

100年公務人員特種考試海岸巡防人員考試、100年公務人員特種考試關務人員考試、100年公務人員特種考試稅務人員考試、100年特種考試退除役軍人轉任公務人員考試及100年國軍上校以上軍官轉任公務人員考試試題

等 別：三等海岸巡防人員考試、三等稅務人員考試、三等退除役軍人轉任考試

類(科)別：各科別、各類科

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的答案，複選作答者，該題不予計分。

(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 下列何者並非地方自治權的範圍？
(A)立法權 (B)人事權 (C)組織權 (D)司法權
- 2 依地方制度法第 77 條規定，下列有關事權發生爭議之敘述，何者錯誤？
(A)縣與鄉（鎮、市）間，自治事項遇有爭議時，由內政部會同中央各該主管機關解決之
(B)直轄市間、直轄市與縣（市）間，事權發生爭議時，由內政部解決之
(C)縣（市）間，事權發生爭議時，由內政部解決之
(D)鄉（鎮、市）間，事權發生爭議時，由縣政府解決之
- 3 下列何者並非立憲主義憲法之重要內容？
(A)多數政黨原則 (B)權力分立與制衡 (C)國民主權原則 (D)基本人權之保障
- 4 假設法律規定：「凡申請設立之人民團體，若其組織與活動主張共產主義或分裂國土者，應不予以設立。」
依據司法院大法官解釋，此項法律規定侵害人民之下列何項憲法基本權利？
(A)信仰自由 (B)言論自由 (C)平等權 (D)集會自由
- 5 下列何種基本人權屬於消極防禦權性質？
(A)秘密通訊自由 (B)訴訟權 (C)服公職權 (D)受國民教育
- 6 槍砲彈藥刀械管制條例規定，在犯特定規定之罪，經判處有期徒刑者，應於刑之執行完畢或赦免後，一律令入勞動場所強制工作。以下何者為大法官之見解？
(A)此種保安處分之措施含有社會隔離、拘束身體自由之性質，故其規定之內容，應受比例原則之規範
(B)此乃為維護社會秩序，保障人民之生命財產所必須，與比例原則未有牴觸
(C)強制工作旨在強制其從事勞動，學習一技之長及正確之謀生觀念，使其日後重返社會，能適應社會生活，並未牴觸憲法第 23 條之比例原則
(D)與行為人有無預防矯治其社會危險性之必要無涉
- 7 依司法院大法官釋字第 531 號解釋意旨，法律規定因駕車逃逸而受吊銷駕駛執照之處分者，終身不得考領駕駛執照，與下列何種原則有關？
(A)明確性原則 (B)信賴保護原則 (C)不當聯結禁止原則 (D)比例原則
- 8 人民對國家機關就特定公共議題表達希望的權利，稱之為：
(A)請願權 (B)訴願權 (C)訴訟權 (D)參政權
- 9 主管機關駁回政黨變更名稱之申請，涉及人民何種憲法上基本權利之限制？
(A)訴訟權 (B)生存權 (C)結社權 (D)工作權
- 10 依據中華民國憲法增修條文第 1 條規定，中華民國自由地區選舉人於下列何者提出憲法修正案後，應依規定投票複決之？
(A)行政院 (B)立法院 (C)司法院 (D)總統府
- 11 下列何者為行政院會議之成員？
(A)行政院秘書長 (B)國家安全局局長 (C)考選部部長 (D)國防部部長
- 12 下列何者為憲法所規定立法委員之特權？
(A)可無息向公立銀行進行融資貸款 (B)可無條件保釋經法院羈押之嫌疑犯
(C)除現行犯外，無論任何時間，不得逮捕或拘禁 (D)在院內所為之言論及表決，對院外不負責
- 13 有關立法院與監察院之關係，下列敘述何者錯誤？
(A)監察院關於所掌事項，得向立法院提出法律案
(B)監察院設審計長，由行政院院長提名，經立法院同意任命之
(C)監察院及其所屬人員，得應立法院各委員會之邀請，到會備詢
(D)立法院一般職員如有違法失職情事，監察院得對之提出糾舉案或彈劾案
- 14 依司法院大法官釋字第 601 號解釋意旨，下列敘述何者錯誤？
(A)法官與國家之職務關係，與一般公務員與國家之職務關係相同
(B)立法院審議 94 年度中央政府總預算案時，刪除司法院大法官支領司法人員專業加給之預算，不符憲法第 81 條規定意旨
(C)司法院大法官屬於憲法上之法官
(D)司法院院長、副院長可領取司法人員專業加給
- 15 下列何者非憲法第 2 章所明文規定之人民義務？
(A)依法律納稅 (B)依法律服兵役 (C)強制納入健保體系 (D)受國民教育

- 16 下列何者不屬於自由法運動的主張？
(A)批判概念法學 (B)強調法律體系有漏洞
(C)主張司法造法 (D)禁止法官對個案進行利益衡量
- 17 關於日本統治臺灣期間（1895-1945）的法律文化，下列敘述何者錯誤？
(A)曾在臺施行過《匪徒刑罰令》 (B)對臺灣人之犯罪得處以「笞刑」
(C)遵行臺灣的民事舊慣 (D)統治初期即施行日本的民商法典
- 18 依司法院大法官解釋，下列有關地方自治監督之敘述，何者錯誤？
(A)上級監督機關對地方自治團體之自治事項得為適法性監督
(B)為確保地方自治團體之自治功能，地方自治事項具體個案爭議之解決，應循行政爭訟程序處理
(C)凡涉及中央所定法律之事項，地方自治團體與中央間關係之爭議，應由中央監督機關決定之
(D)自治團體自治條例有無牴觸法律發生疑義時，得聲請司法院解釋之
- 19 法規以命令特定施行日期者，自何日起發生效力？
(A)自該特定日起算至第三日發生效力
(B)自該特定日起算至第三十日始發生效力
(C)為顧及信賴保護，自該特定日起算至一年後始發生效力
(D)自該特定日起發生效力
- 20 下列何種情形，人民得主張信賴保護？
(A)行政處分之作成係因當事人所提錯誤資訊所作成 (B)對合法行政處分之信賴
(C)對政府經濟政策的信賴 (D)當事人明知行政處分違法
- 21 關於我國大法官在民主法制變遷發展中曾經做出的解釋，下列敘述何者錯誤？
(A)大法官曾經針對大學法強制各大學設置軍訓室，認為其違反大學自治而做出違憲解釋
(B)大法官曾經針對中央民意代表應全面改選做出解釋
(C)大法官曾經針對檢肅流氓條例限制人民身體自由逾越必要程度做出違憲解釋
(D)大法官曾經針對刑法上通姦罪的條文做出違憲解釋
- 22 依司法院大法官解釋，下列有關性言論之表現與性資訊之流通的敘述，何者正確？
(A)不問是否出於營利目的之性言論與性資訊，皆受憲法保障之言論
(B)僅限於非以營利為目的之性言論與性資訊始受憲法保障
(C)僅限於不以未成年人為對象之性言論與性資訊始受憲法保障
(D)僅限於具教育目的之性言論與性資訊受憲法保障
- 23 甲將其所有之 A 屋出售予乙，約定買賣價金為新臺幣（下同）一仟萬元。隔日丙表示願出一仟二百萬元購買，甲欣然同意，並將 A 屋之所有權移轉登記予丙。試問：A 屋之所有權屬於何人？理由為何？
(A)乙，因為乙先向甲購買了 A 屋
(B)丙，因為甲丙間已完成 A 屋之移轉登記
(C)甲，因為甲丙間之意思表示係屬通謀虛偽意思表示，無效
(D)丙，因為丙價高者得
- 24 依民法之規定，有關新監護制度之敘述，下列何者錯誤？
(A)監護人未依法開具財產清冊視為拒絕就職
(B)監護人不得受讓受監護人之財產
(C)監護人非有正當理由並經法院許可不得辭任
(D)監護人之行為與受監護人利益相反時，得選任特別代理人
- 25 有關現行刑法教唆犯之敘述，下列何者錯誤？
(A)教唆他人使之實行犯罪行為者，為教唆犯
(B)被教唆人除了違犯故意違法行為外，其還必須具有罪責能力，教唆者才會受處罰
(C)教唆人之處罰，不一定獲得減輕
(D)被教唆人如未至犯罪，教唆者不受處罰
- 26 下列關於刑法第 131 條公務員圖利罪之敘述，何者為錯誤？
(A)限於主管或監督之事務 (B)須明知違背法令
(C)含直接與間接圖利 (D)所圖者不限私人利益
- 27 關於股份有限公司之發起人，下列敘述何者為錯誤？
(A)如為自然人，須具有完全之行為能力，才能為發起人
(B)財團法人工業技術研究院可以其技術作為出資成為發起人
(C)發起人經全體同意訂立章程
(D)發起人不得享有報酬或特別利益
- 28 某甲由郵購目錄上，向廠商訂購一套衣服，其後發現家裡已有類似之衣服，故不願購買時，依消費者保護法規定，得否解除契約？
(A)不得解除契約
(B)支付違約金後，得解除買賣契約
(C)於收受商品七日內，無須附理由說明而退回商品或以書面通知企業經營者解除買賣契約
(D)於收受商品七日內，須附理由說明而退回商品或以書面通知企業經營者解除買賣契約
- 29 下列何者非屬勞工保險條例第 6 條所稱之被保險人？
(A)無一定雇主或自營作業而參加農會之會員 (B)在政府登記有案之職業訓練機構接受訓練者
(C)無一定雇主或自營作業而參加漁會之甲類會員 (D)在職外國籍員工

- 30 有關家庭暴力保護令之敘述，以下何者錯誤？
(A)警察機關應依保護令，保護被害人至被害人之住居所，確保其安全占有住居所
(B)命相對人遷出被害人住居所或遠離被害人之保護令，若被害人同意相對人不遷出便失其效力
(C)法院核發暫時保護令或緊急保護令，得不經審理程序
(D)義務人不依保護令交付未成年子女時，權利人得聲請警察機關限期命義務人交付
- All through the animal kingdom, sleep ranks right up there with food, water and sexual intercourse for the survival of the species. Everybody does it, from fruit flies to *Homo sapiens*. Yet 31 its clear necessity and lots of investigation, scientists still do not know precisely what sleep is for.
- Is it to refresh the body? Not really. Researchers have 32 to find any vital biological function that sleep restores. As far as anyone can tell, muscles do not need sleep, just intermittent periods of relaxation. The rest of the body chugs along seemingly 33 whether the brain is asleep or awake.
- Is it to refresh the mind? That is closer to the mark. The brain 34 a good night's sleep. But there is no agreement among sleep researchers about what form that benefit takes. One theory is that sleep allows the brain to review and consolidate all the streams of information it gathered while awake. 35 suggests that we sleep in order to allow the brain to stock up on fuel and flush out wastes. A third, which has been gaining currency, is that sleep operates in some mysterious way to help you master various skills, such as how to play the piano and ride a bike.
- 31 (A)considering (B)despite (C)with (D)provided
32 (A)seemed (B)neither (C)still (D)yet
33 (A)unaware of (B)uncertain of (C)uncalled for (D)unknown to
34 (A)befits (B)belongs to (C)begets (D)benefits from
35 (A)It (B)One (C)Another (D)The other
- 36 _____ many secretarial courses, Catherine is certain to meet your requirements.
(A)To take (B)Having taken (C)Had taken (D)Being taking
- 37 Designated hitter Joseph Giambi is fading before our eyes while Andrew Philips grows in stature.
(A)Designated hitter Joseph Giambi is superior to Andrew Philips.
(B)Designated hitter Joseph Giambi is taller than Andrew Philips.
(C)Designated hitter Joseph Giambi is fatter than Andrew Philips.
(D)Designated hitter Joseph Giambi is dwarfed by Andrew Philips.
- 38 Two drug tests of the champion's urine proved positive and he was stripped of his gold and his dignity.
(A)The champion took two urine drugs and was deprived of his gold and dignity.
(B)The champion proved urine drugs positive and was impoverished with gold and dignity.
(C)The champion took drugs to improve urine and was rid of his gold and dignity.
(D)The champion was found taking drugs and was dispossessed of his gold and dignity.
- 39 The police stopped him in his car because he was driving under the influence.
(A)The police stopped the driver because he was drunk.
(B)The police stopped the driver because he fell asleep in his car.
(C)The police stopped the driver because he ran through a red light.
(D)The police stopped the driver because he did not have a driver's license.
- 40 The set of values students are taught, and the extent to which they accept those values, can have quite an impact on their personal hopes, dreams, and goals.
(A)The deeper students believe in the values they are taught, the more likely they will achieve the kind of lives they wish for.
(B)Students' achievements and lifestyles in the future reflect the values they are taught and how much they believe in those values.
(C)Helping students believe in a set of good values will facilitate their finding of personal hopes, dreams, and goals in life.
(D)Students' learned values and how much they believe in those values can significantly affect what they want for their personal lives.
- 41 Children bully each other as a means of establishing a social hierarchy within a given peer group.
(A)It is not uncommon to see youngsters trying to obtain a higher status among peers by threatening or hurting others in the group.
(B)It is clearly prohibited to bully one's peers for bullying is often employed by the stronger to secure higher social positions.
(C)Peers who do not like each other often engage in violent fighting, which causes much social turbulence.
(D)To establish a social system, authorities do not allow children to fight against each other.
- 42 The Library of Congress is creating indexes that refer to a physical collection, in the hope that they will entice researchers away from computers.
(A)The Library of Congress is now creating indexes referring to the virtual library collections to help researchers access valuable information online.
(B)The Library of Congress hopes that indexes referring to real books and records will lure more researchers to the stacks in the library.
(C)To keep researchers away from computers, the Library of Congress is now compiling indexes concerning the risks of using computers.
(D)To encourage researchers to study physical sciences, the Library of Congress is now creating indexes on physics and chemistry.

Experience teaches us not to assume that the obvious is clearly understood. So it is with the truism with which we begin: all educational practice implies a theoretical stance on the educator's part. This stance in turn implies—sometimes more, sometimes less explicitly—an interpretation of man and the world. It could not be otherwise. The process of men's orientation in the world involves not just the association of sense and images, as for animals. It involves, above all, thought-language; that is, the possibility of the act of knowing through his praxis, by which man transforms reality. For man, this process of orientation in the world can be understood neither as a purely subjective event, nor as an objective or mechanistic one, but only as an event in which subjectivity and objectivity are united. Orientation in the world, so understood, places the question of the purposes of action at the level of critical perception of reality.

If, for animals, orientation in the world means adaptation to the world, for man it means humanizing the world by transforming it. For animals there is no historical sense, no options or values in their orientation in the world; for man there is both a historical and a value dimension. Men have the sense of "project," in contrast to the instinctive routines of animals.

- 43 Which of the following is NOT a contrast between men and animals mentioned in the passage?
- (A) Subjectivity vs. objectivity
(B) Sense of history vs. lack of historical sense
(C) Men humanize the world while animals adapt to the world
(D) Action directed by language and thought vs. action directed by association of sense and images
- 44 Which of the following statements comes closest to the author's opinion about education expressed in the passage?
- (A) Education is a way by which the poor transform their lives.
(B) Educational practices are ridden with values of the educator.
(C) Thought and language are the instinctive tools by which students educate themselves about the world.
(D) In education an explicit theoretical stance is more beneficial than an implicit one.
- 45 What does men's sense of "project" most likely refer to?
- (A) Men's ambitions to accomplish as much as they can in their lives
(B) The purposefulness of men's actions
(C) The value of men's knowledge
(D) The adaptive capacity of men
- 46 Which of the following words or phrases is least appropriate to describe animals?
- (A) Instinctive
(B) Responsive to and controlled by visual stimuli
(C) Adaptive to the environment
(D) Sensitive to history

Birds do it. Cats do it. And Spaniards most especially do it—every day, in broad daylight. They nap. 47 From one or two o'clock to 4:30 or so every afternoon, Spain stops the world for a stroll home, a leisurely meal, and a few z's. Common Market technocrats have informed the Spanish that this is not the way things will get done in a unified Europe.

At a time when productivity is the world's largest religion, the siesta tradition lives on. 48 No task is so critical that it cannot wait a couple of hours while you attend to more important matters like eating, relaxing, or catching up on sleep. When the midday break hits, offices empty and streets clear. Befuddled foreigners quickly learn that they have entered a new circadian order.

Taking a long break in the middle of the day is not only healthier than the conventional lunch; it is apparently more natural. 49 Studies suggest that humans are "biphasic" creatures, requiring days broken up by two periods of sleep instead of one "monophasic" shift. The drowsiness you feel after lunch comes not from the food but from the time of the day.

"All animals, including humans, have a biological rhythm," explains Claudio Stampi, director of the Chrono Biology Research Institute in Newton, Massachusetts. "One is a 24-hour rhythm—we get tired by the end of the day and go to sleep—and there is a second peak of sleepiness and a decrease in alertness in the early afternoon. 50 For others it is less difficult, but it is there. So there is a biological reason for siestas."

- 47 (A) Some people have difficulty remaining awake, doing any sort of task between one and four in the afternoon.
(B) Grown adults—executives, teachers, and civil servants—wink off in the middle of the workday.
(C) In Spain, work operates under the command of life, instead of the other way around.
(D) The Spanish need a long sleep after a day of hard work.
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- 49 (A) The Spanish need a long sleep after a day of hard work.
(B) In Spain, work operates under the command of life, instead of the other way around.
(C) Sleep researchers have found that the Spanish biorhythm may be tuned more closely to our biological clocks.
(D) Most people go home for lunch, or get together with family or friends for a glass of wine.
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