

等 別：四等考試

類 科：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 依司法院釋字第 550 號解釋，關於國家推行全民健保之義務，下列敘述何者正確？  
(A)專屬中央 (B)專屬地方 (C)兼指中央與地方 (D)兼指行政院與立法院
- 2 憲法第 1 條所載「民有、民治、民享」之主張，其英文原文首先係出自何人？  
(A)林肯 (B)羅斯福 (C)甘迺迪 (D)杜魯門
- 3 憲法增修條文中明確揭示，經濟及科學技術發展，應與環境及生態保護之間處於何種關係？  
(A)經濟及科學技術發展優先 (B)環境及生態保護優先  
(C)兩者兼籌並顧 (D)遇有爭議時交由人民公決
- 4 罪刑法定主義下包含之「法律不溯及既往」是基於何項原則產生？  
(A)法律優位原則 (B)明確性原則 (C)平等原則 (D)信賴保護原則
- 5 檢肅流氓條例內「秘密證人」之規定因違反何者遭大法官宣告違憲？  
(A)法律保留原則 (B)明確性原則 (C)權利救濟原則 (D)正當法律程序原則
- 6 依司法院釋字第 535 號解釋，警察對人實施臨檢，應符合什麼條件，始不至於對於受檢人之自由、權利造成過度之侵害？  
(A)臨檢進行前應事先向該管地檢署檢察官，聲請臨檢許可後，會同管區警員執行之  
(B)臨檢進行前應告以臨檢事由，並出示證件表明身分，執行時遵守比例原則，不得逾越必要程度  
(C)臨檢時受檢人雖已提示身分證明文件，警察仍可未經其同意，帶至警局接受調查  
(D)臨檢時受檢人不服臨檢，應向該管地方法院民事庭聲明異議
- 7 依憲法增修條文第 4 條之規定，各政黨當選名單中，婦女不得低於多少比例？  
(A)二分之一 (B)三分之一 (C)四分之一 (D)五分之一
- 8 公民投票法的制定是為實現下列何種基本權利？  
(A)選舉權 (B)罷免權 (C)創制及複決權 (D)請願權
- 9 下列那一項選舉中，採用由政黨依政黨選舉票得票比率選出之方法？  
(A)直轄市議會議員 (B)立法委員 (C)縣市議會議員 (D)鄉鎮市民代表
- 10 依司法院釋字第 613 號解釋，下列有關『立法院對行政院所屬行政機關之人事決定權加以限制』之敘述，何者正確？  
(A)基於權力分立原則，立法院不得加以任何限制  
(B)基於國民主權原則，立法院之任何限制皆屬合憲  
(C)基於責任政治原則，立法院之限制不得實質上剝奪行政院之決定權  
(D)基於行政一體原則，立法院必須將行政機關置於行政院之下，至於人事決定權，立法院之任何限制皆屬合憲
- 11 依司法院釋字第 543 號解釋，下列有關緊急命令授權之補充規定的敘述，何者正確？  
(A)因事出突然，故原則上可再授權行政機關訂立補充規定  
(B)若於緊急命令中明定意旨，行政機關即可於緊急命令發布後發布補充規定  
(C)補充規定應依行政命令之審查程序送立法院審查  
(D)補充規定之效期依補充規定本身所定，與緊急命令之效期無關

- 12 依憲法增修條文第 3 條之規定，立法院對覆議案逾期未議決者，原決議之效力為何？  
(A)失效 (B)繼續有效  
(C)由總統決定其效力 (D)由司法院大法官認定其效力之有無
- 13 A 男與 B 男向戶政機關申請結婚登記而遭到否准，兩人遂提起行政爭訟，請問承審法官若認為民法的婚姻登記僅限異性戀婚姻已屬違憲，依司法院釋字第 371 號解釋之意旨，其應如何處理？  
(A)應宣告違憲 (B)應拒絕適用  
(C)應以裁定停止訴訟程序，聲請司法院解釋 (D)應以裁定停止訴訟程序，聲請最高法院解釋
- 14 依司法院釋字第 530 號解釋，下列有關法官依法律獨立審判之敘述，何者正確？  
(A)為免妨礙法官獨立審判，最高司法機關不得發布任何有關審理事項之規則  
(B)為免妨礙法官獨立審判，最高司法機關無司法行政監督權  
(C)最高司法機關所發布涉及審判上之法律見解的命令，法官必須遵守  
(D)檢察官須受檢察總長或其所屬檢察長之指揮監督，與法官獨立審判尚屬有別
- 15 依司法院釋字第 442 號解釋，對於訴訟救濟應循之審級制度有何要求？  
(A)至少應有一級一審 (B)至少應有二級二審  
(C)屬立法機關之自由形成範圍 (D)一律三級三審
- 16 違反行政法上義務之處罰，以行為時之法律或自治條例有明文規定者為限，此乃下列那一項原則的說明？  
(A)處罰法定原則 (B)處罰便宜原則 (C)從新從輕原則 (D)誠實信用原則
- 17 勞工遭遇勞災而需要醫療時，應依何等法律請求醫療給付？  
(A)全民健康保險法 (B)勞工保險條例 (C)勞動基準法 (D)就業保險法
- 18 性別工作平等法對於受僱者育嬰之需要，如何規定？  
(A)受僱者符合一定之年資，於子女滿 3 歲前，得申請育嬰留職停薪  
(B)受僱者育嬰留職停薪期間，不得參加原有之社會保險  
(C)雇主得不具理由拒絕育嬰留職停薪之受僱者復職  
(D)受僱者可以請求彈性工時，雇主如拒絕，得請求損害賠償
- 19 著作人自何時起享有著作權？  
(A)開始著作時 (B)著作完成時  
(C)向主管機關申請登記時 (D)登記完成時
- 20 刑法第 15 條第 1 項規定：「對於犯罪結果之發生，法律上有防止之義務，能防止而不防止者，與因積極行為發生結果者同。」此項所謂之「對於犯罪結果之發生，法律上有防止之義務」，學說上如何稱呼？  
(A)客觀注意義務 (B)主觀注意義務 (C)客觀歸責 (D)保證人地位
- 21 連帶債務人中一人，受確定判決敗訴，而其判決非基於該債務人之個人關係者，對於其他債務人之效力如何？  
(A)同樣有效 (B)不生效力 (C)效力未定 (D)視判決內容而定
- 22 下列何人有刑法上的限制責任能力？  
(A) 80 歲的甲 (B) 19 歲的乙 (C) 7 歲的丙 (D) 13 歲的丁
- 23 刑法第 6 條規定：「本法於中華民國公務員在中華民國領域外犯左列各罪者，適用之」。此一規定主要係下列何種法理的應用？  
(A)世界主義 (B)屬地主義 (C)屬人主義 (D)保護主義
- 24 一項法律對於其未施行前所發生的具體案件，原則上不可加以適用，此原則稱為：  
(A)法律溯及既往原則 (B)法律不溯及既往原則 (C)從新從優原則 (D)一體適用原則

- 25 司法院大法官審理案件法第 13 條第 1 項規定：「大法官解釋案件，應參考制憲、修憲及立法資料」。此一規定在法律解釋方法上稱爲：
- (A)類推解釋 (B)擴張解釋 (C)歷史解釋 (D)文義解釋
- 26 我國現行的民法是在何時公布施行？
- (A)民國 18 年至 20 年間公布施行 (B)台灣光復之後，民國 34 年公布施行  
(C)政府遷台之後，民國 38 年公布施行 (D)民國 80 年之後，重新制定公布施行
- 27 民國 76 年解嚴之後，我國社會福利法制首先致力於下列那一項全民性保障？
- (A)勞工保險 (B)勞動基準法 (C)國民年金 (D)健康保險
- 28 我國現行社會保險中，下列那一種風險尙未開辦相對應的保險制度？
- (A)疾病 (B)老年 (C)照護 (D)失業
- 29 我國公務員尙未實施月退休制度前，政府係透過下列那一項措施，以維持退休公務員的基本生活保障？
- (A)敬老津貼 (B)國民年金 (C)年終獎金 (D)優惠存款
- 30 關於強行法與任意法，下列敘述何者爲正確？
- (A)只有在公法領域有強行法 (B)私法領域內沒有強行法  
(C)民法規定有配偶者不得重婚，是任意法 (D)民法裡也有強行規定
- 31 The office is on the tenth floor. It will be too tiring if we climb the stairs; we'd better take the \_\_\_\_.
- (A) elevator (B) tram (C) ascender (D) riser
- 32 If you want to lose weight, you should not eat between \_\_\_\_.
- (A) terms (B) travels (C) meals (D) limits
- 33 He is addicted to caffeine. Every morning, he will never truly wake up until he sips a cup of freshly \_\_\_\_ coffee.
- (A) squeezed (B) brewed (C) drained (D) cooked
- 34 Many vineyard owners are concerned that oversupply may cause the \_\_\_\_ prices of wine to drop on the market.
- (A) quota (B) retail (C) surplus (D) tariff
- 35 On our way to the movie theater, we met five girls, two of \_\_\_\_ wore red skirts.
- (A) them (B) those (C) who (D) whom
- 36 She can share with us her experience abroad. She has \_\_\_\_ many countries around the world.
- (A) gone to (B) been visited (C) been to (D) touring
- 37 \_\_\_\_ the necessary qualifications, the applicant was not considered suitable for the job.
- (A) Lacking (B) He lacked (C) Lacked (D) Lacked of
- 38 Mr. Lin: Hello, may I speak to Mr. Wang, please?  
Ms. Chen: \_\_\_\_ Would you like to leave a message?  
Mr. Lin: I'll call him later. Thank you.
- (A) Hold on, please. (B) Sorry, wrong number.  
(C) He is not available right now. (D) I will put you through.
- 39 Danny: What's the matter? You really look down.  
Michael: \_\_\_\_  
Danny: Cheer up! It's not the end of the world.
- (A) I am in a fever of excitement.  
(B) My boss was mad at me for making a mistake.  
(C) I never look down upon you.  
(D) You must have got out of bed on the wrong side.

40 Gary: How was your trip to Thailand?  
 Janet: Awful. I spent most of my time in the hotel.  
 Gary: \_\_\_\_\_  
 Janet: It was raining heavily when I was there.  
 Gary: That was too bad.

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|---------------------------|------------------|
| (A) Was it fun?           | (B) How come?    |
| (C) Why won't you go out? | (D) Which hotel? |

41 Betty: Would you like some more beef?

Henry: \_\_\_\_\_ I'm already too full.

Betty: How about some fruit?

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|------------------|-----------------|-------------------|----------------|
| (A) Yes, please. | (B) No, thanks. | (C) That's great. | (D) No wonder. |
|------------------|-----------------|-------------------|----------------|

We know that, for the most part, the bigger people's muscles are, the stronger they are. Can it be said, then, that the larger or heavier people's brains are, the smarter they are? The answer is no. There are only two animals that have larger brains than human beings: the whale and the elephant. Yet in proportion to 42, a person's brain is larger. An average human brain usually weighs about 1.4 kilograms (3 pounds), and the weight of the whole body is only about 40 to 50 times 43. The whale's body, on the other hand, is thousands of times heavier than its brain, 44 the elephant's body is about 500 times as heavy. We know that geniuses have existed who 45 very large brains, but there have been others whose brains are small. Hence, we may conclude that large or heavy brains do not seem to ensure great intelligence.

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|----------------|------------------|---------------|---------------|
| 42 (A) height  | (B) intelligence | (C) body size | (D) life span |
| 43 (A) more    | (B) much         | (C) many      | (D) such      |
| 44 (A) so      | (B) since        | (C) while     | (D) then      |
| 45 (A) produce | (B) possess      | (C) contain   | (D) include   |

With just a few minutes left before school was to start, my six-year-old, Dustin, was pouting. "I don't want to go," he said. As he entered first grade, he began to hate school. What's going on?

Every kid occasionally grumbles about school. But five to ten percent of kids dislike it so much that they don't want to 46 it. "If a child seems depressed or 47 about school, fakes illness to stay home, repeatedly winds up in the nurse's or principal's office, or refuses to talk about large chunks of the school day, you should be concerned," say school psychologists Michael Martin and Cynthia Waltman-Greenwood. 48, you can usually solve the problem—sometimes very easily. In our case, my husband and I visited Dustin's class and noticed that the teacher, fresh out of college, 49 only on kids who scrambled to sit right under her nose. Dustin, who generally sat near the back, was 50. We simply told him to move up front. He did, and his enthusiasm returned.

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|-------------------|------------------|----------------|-----------------|
| 46 (A) tend       | (B) attend       | (C) contend    | (D) pretend     |
| 47 (A) anxious    | (B) naughty      | (C) idle       | (D) contented   |
| 48 (A) Conversely | (B) Unexpectedly | (C) Relatively | (D) Fortunately |
| 49 (A) called     | (B) calling      | (C) to call    | (D) call        |
| 50 (A) rewarded   | (B) appreciated  | (C) ignored    | (D) interested  |