

112年公務人員特種考試司法人員、法務部調查局調查人員、海岸巡防人員、移民行政人員考試及112年未具擬任職務任用資格者取得法官遴選資格考試試題

考試別：司法人員、海岸巡防人員、移民行政人員

等 別：四等考試

## 類科組：各類科組

科 目：法學知識與英文（包括中華民國憲法、法學緒論、英文）

考試時間：1小時 座號：

※注意：(一)本試題為單一選擇題，請選出一個正確或最適當答案。

(二)本科目共50題，每題2分，須用2B鉛筆在試卡上依題號清楚劃記，於本試題上作答者，不予計分。

### (三)禁止使用電子計算器。

- 1 下列何者並非共和國之特徵？  
(A)國家元首不掌握行政實權 (B)國家元首非世襲產生  
(C)國家元首有任期限制 (D)國家元首由選舉產生

2 依憲法增修條文規定，國家應依民族意願，保障原住民族之地位及政治參與，並對其教育文化、交通水利、衛生醫療、經濟土地及社會福利事業予以保障扶助並促其發展，其辦法另以法律定之。此規定對於下列那些地區人民亦同？  
(A)澎湖、金門及馬祖 (B)所有離島  
(C)澎湖、金門、馬祖及東沙島 (D)偏鄉

3 依司法院大法官解釋意旨，下列何者非屬憲法第 11 條保障之範圍？  
(A)大學自治 (B)新聞自由  
(C)資訊自主權 (D)平等接近使用傳播媒體之權利

4 依司法院大法官解釋意旨，宗教團體之下列權利，何者不受憲法上宗教結社自由之保障？  
(A)組織自主權 (B)人事管理權 (C)財產處分權 (D)租稅優惠權

5 依司法院大法官解釋，民法曾規定有關妻以夫之住所為住所，贅夫以妻之住所為住所之規定，違反下列何種基本權？  
(A)配偶權 (B)平等權 (C)人身自由 (D)遷徙自由

6 基於對人民生存權的保障，國家須使人民維持最低度合於人性尊嚴的生活，人民也有相應的請求權，此乃憲法上何種基本權功能的展現？  
(A)防禦權功能 (B)受益權功能  
(C)程序暨組織保障功能 (D)保護義務功能

7 下列何種費用之徵收，得由法律授權以命令訂之，無憲法第 19 條之適用？  
(A)汽車牌照稅 (B)空氣污染防治費 (C)田賦 (D)娛樂稅

8 依相關大法官解釋及憲法法庭判決，有關憲法隱私權之保障，下列敘述何者錯誤？  
(A)隱私權之保障攸關人性尊嚴之維護與人格自由發展之確保  
(B)國家應保障個人生活私密領域免於他人侵擾  
(C)請領身分證必須按捺指紋，有違人性尊嚴及隱私權之保障  
(D)公務機關以合法蒐集之個人資料所建置之資料庫，人民不得請求退出

9 依司法院釋字第 587 號解釋，關於婚生否認之訴之說明，下列敘述何者錯誤？  
(A)子女得提起婚生否認之訴，以維護子女獲知其身世之權利  
(B)允許子女提起婚生否認之訴，係為維護子女之人格權  
(C)否認子女提起否認之訴之資格，是對其訴訟權之不當限制  
(D)子女提起婚生否認之訴，係為維護其資訊更正權，釐清血統來源

10 依憲法規定，有關行政院職權，下列敘述何者錯誤？  
(A)行政院應將年度預算於會計年度開始 3 個月前，提出於立法院  
(B)行政院於會計年度結束後 3 個月內，應提出決算於監察院  
(C)行政院應將司法院所提之年度司法概算編入中央政府總預算案送請立法院審議  
(D)行政院對於立法院決議之預算案認為窒礙難行時，得經總統之核可，移請立法院覆議

- 11 有關立法委員之選舉，下列敘述何者錯誤？  
(A)立法委員任期 4 年，連選得連任，且必須於每屆任滿前 3 個月內選出新一任的立法委員  
(B)有關原住民立法委員之選舉，分有平地原住民以及山地原住民，名額各為 3 人  
(C)立法院經總統解散後，在新選出的立法委員就職前，原立法委員仍應續行其職務，不得藉此休會  
(D)不分區立委之當選，其政黨須先獲有百分之 5 以上政黨選舉票數，才可依得票比率選出

12 下列何種自由為人類一切自由權利之根本，任何人不分國籍均應受保障？  
(A)平等權 (B)言論自由 (C)集會結社自由 (D)人身自由

13 在現行憲政體制下，下列何者非司法院院長的職權？  
(A)綜理院務 (B)就自治法規重大障礙提出解決方案  
(C)憲法庭擔任審判長 (D)出席總統召集之院際爭執會商會議

14 關於立法委員聲請解釋之要件，下列何者是司法院釋字第 603 號解釋所要求，而非憲法訴訟法明定者？  
(A)就所適用之法律認有牴觸憲法 (B)行使職權  
(C)現行有效法律有違憲疑義而修法未果 (D)須有現有總額 4 分之 1 以上委員

15 針對食品殘留動物用藥安全容許量標準之規範，係屬中央專屬權限或地方自治事項，依憲法法庭判決，下列敘述何者錯誤？  
(A)依憲法第 108 條規定，有關商業與公共衛生，係屬中央立法並執行之事項  
(B)若規範會對其他縣市居民或事物產生直接、密切之實質影響，即非當然屬於該縣市之自治事項  
(C)若規範產生跨地方轄區之效果，即非當然屬於該縣市之自治事項  
(D)釋字第 738 號解釋有關中央與地方分權之判準，嗣經 111 年憲判字第 6 號判決推翻

16 司法院釋字第 792 號解釋謂：「前開條文構成要件中所稱之『販賣』一詞，根據當前各版本辭典所載，或解為出售物品，或解為購入物品再轉售，無論何者，所謂販賣之核心意義均在出售，均非單指購入物品之行為。」是屬於何種法律解釋方法？  
(A)文義解釋 (B)歷史解釋 (C)體系解釋 (D)目的解釋

17 下列何者非主張信賴保護原則之要件？  
(A)信賴基礎 (B)信賴值得保護 (C)存續保護 (D)信賴表現

18 若無法從主管機關核發之課稅處分書中確認納稅義務人為何人，最有可能違反行政法上那一原則？  
(A)平等原則 (B)比例原則  
(C)明確性原則 (D)對當事人有利不利一律注意原則

19 依行政程序法之規定，下列何種行為不適用行政程序法的程序規定？  
(A)某公立學校對違反校規學生為退學之處分 (B)主管機關拒絕外國人入境  
(C)主管機關對其所屬公務員一次記二大過免職 (D)人民申請換發護照被主管機關拒絕

20 勞工甲大學一畢業就前往礦場受僱挖礦，做了約 10 年之後，感到體力衰退因此離職，半年之後，即因為呼吸不順暢前往醫院就醫，經職業病醫師診斷為礦工常見的塵肺病，且跟其離職前擔任礦工的環境高度相關，甲因此提出職業災害給付之申請，下列敘述何者正確？  
(A)甲不能領取職業災害給付，因為塵肺病是生理疾病，不屬於職業災害  
(B)甲不能領取職業災害給付，因為甲診斷確定時，已經離職半年，不屬於執行職務時導致的職業災害  
(C)甲應可領取職業災害給付，因為塵肺病可被認定是擔任礦工時所罹患，而該時點屬於保險有效期間內  
(D)甲應可獲得職業災害給付，只要是礦工，都會得到塵肺病，因此可以直接認定塵肺病是擔任礦工所導致的職業病

21 家庭暴力防治法保護令之聲請，其管轄法院不包括下列何者？  
(A)由被害人之住居所地之地方法院管轄 (B)由相對人之住居所地之地方法院管轄  
(C)由家庭暴力發生地之地方法院管轄 (D)由被害人選擇最適合之法院管轄

22 下列何者我國憲法未明文規定須超出黨派以外，獨立行使職權？  
(A)司法院大法官 (B)行政院政務委員 (C)考試委員 (D)監察委員

23 監所管理員張三與受刑人李四有宿怨，時常趁機痛打李四，使其痛不欲生，下列敘述何者正確？  
(A)張三的行為僅構成刑法第 277 條第 1 項之普通傷害罪  
(B)張三的行為不構成刑法第 126 條第 1 項的凌虐人犯罪，因其並非有追訴犯罪職務之公務員  
(C)張三的行為不構成刑法第 126 條第 1 項的凌虐人犯罪，因其並未致李四於死亡或重傷  
(D)張三的行為構成刑法第 126 條第 1 項的凌虐人犯罪，因其係有拘禁人犯職務之公務員，對人犯施以凌虐

- 24 有關禁止錯誤，下列敘述何者錯誤？  
(A)可分為直接禁止錯誤與間接禁止錯誤  
(B)行為人對於禁止規範無認識屬於直接禁止錯誤  
(C)行為人主觀上誤認容許規範之存在屬於間接禁止錯誤  
(D)小學教師誤認對學生擁有體罰權不可解釋為禁止錯誤
- 25 下列何者非屬著作權之標的？  
(A)以寫實的手法拍攝南極企鵝生態的紀錄片 (B)報章雜誌的社論  
(C)世界地圖 (D)公務員高等考試的考題
- 26 關於總統、副總統彈劾案件，下列敘述何者正確？  
(A)被彈劾人於判決宣示前，不得自行辭職  
(B)因關係到被彈劾人之名譽，故此類案件應不經言詞辯論，以不公開方式為之  
(C)宣告彈劾成立之判決，其評決應經大法官現有總額 3 分之 2 以上同意  
(D)憲法法庭應於收受彈劾案件聲請之日起 3 個月內為裁判，必要時，得延長 2 個月
- 27 下列何者不屬於憲法訴訟法列舉之訴訟類型？  
(A)裁判憲法審查案件 (B)政黨違憲解散案件 (C)都市計畫審查案件 (D)機關爭議案件
- 28 受監護宣告之人的行為能力為何？  
(A)無行為能力 (B)限制行為能力 (C)部分行為能力 (D)完全行為能力
- 29 甲將房屋設定普通抵押權給乙銀行後，甲又將該房屋出租給丙，下列敘述何者正確？  
(A)甲、乙間設定抵押權契約無效  
(B)甲、丙間之租賃契約無效  
(C)甲、乙間設定之抵押權不因此而受影響，房屋之租金由甲收取  
(D)甲、乙間設定之抵押權不因此而受影響，房屋之租金由乙收取
- 30 甲夫乙妻有子丙、丁，丙男娶戊女為妻，並育有一子己，丁為單身。一日甲與丁出遊，不幸車禍同時身亡，丙聞訊後悲痛欲絕，亦於數日後身亡。設甲留有遺產 300 萬元，下列敘述何者正確？  
(A)丁得繼承甲之遺產 100 萬元 (B)乙得全部繼承甲之遺產  
(C)戊得繼承甲之遺產 150 萬元 (D)己得繼承甲之遺產 75 萬元
- 31 “Patient zero” is a term used to describe the first human \_\_\_\_\_ by a viral or bacterial disease in an outbreak.  
(A) recovered (B) contacted (C) infected (D) detected
- 32 The bank files a lawsuit against Jack because he has fallen behind with his \_\_\_\_\_ payments for more than 6 months.  
(A) mortgage (B) management (C) magnification (D) mortification
- 33 Mary and I didn't \_\_\_\_\_ having so much fun when we explored the old town district last night.  
(A) anticipate (B) approach (C) allow (D) accumulate
- 34 Mr. Farr \_\_\_\_\_ hearing Patricia's excuses about being late, so he fired her.  
(A) was made out of (B) was fed up with (C) looked out for (D) put up with
- 35 Unless viewed with a microscope, neither \_\_\_\_\_ nor viruses can be seen by the naked eye.  
(A) bacteria (B) deadlines (C) portraits (D) wildlife
- 36 The manager needs \_\_\_\_\_ data to draw up the new marketing plan.  
(A) considerate (B) accurate (C) nasty (D) outdated
- 37 The bar creates a relaxing \_\_\_\_\_, and this makes it a good place for gatherings.  
(A) hemisphere (B) atmosphere (C) horizon (D) astonishment
- 38 It is said that the newly invented kitchen \_\_\_\_\_ can sanitize your N95 masks with dry heat.  
(A) appliance (B) application (C) appreciation (D) appointment
- 39 In the deadly explosion, cars and trucks were thrown into the air and \_\_\_\_\_ end over end.  
(A) altered (B) concealed (C) extended (D) flipped
- 40 The general manager's refusal to sell the company \_\_\_\_\_ a major blow to our plans.  
(A) constituted (B) distributed (C) elaborated (D) terminated

請依下文回答第 41 題至第 45 題

When initiating a conversation, note how close you are standing to the person opposite you. Personal space is an essential concept in many cultures, and how much or little you give often 41 the first impression you make. 42, in most Western nations, locals do not like standing close to one another. In these countries, it is customary for people to back away when they feel their space has been 43. On the other hand, South Americans stand in close 44 to one another. When you are meeting one of them, keep in mind that it's 45 to step backwards during a conversation. A good rule of thumb is to stand at least an arm's length away from your speaking partner.

- |                    |                   |                 |                |
|--------------------|-------------------|-----------------|----------------|
| 41 (A) affects     | (B) upsets        | (C) defeats     | (D) reduces    |
| 42 (A) In contrast | (B) In conclusion | (C) For example | (D) At least   |
| 43 (A) observed    | (B) violated      | (C) induced     | (D) provided   |
| 44 (A) animosity   | (B) allocation    | (C) proximity   | (D) prominence |
| 45 (A) contagious  | (B) disrespectful | (C) militant    | (D) rebellious |

請依下文回答第 46 題至第 50 題

Nikola Tesla, a Serbian-American who emigrated to New York City in 1884, was a scientist and visionary who developed the basis for alternating current (AC) that most of us use today and pioneered numerous technologies that improve our everyday lives. Without his contribution to the AC electric power, we would be fifty years behind technologically than where we are today.

In 1884, Tesla left Europe and worked for Thomas Edison, the developer of direct current (DC). It was said that Edison promised Tesla \$50,000 to fix the problems with his DC system. When Tesla succeeded and demanded his reward, Edison claimed the offer was a joke, saying "When you become a full-fledged American, you will appreciate an American joke." This prompted Tesla to quit and he ended up in a battle with Edison. Today, Tesla's AC system is predominantly used to power most of the world's electricity. DC motors are still used for some industrial machines, but often require more maintenance.

It is not just AC power that Tesla worked on. Motors, radios, X-rays, neon signs were advanced by his extraordinary mind. History often touts Italian entrepreneur Guglielmo Marconi as the inventor of radio, but actually he was using technology from seventeen of Tesla's patents. The two inventors became embroiled in a patent war. In 1943, the United States Supreme Court revoked Marconi's radio patents in favor of Tesla. Unfortunately, Tesla and Marconi had already passed away by the time the court handed down their decision.

Tesla also invented one of the world's earliest remote control and was a pioneer of X-ray technology. He took some of the first X-ray images of the human body and was one of the first scientists to hypothesize that X-rays could be harmful. The brilliant inventor contributed to reusable energy as well. Nine out of the twelve patents used to build the world's first hydroelectric station, erected at Niagara Falls, New York, belonged to Tesla. He helped pave the way toward clean energy because he understood the physics behind energy and what might be possible in the future.

Often referred to as "the man who invented the 20th century," Tesla was involved in many more discoveries and creations. When he died in 1943, there was so much interest in what he was working on that the Federal Bureau of Investigation (FBI) raided his hotel room within hours of his death. Experts say Tesla envisioned his inventions improving people's lives. Indeed, his innovative ideas were milestones of technology. The great pioneer believed "Invention is the most important product of men's creative brain."

- 46 What is the passage mainly about ?  
(A) The battle between Edison and Tesla. (B) Tesla's inventions that shaped our lives.  
(C) The influence of Tesla on modern scientists. (D) Tesla's famous patents and industrial revolution.
- 47 Which of the following is the closest in meaning to the word "revoked" in the third paragraph ?  
(A) Applied. (B) Legalized. (C) Canceled. (D) Determined.
- 48 According to the passage, why did Tesla resign from working for Edison ?  
(A) Tesla looked down on Edison's system. (B) Edison refused to pay a promised reward.  
(C) Edison stole Tesla's ideas of alternating current. (D) Tesla failed to fix the problem with the DC system.
- 49 Which of the following is NOT true about Tesla ?  
(A) He put forward ideas to make X-rays safer.  
(B) He created one of the first remote controls.  
(C) His AC system is more widely used than Edison's DC system.  
(D) His patents were applied in the design of the first hydroelectric station.
- 50 Which of the following can be inferred from the passage ?  
(A) Not until recently did Tesla become widely known.  
(B) Edison mocked Tesla for not being a real American.  
(C) Having won the case against Marconi meant a lot to Tesla.  
(D) The US government had approached Tesla for cooperation.