers, what do you think? Do the long-term benefits of indulgence outweigh the short-term risks of regret?

(D)44. According to the study, who is going to regret in the long run?

- (A) Those who take a luxurious spring vacation.
- (B) Those who have bought a brand-name item.
- (C) Those who spend money on expensive clothes.
- (D) Those who devote themselves to their jobs.

(C)45. What does the author mean by saying "luxury-goods makers will eat this up?"

- (A) More luxurious food will be produced for the market.
- (B) Luxury-goods businesses will be harmed by the study.
- (C) Luxury-goods makers will make full use of this study.
- (D) Consumers will regret that they have eaten too much luxurious food.

(D)46. What does a person who "splurges" do?

- (A) He/she overworks all the time.
- (B) He/she has deep life-long regret.
- (C) He/she budgets his/her money when going shopping.
- (D) He/she spends more money than he/she can usually afford.

(B)47. Who did the *Harvard Business Review* survey in the study mentioned in the passage?

- (A) College professors and tourists.
- (B) College students and businesspeople.
- (C) Shopowners and their customers.
- (D) Producers of luxury goods.

請依下文回答第48題至第50題

Gaviotas, a rural area in Colombia, is an example of how even desolate places in the countryside can be developed for sustainable human use. This area had been considered a wasteland: dry brown savanna, without enough water, plant, or animal life to support a town. But today a green spot of a 25,000-acre forest and big aluminum sunflowers begin to dot the empty savanna.

Under the trees are low white buildings and colorful houses, all with solar collectors. Begun in 1971 as a scientific experiment, Gaviotas is now a self-sufficient town of 200, supported by clean, renewable industries. In the beginning of restoring the unproductive savanna to a place where humans can live well, the first problem was finding pure water. The Gaviotans

invented a special kind of hand pump to reach deepwater reservoirs. Another goal was to restore the soil and plants. After years, they discovered that Caribbean pines from Honduras could grow in the area's thin, acidic soil.

As more people moved to Gaviotas, it was important to consider a pollution-free way of transportation. Village mechanics developed a bicycle especially designed for the area's rough land. Bicycles are now the official mode of transportation, cheap and pollution-free. Gaviotas is a remarkable accomplishment of sustainable development. This once dry landscape has been turned into a near paradise.

(C)48.What is this passage mainly about?

- (A)How to get pure water.
- (B)How to restore the soil and plants.
- (C)How to turn a wasteland into a self-sufficient town.
- (D)How to create sustainable living areas in cities.

(B)49.Why had this area been considered a wasteland?

- (A)There were no plants at all.
- (B)Not enough animal life was seen.
- (C)There was not enough public transportation.
- (D)There was only dry green savanna.

(A)50.Which of the following statements is NOT true?

- (A)Bicycles, the official means of transportation, are expensive in Gaviotas.
- (B)The Gaviotans invented a special pump to reach deepwater reservoirs.
- (C)The soil is thin and acidic, but Caribbean pines from Honduras can grow there.
- (D)Inhabitants in Gaviotas are able to provide for their needs without outside help.