

# 九十九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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## 測驗題部分：(100分)

- (C)01.下列標準，何者不是司法院大法官所提出用以判斷法律本身是否符合明確性要求之標準？
- (A)法律規定之意義須非難以理解 (B)法律規定之意義為一般受規範者所得預見  
(C)法律規定之意義須符合比例原則要求 (D)法律規定之意義可經由司法審查加以確認
- (B)02.依憲法增修條文第10條之規定，下列何者並非我國之基本國策？
- (A)重視水資源之開發利用 (B)禁止開發山坡地  
(C)加強國際經濟合作 (D)推動農漁業現代化
- (C)03.憲法規定，國家對於土地之分配與整理，應以何者為原則？
- (A)發展高科技科學園區 (B)促進人民就業  
(C)扶植自耕農以及自行使用土地人 (D)國民生產事業以及對外貿易
- (D)04.根據司法院憲法解釋，下列何者不屬於人民選擇職業之自由應具備之主觀條件？
- (A)知識 (B)學位 (C)體能 (D)行業獨占制度
- (B)05.舊通訊保障及監察法內規定「通訊監察書，偵查中由檢察官依司法警察機關聲請或依職權核發」，依司法院釋字第631號解釋，違反下列何項原則而被宣告違憲？
- (A)比例原則 (B)合理、正當之程序  
(C)法官獨立原則 (D)審檢分隸原則
- (A)06.依司法院釋字第654號解釋，以下羈押法之規定，那一項與憲法第16條保障人民訴訟權之意旨有違？
- (A)被告在看守所之言語、行狀、發受書信之內容可供偵查或審判上之參考者，應呈報檢察官或法院  
(B)看守所對於刑事被告，得限制其行動，及施以生活輔導  
(C)受死刑或無期徒刑之宣告者，應與其他被告分別羈押  
(D)律師接見受羈押被告時，應受監視
- (B)07.依司法院釋字第340號解釋，公職人員選舉罷免法第38條第2項規定：「政黨推薦之區域、山胞候選人，其保證金減半繳納。但政黨撤回推薦者，應全額繳納」，無異使無政黨推薦之候選人，須繳納較高額之保證金，形成不合理之差別待遇，此乃憲法上何種原則的檢驗？
- (A)比例原則 (B)平等原則 (C)法律保留原則 (D)法律優位原則
- C8 依司法院釋字第551號解釋，倘有法律規定捏造證據誣告他人犯罪者，處以其所誣告之罪之刑，此舉是否符合比例原則？
- (A)符合，此係以其人之道還治其人之身  
(B)符合，誣告行為係嚴重浪費司法資源，應以嚴刑峻罰防堵之  
(C)不符合，刑事責任應以行為本身之惡害程度予以非難評價，以所誣告罪名反坐，有失均衡  
(D)不符合，以所誣告罪名反坐，違反言論自由保障

- (B)09. 依憲法增修條文規定，總統於下列那個期間內不得解散立法院？  
(A) 立法院休會 (B) 緊急命令生效 (C) 國家財政危機 (D) 外來武力威脅
- (C)10. 依憲法增修條文規定，行政院移請覆議案，立法院未於期限內作成決議者，原決議之效力為何？  
(A) 無效 (B) 不生效力 (C) 失效 (D) 定期失效
- (B)11. 倘若在警匪槍戰中，無法突圍脫圍的匪徒，表明是現任立法委員，且身分被證實，此時檢警應如何處置？  
(A) 立即放行 (B) 立即逮捕  
(C) 經立法院許可後逮捕之 (D) 聲請法院許可拘提之
- (D)12. 依司法院釋字第585號解釋，立法院行使調查權，以下何者錯誤？  
(A) 立法院欲調查之事項必須與其行使憲法所賦予職權有重大關聯者  
(B) 國家機關獨立行使職權受憲法之保障者，即不屬立法院所得調查範圍  
(C) 涉及行政權本質之行政特權，例如不公開特定行政資訊，立法院行使調查權應予尊重  
(D) 立法院之調查不應加以限制
- (C)13. 憲法上規定，直轄市之自治，以下列那一項方式定之？  
(A) 內政部發布之命令 (B) 行政院發布之命令  
(C) 法律 (D) 自治條例
- (A)14. 監察院通過糾正案後，應將該案移送何機關促其注意改善？  
(A) 行政院及其有關部會 (B) 立法院  
(C) 公務員懲戒委員會 (D) 法院
- (C)15. 下列何者無固定任期？  
(A) 大法官 (B) 監察委員 (C) 最高法院院長 (D) 審計長
- (B)16. 下列那一項費用屬於全民健康保險的給付範圍？  
(A) 交通費 (B) 婦女子宮頸抹片檢查  
(C) 義齒 (D) 指定醫師
- (A)17. 南投縣戶政規費收費自治條例第5條規定：「本自治條例自中華民國九十五年一月一日施行。」則該自治條例是從何日起發生效力？  
(A) 95年1月1日 (B) 95年1月2日 (C) 95年1月3日 (D) 95年1月4日
- (B)18. 有關我國兒童及少年保護之立法方向，下列敘述何者正確？  
(A) 全面禁止有害兒童及少年身心健康出版品之散布  
(B) 禁止兒童及少年出入足以危害身心健康之場所  
(C) 限制兒童及少年於酒家、特種咖啡茶室、限制級電子遊戲場工作之時數  
(D) 限制兒童獨處時間不得超過每日八小時
- (C)19. 「法律只適用於其有效施行後的事件」，此敘述在於說明那一個法律原則？  
(A) 私法自治原則 (B) 誠信原則  
(C) 法律不溯及既往原則 (D) 從新從優原則
- (B)20. 勞資爭議處理法關於勞資爭議當事人於仲裁程序進行中自行和解者，定有「其和解與依本法成立之調解有同一效力」之明文。該「有同一效力」，即法律適用上所稱之何者？  
(A) 法律原因之準用 (B) 法律效果之準用 (C) 法律原因之類推 (D) 法律效果之擬制
- (C)21. 下列何者非屬18歲甲之特有財產？

- (A)母親所贈之生日禮物  
(B)繼承父親死後之遺產  
(C)暑假打工所賺之工資  
(D)在海邊挖到之玫瑰石

(B)22.甲有配偶乙，父母丙、丁，兄弟姊妹A、B、C，此外別無其他親屬。甲死亡時留下遺產180萬元，並未留下遺囑。請問依照民法規定，其遺產最後將如何分配？

- (A)乙、丙、丁各60萬  
(B)乙90萬，丙、丁各45萬  
(C)乙90萬，A、B、C各30萬  
(D)乙90萬，丙、丁、A、B、C各18萬

(C)23.甲教唆乙去傷害丙，並再三叮嚀乙千萬不要鬧出人命。乙聽之，卻出手過重將丙給打死。應如何評價甲、乙的行為？

- (A)甲、乙成立傷害致死罪之共同正犯  
(B)甲、乙各自成立傷害致死罪  
(C)甲成立教唆傷害罪、乙成立傷害致死罪  
(D)甲成立教唆傷害罪、乙成立過失致人於死罪

(B)24.40歲之甲於80年8月8日在海邊戲水時，遭海浪捲走，自此不見蹤影。其妻於90年8月8日向法院聲請死亡宣告，除有反證外，法院應於判決內宣告甲之死亡時間為：

- (A)81年8月8日午夜12時  
(B)87年8月8日午夜12時  
(C)91年8月8日午夜12時  
(D)97年8月8日午夜12時

(C)25.甲偽造了一批千元新臺幣，依刑法規定，沒收之依據為何？

- (A)違禁物  
(B)供犯罪所用或犯罪預備之物  
(C)因犯罪所生之物  
(D)因犯罪所得之物

(B)26.依消費者保護法規定，企業經營者對消費者或第三人之損害賠償責任得否預先約定限制或免除？

- (A)得預先約定限制或免除  
(B)不得預先約定限制或免除  
(C)得預先約定限制但不得預先免除  
(D)得預先約定免除但不得預先限制

(D)27.股份有限公司依董事會決議買回自己之股份，通稱為「庫藏股」。請問被公司買回之股份，其表決權應由何人行使？

- (A)公司  
(B)原股東  
(C)董事會  
(D)不得行使

(B)28.勞動契約當事人終止契約之行為，其性質上應為：

- (A)須相對人同意之單方形成意思表示  
(B)無須相對人同意之單方形成意思表示  
(C)須符合法律規定、否則不生效之雙方形成意思表示  
(D)無須符合法律規定之雙方形成意思表示

(D)29.家庭暴力防治法所定家庭成員，不包括下列何者？

- (A)同居人  
(B)公婆、岳父母  
(C)妻子的表哥  
(D)女朋友前婚姻關係的未成年子女且未同居者

(B)30.依司法院釋字第636號解釋，檢肅流氓條例所規定欺壓善良、品行惡劣、遊蕩無賴之用語，與下列何種原則不符？

- (A)法律優位原則  
(B)法律明確性原則  
(C)正當法律程序原則  
(D)法律保留原則

(B)31. Even though this small study in mice shows \_\_\_\_\_, researchers still have a long way to go before human trials can begin.

- (A) crime  
(B) promise  
(C) regression  
(D) travel

- (C)32. Because the couple could not have children of their own, they planned to \_\_\_\_\_ an orphan.  
 (A) adapt (B) admit (C) adopt (D) adept
- (B)33. Jason \_\_\_\_\_ a moment before replying because he was not sure how to respond to the interviewer's question.  
 (A) challenged (B) hesitated (C) memorized (D) supposed
- (D)34. The gentleman \_\_\_\_\_ the lady to the door of her flat and kissed her good night.  
 (A) transformed (B) persuaded (C) sneaked (D) escorted
- (B)35. After countless efforts, the missionary has finally raised a \_\_\_\_\_ amount of money to build a church.  
 (A) deficient (B) considerable (C) conservative (D) disposable
- (D)36. Sophia has profound knowledge of Greek history, which makes her a \_\_\_\_\_ in that field.  
 (A) layman (B) detective (C) refugee (D) specialist
- (B)37. The most important \_\_\_\_\_ in this cake are flour, eggs, sugar, and butter.  
 (A) flavors (B) ingredients (C) compounds (D) preservatives
- (A)38. I plan to go to Jay's concert next week, but all tickets \_\_\_\_\_ .  
 (A) have been sold out (B) had sold out (C) had been sold out (D) sold out
- (C)39. Debby: I've got two complimentary tickets for the premiere of the movie *The Lion, the Witch, and the Wardrobe* . Would you like to join me?  
 Pam: I'd be glad to, but \_\_\_\_\_ .  
 Debby: What a shame. Never mind. I'll ask Laura if she can go with me.  
 (A) I don't have money. (B) I'm in no mood to study.  
 (C) I have to brush up on my physics tonight. (D) I insist on going Dutch.
- (C)40. Peter: My hands really itch. I can ' t stop scratching them.  
 Robert: It looks like a rash. Are you allergic to anything?  
 Peter: \_\_\_\_\_ It never happened to me before.  
 (A) I have it only once in a while. (B) There are too many mosquitoes.  
 (C) I'm not sure. (D) I eat too many shrimps.

閱讀下文回答41~45題

Maybe it was those long Swedish winters. More than three generations ago, Swedish adults, struggling with the 41 of the endless cold nights, began forming "study circles." They gathered informally to talk about subjects 42 from Egyptian art to foreign languages like English. When the Social Democrats gained power in the 1930s, the study circle was 43 a matter of national policy. "In Sweden you learn 44 you live," says Barbro Wickberg, an official in the Swedish Education Ministry. Today the government pays 40 percent of the cost of study circles nationwide.

The Swedes have not just created a society of liberal-arts students. Their adult education is also about jobs. The country doesn't spend very much on cash benefits for the unemployed; 45 , it lavishes money on training programs and grants for trainees. "We recognize we have to take care of people in our society. They may as well do something useful," says Berit Rollen, director of Sweden's National Employment Training Board.

- (C)41.(A) purpose (B) strength (C) boredom (D) freedom  
 (D)42.(A) including (B) changing (C) scanning (D) ranging  
 (A)43.(A) elevated to (B) defended by (C) adopted by (D) accused of  
 (C)44.(A) in case (B) no matter when (C) as long as (D) by the time  
 (A)45.(A) instead (B) moreover (C) consequently (D) fortunately

閱讀下文回答46~50題

Spring is the most beautiful time of the year to visit Rome—flowers begin to bloom, cafe tables reappear on bustling sidewalks, and crowds of summer tourists are yet to arrive.

Before dawn, head up to the Janiculum Hill to catch the sunrise. From here you'll be able to see the Vatican, Pantheon, Colosseum, and Borghese Gardens. Then you can stroll through the oldest morning market, Campo di Fiori, to pick up some fresh fruit and flowers. Proceed from the Campo towards the Pantheon. Built in A.D. 124 as a temple to all the gods of Rome, the Pantheon remains today as a Catholic church and a tomb for Italian celebrities, such as the artist Raphael and King Vittorio Emmanuelle II. Around the Pantheon, you can't miss the best Italian coffee. Romans are passionately divided as to who makes the best cup: Sant Eustachio, steps behind the Pantheon, or Tazza d'Oro, a few feet in front of the Pantheon. Take your coffee in the traditional Italian way: standing up at the bar.

Spend the rest of the morning exploring St. Peter's Basilica and the Vatican Museums. Vatican City is full of extraordinary artworks and monuments of history. Don't forget to climb to the top of St. Peter's for an incredible view. In the afternoon, head to the Borghese for a leisurely stroll through the garden. If you are in the mood for shopping, head down the Via Babuino towards the Spanish Steps. Essential to any afternoon in Rome are a few scoops of ice cream. Go to the renowned Giolitti, in the Piazza Colonna, and try their 40 flavors of ice cream. You may see Italian politicians flocking here between their government meetings.

(B)46. Who is most likely to be the writer of this article?

- (A) an Italian chef                      (B) a travel guide                      (C) a politician                      (D) a physicist

(A)47. Where can a tourist go if he/she wants to take a walk in a garden?

- (A) Borghese                      (B) Campo di Fiori                      (C) Colosseum                      (D) Via Babuino

(D)48. What is Giolitti famous for?

- (A) outstanding artworks                      (B) government meetings  
(C) a beautiful view of Rome                      (D) various flavors of ice cream

(A)49. Which statement about the Pantheon is true?

- (A) Raphael ' s tomb is in there.  
(B) It was built more than 2,000 years ago.  
(C) Today the Pantheon is a well-known museum.  
(D) It was designed by king Vittorio Emmanuelle II.

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

- (A) Spring is the best season to visit Rome.  
(B) The best Italian cafes are near the Vatican Museum.  
(C) The Janiculum Hill and St. Peter ' s provide great views of Rome.  
(D) Italian people like to stand up at the bar and have their coffee.