

## 測驗題標準答案更正

考試名稱： 99年第二次公務人員特種考試司法人員考試

類科名稱： 各類科

科目名稱： 法學知識與英文（試題代號：3401）

題 數： 50題

標準答案：

題序	01	02	03	04	05	06	07	08	09	10	11	12	13	14	15	16	17	18	19	20
答案	C	#	C	A	D	A	C	A	C	B	D	C	A	C	D	D	C	D	D	A

題序	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40
答案	C	A	A	B	C	C	A	D	C	D	A	C	D	C	B	D	B	A	C	A

題序	41	42	43	44	45	46	47	48	49	50
答案	D	D	B	C	B	A	D	D	A	D

備 註： 第2題答 A 或 C 者均給分。

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 憲法第 1 條規定之我國國體為何？  
(A)人民民主國 (B)聯邦民主國 (C)民主共和國 (D)君主共和國
- 2 依憲法增修條文第 10 條之規定，下列何者為國家應優先編列之支出？  
(A)國民就業之救濟性支出 (B)國防安全之支出  
(C)高等教育之支出 (D)衛生醫療之支出
- 3 依憲法增修條文第 12 條規定，下列何者可提出憲法修正案？  
(A)總統 (B)行政院  
(C)立法院 (D)公民以公民創制之方式為之
- 4 依憲法第 16 條所規定之訴訟權，當人民之權利遭受侵害時，得主張依正當法律程序請求何一國家機關救濟？  
(A)法院 (B)訴願審議委員會 (C)監察院 (D)立法院
- 5 關於「人性尊嚴」，下列敘述何者錯誤？  
(A)人性尊嚴乃基本權保障的根本所在  
(B)國家乃是為了人民而存在，而非人民是為了國家而存在  
(C)人的主體性在於人不是一種工具或客體，人不得成為交易的客體  
(D)為了刑事犯罪的偵查，得任意對於犯罪嫌疑人進行強制驗血、驗尿
- 6 人民遭受任何機關非法逮捕拘禁時，其本人或他人得向何機關聲請追究？  
(A)法院 (B)公務員懲戒委員會 (C)總統 (D)考試院
- 7 依司法院大法官釋字第 457 號解釋，榮民配耕之農場耕地僅限榮民之子繼承，排除已婚女兒的繼承權，係違反了下列何種權利？  
(A)繼承自由 (B)婚姻平等 (C)男女平等 (D)契約自由
- 8 依憲法增修條文規定，下列何者得宣告解散立法院？  
(A)總統 (B)行政院院長 (C)立法院院長 (D)司法院大法官
- 9 依憲法增修條文第 2 條之規定，緊急命令之發布應經下列何種會議決議？  
(A)國家安全會議 (B)立法院全體委員會議  
(C)行政院會議 (D)緊急命令發布特別委員會議
- 10 下列有關立法院或立法委員之敘述，何者正確？  
(A)立法委員不僅可提出領土變更案，亦由其作成最終之決議  
(B)立法院於每年集會時，得聽取總統國情報告  
(C)立法院經總統解散後，在新選出之立法委員就職前，仍繼續執行職務  
(D)立法委員之任期為二年
- 11 有關司法院院長之任期敘述，下列何者正確？  
(A)任期八年 (B)與總統同進退  
(C)與立法委員之任期同 (D)不受任期之保障

- 12 公務員對服務機關或人事主管機關所為之行政處分，認為違法或顯然不當，致損害其權利或利益者，得依照何種法律提起復審？  
(A)公務員服務法 (B)公務人員任用法 (C)公務人員保障法 (D)公務員懲戒法
- 13 下列何者非屬現行監察院之職權？  
(A)行使同意權 (B)行使彈劾權 (C)行使糾舉權 (D)行使審計權
- 14 憲法規定，中央與地方權限分配之未列舉事項遇有爭議時，如何解決之？  
(A)由總統召集中央及有關地方首長會商解決 (B)由司法院解決  
(C)由立法院解決 (D)由國民大會解決
- 15 於侵害名譽事件，法院為回復受害人之名譽，得依民法規定以判決命加害人登報道歉；惟如有強迫加害人自我羞辱等損及人性尊嚴之情事者，則係對於加害人何種權利之過度限制？  
(A)信仰自由 (B)表意自由 (C)身體自由 (D)不表意自由
- 16 下列對司法造法的敘述，何者錯誤？  
(A)概念法學反對司法造法 (B)自由法運動主張司法造法  
(C)法律有漏洞是司法造法的前提 (D)司法造法禁止類推適用
- 17 依我國中央法規標準法第 13 條之規定，法規明定自公布或發布日施行者，應自公布或發布之日起算至第幾日起發生效力？  
(A)第 1 日 (B)第 2 日 (C)第 3 日 (D)第 4 日
- 18 下列對保障原住民族基本權利的敘述，何者錯誤？  
(A)憲法增修條文規定，國家肯定多元文化，並積極維護發展原住民族語言及文化  
(B)為保障原住民族基本權利，促進原住民族生存發展，建立共存共榮之族群關係，已頒布〈原住民族基本法〉  
(C)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  
(D)為促進原住民就業，保障原住民工作權及經濟生活，已頒布〈原住民族經濟法〉
- 19 縣（市）政府就其自治事項，依其法定職權所訂定的法規為：  
(A)自治條例 (B)自律規則 (C)委辦規則 (D)自治規則
- 20 下列何者依司法院大法官解釋，不違反比例原則？  
(A)行政機關依道路交通管理處罰條例公告禁止在特定騎樓位置設攤  
(B)納稅義務人已補辦結算申報並繳納其應納稅款，依應納稅額固定之比例加徵滯報金，無最高額之限制  
(C)為達到國民身分證之防偽、防止冒領、冒用、辨識路倒病人、迷途失智者、無名屍體等目的，強制全體國民換領國民身分證時應按捺並錄存指紋  
(D)公務員懲戒法規定，所有懲戒一律以十年為懲戒權行使期間
- 21 有關遺囑之敘述，下列何者錯誤？  
(A)遺囑人親自書寫的自書遺囑不需要見證人簽名  
(B)內容保密的密封遺囑必須要有見證人簽名  
(C)由他人代筆的代筆遺囑只須有二人之見證人  
(D)口授遺囑限於生命危急或其他特殊情形始可為之
- 22 下列何種契約，有瑕疵預防請求權？  
(A)承攬 (B)委任 (C)買賣 (D)旅遊
- 23 以自己之名義，為他人之計算，為動產之買賣或其他商業交易而受報酬之營業，為：  
(A)行紀 (B)交互計算 (C)居間 (D)代辦商

- 24 甲從美國寄一盒有毒的巧克力給住在台北的乙，乙食用後毒發身亡。甲的行為屬於：  
(A)繼續犯 (B)隔地犯 (C)連續犯 (D)牽連犯
- 25 下列關於刑事責任之敘述，何者錯誤？  
(A)所有之行為，非出於故意或過失者，不罰 (B)過失行為之處罰，以有特別規定者，為限  
(C)不知法律者皆應免除刑事責任 (D)滿八十歲人之行為，得減輕其刑
- 26 企業經營者所提供的商品足以危害消費者安全或健康時，下列的處置何者錯誤？  
(A)主動回收 (B)命令回收 (C)繼續提供 (D)罰鍰
- 27 下列何者並非全民健康保險之保險醫事服務機構？  
(A)特約長期照顧機構 (B)特約醫事檢驗機構 (C)特約診所 (D)特約藥局
- 28 下列何種契約類型，不移轉物之所有權，而以物之使用、收益為內容之有償契約？  
(A)買賣契約 (B)使用借貸契約 (C)寄託契約 (D)租賃契約
- 29 下列有關保護令效力的敘述，何者正確？  
(A)暫時保護令、緊急保護令自送達加害人時起生效  
(B)通常保護令之有效期間為一個月以下，自核發時起生效  
(C)通常保護令失效前，法院得依當事人或被害人之聲請撤銷、變更或延長之  
(D)命相對人遷出被害人住居所或遠離被害人之保護令，如被害人同意相對人不遷出或不遠離，即失其效力
- 30 性別工作平等法適用對象為何？  
(A)一般公司之受僱者，不適用於公務人員、教育人員及軍職人員  
(B)公務人員、教育人員、軍職人員，不適用於一般公司之受僱者  
(C)一般公司之受僱者、公務人員、教育人員，不適用於軍職人員  
(D)一般公司之受僱者、公務人員、教育人員、軍職人員
- 31 An American may have great difficulty \_\_\_\_\_ a Chinese from a Japanese. To westerners, they are both Asian.  
(A) distinguishing (B) associating (C) contributing (D) occupying
- 32 After years of trying, the couple have finally \_\_\_\_\_ the fact that they will never have their own children. They decided to adopt one.  
(A) carried out (B) brought about (C) come to terms with (D) looked up to
- 33 John: So you have a crush on Helen?  
Ken: Shh! This is between you and me, you know.  
John: \_\_\_\_\_  
(A) Sure, there is no hurry. (B) Yes, she is the apple of her parents' eye.  
(C) Don't worry. Helen is not in a rush. (D) Of course, I won't tell anyone.
- 34 The personnel office has made a \_\_\_\_\_ effort to make itself more efficient in responding to employees' need.  
(A) virtual (B) vocational (C) valiant (D) versatile
- 35 In yesterday's protest, the demonstrators \_\_\_\_\_ leaflets of their claims against air pollution to passers-by.  
(A) contributed (B) distributed (C) distracted (D) concentrated
- 36 A: How did you like the trip to Penghu?  
B: \_\_\_\_\_  
A: Oh, that's too bad.  
(A) I enjoyed every moment of it. (B) Nothing could be better.  
(C) I wish you could be with me. (D) I felt seasick most of the time.
- 37 Darren: You must be very excited about going to Vancouver for schooling.  
Paula: \_\_\_\_\_, but I'm afraid I can't do well because my English is poor.  
(A) I really don't know (B) Well, I ought to be (C) Don't mention it (D) Certainly not

Men who receive transplanted kidneys from women are more likely to lose or reject them than they would organs from other men. Physician Martin Zeier of the University of Heidelberg uncovered this pattern by scouring a giant database called the Collaborative Transplant Study, which collects records of organ donation from patients in 49 countries. After analyzing records of nearly 167,000 kidney, heart, and liver transplants, he found that men had a 22 percent higher risk of rejecting or losing a donated kidney from a woman than one from a man within one year of transplant. Men were also 13 percent more likely to lose a woman's heart. No parallel effect was seen in women who received kidney or heart transplants from men.

This pattern hints at a fundamental, still-unknown difference between the immune systems of men and women. The presence or absence of estrogen, or a gender-related difference in the distribution of chemical receptors on the surface of cells, might influence immune reactions that can lead to organ acceptance or rejection. Nonetheless, Zeier would never advise a man to turn down a female kidney, especially since rejection can often be reversed with the proper drug regimen. And there are other factors—the age and health of the donor, for example—that are much more important than the gender difference.

- 38 Which of the following is NOT true about the Collaborative Transplant Study?
- (A) It collects specifically data about kidney transplants.  
 (B) Its data comes from more than a dozen countries.  
 (C) It was used by Dr. Zeier to study the success or failure of organ transplants.  
 (D) The data is collected from both male and female patients.
- 39 According to this passage, what happens when a man receives a heart from a woman?
- (A) The success rate is higher than when he receives one from another man.  
 (B) His body is more likely to accept it than when a woman receives one from another woman.  
 (C) His body is more likely to reject it than when a woman receives a heart from a man.  
 (D) He has the same chance of success as when he receives one from another man.
- 40 Why would Zeier not advise a man to turn down a donation from a woman?
- (A) Other factors might be more important than gender differences.  
 (B) The immune systems of males and females are not as different as often assumed.  
 (C) Different kinds of organs may have different success rates.  
 (D) Much still remains unknown about the gender-related differences in immune reactions.
- 41 What does “parallel” in the last sentence of the first paragraph mean?
- (A) Opposite                      (B) Paradoxical                      (C) Negative                      (D) Comparable
- 42 Which of the following would be an appropriate title for this passage?
- (A) The Science of Kidney Transplants                      (B) A Healthful Life of Males and Females  
 (C) Transplants and the Immune System                      (D) Gender Differences in Organ Transplants

When children are old enough to help with household chores, the assignments tend to depend on gender. 43, girls wash dishes and boys mow the lawn. 44, the leisure activities that children are encouraged to engage in vary by gender. Johnny plays in Little League and Mary practices the piano. 45 these patterns, it is not surprising that parents' traditional or nontraditional attitudes about gender roles have been shown to influence the gender roles acquired by their children.

- 43 (A) In fact                      (B) For example                      (C) In part                      (D) That is
- 44 (A) Instead                      (B) Likely                      (C) Likewise                      (D) However
- 45 (A) Giving                      (B) Given                      (C) Being giving                      (D) To give
- 46 She had several \_\_\_\_\_ of depression lately.
- (A) episodes                      (B) portions                      (C) detentions                      (D) conventions
- 47 It is \_\_\_\_\_ whether the chairperson had the capacity to carry out this project.
- (A) reasonable                      (B) reliable                      (C) unforgettable                      (D) questionable
- 48 As bird flu is highly \_\_\_\_\_, the government is taking immediate measures to prevent it from spreading.
- (A) geographical                      (B) superficial                      (C) monstrous                      (D) contagious
- 49 To boost the economy, great efforts are being made to \_\_\_\_\_ the development of science, technology, and education.
- (A) accelerate                      (B) reconcile                      (C) seduce                      (D) prescribe
- 50 Despite your failure to get any prize in this contest, you could try to do better next year since it is held \_\_\_\_\_.
- (A) specifically                      (B) previously                      (C) voluntarily                      (D) annually