

鼎文公職 解題

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100年公務人員特種考試司法人員考試試題

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。

- B 1 憲法增修條文係依據何種程序制定？
(A)制憲程序 (B)修憲程序 (C)公民複決 (D)總統發布緊急命令
- C 2 依憲法增修條文第 1 條的規定，領土變更案，應由下列何者提出後經公告半年，並於 3 個月內投票複決？
(A)總統 (B)行政院 (C)立法院 (D)司法院
- A 3 下列何者非屬我國憲法內所列舉之基本權利？
(A)隱私權 (B)秘密通訊自由 (C)財產權 (D)請願權
- C 4 依司法院大法官釋字第 472 號解釋，對於無力繳納全民健康保險費者，國家應如何處理，以符合憲法保障無力生活人民之旨趣？
(A)逕行拒絕保險給付，同時催繳保費，確定其確實無力繳納後，給予適當之救助
(B)逕行拒絕保險給付，同時催繳保費，加徵滯納金
(C)給予適當之救助，不得逕行拒絕給付
(D)終止保險關係，不再續保，另為其申請其他相關社會救助
- A 5 下列有關人民訴訟權之敘述，何者錯誤？
(A)憲法第 16 條保障人民有訴訟權，意義係人民只要權利遭受侵害，均有透過三級三審救濟之權利
(B)立法機關得斟酌訴訟案件的特性，對訴訟權而為適當之限制
(C)人民提起民事訴訟應繳納裁判費，係斟酌司法資源所為之合理限制
(D)訴訟權保障之內容，包括訴訟程序之設計應符合正當法律程序原則
- B 6 依憲法增修條文規定，行政院移請立法院覆議之覆議案，如經立法委員決議維持原案，行政院院長應如何處理？
(A)辭職 (B)接受該決議 (C)再提覆議 (D)呈請總統開院際協調會
- A 7 憲法第 15 條保障人民的財產權，但國家對於財產權得以合法的侵害，例如對於土地的徵收，則國家應對被徵收者給予：
(A)補償 (B)賠償 (C)補助 (D)補充
- C 8 依憲法增修條文之規定，有關立法委員選舉的敘述，下列何者錯誤？
(A)立法委員任期 4 年，連選得連任
(B)立法委員應於每屆任滿前 3 個月內選出
(C)立法委員均係採「政黨比例代表制」選出
(D)全國不分區及僑居國外的立法委員當選名單中，婦女不得低於二分之一
- D 9 依憲法增修條文規定，關於司法院所提出之年度司法概算的敘述，下列何者錯誤？
(A)行政院得加註意見 (B)編入中央政府總預算案 (C)由立法院審議 (D)立法院不得刪減
- A 10 依憲法增修條文第 2 條之規定，副總統缺位時，應如何處理？
(A)總統應於 3 個月內提名候選人，由立法院補選 (B)由中華民國自由地區全體人民直接補選
(C)由行政院院長代行職權 (D)由總統直接任命
- C 11 依司法院大法官釋字第 371 號解釋，法官於審判時，對於應適用的法律，依其合理之確信，認為有牴觸憲法之疑義者，應作下列何種處理？
(A)以憲法為本，排除適用有牴觸憲法之疑義的法律
(B)雖有疑義，仍應適用該法律，因為該法律已經總統公布生效
(C)停止訴訟，聲請司法院大法官解釋
(D)暫停訴訟，俟該管法院院長裁定後，依裁定結果辦理

- A 12 依憲法增修條文第 3 條之規定，下列何者非屬行政院得移請立法院覆議的決議案？
(A)戒嚴案 (B)法律案 (C)條約案 (D)預算案
- D 13 下列機關中，何者不是考試院所屬機關？
(A)公務人員保障暨培訓委員會 (B)銓敘部
(C)考選部 (D)人事行政局
- C 14 對於行政院及其各部會之工作，如有違法或失職，則監察院得提出何種措施？
(A)彈劾案 (B)糾舉案 (C)糾正案 (D)懲戒案
- B 15 依憲法第 108 條規定，有關「教育制度」事項，係：
(A)由中央立法並執行之 (B)由中央立法並執行之，或交由省縣執行之
(C)由省立法並執行之 (D)由省立法並執行之，或交由縣執行之
- D 16 司法院大法官釋字第 384 號解釋，依據憲法第 8 條強調犯罪追訴應遵守「實質正當之法律程序」。因此，依此大法官說理，下列敘述何者正確？
(A)犯罪追訴檢察官同屬法官定位 (B)犯罪追訴檢察官應有強制處分權
(C)強制處分應有法律或命令授權 (D)犯罪追訴應遵守罪刑法定原則
- A 17 依據地方制度法第 26 條規定，地方政府就違反地方自治事項之行政業務者得處以行政罰。試問以下何者非屬本項之行政罰？
(A)管收 (B)停業 (C)停工 (D)罰鍰
- D 18 為促進家庭和諧，防制家庭暴力及保護被害人權利，受虐配偶一方可聲請保護令。試問，保護令管轄機關為何？
(A)警察局 (B)社會局 (C)檢察署 (D)地方法院
- B 19 某網站軟體販售，於其定型化契約規定：「試用期 15 分鐘」。依消費者保護法規定，相關條款若違反誠信原則對於消費者顯失公平，相關法律效果為何？
(A)效力未定 (B)自始無效 (C)得撤銷之 (D)損失補償
- C 20 有關刑事訴訟制度，「不告不理」乃重要基本原則。試問本項原則適用以下何項訴訟機制？
(A)告訴 (B)告發 (C)自訴 (D)再議
- B 21 刑事訴訟法為發現實體真實、保障人權，俾刑罰權得以正確行使為目的。試問有關刑事訴訟法類型區分，以下說明何者正確？
(A)行政法 (B)程序法 (C)任意法 (D)特別法
- A 22 有關結婚、離婚之法律規範，以下敘述何者錯誤？
(A)應經法院公開儀式見證 (B)應由雙方書面許諾同意
(C)應有二人以上確認簽名 (D)應向戶政事務所辦理登記
- B 23 有關路上拾得遺失物，依據現行相關民法、刑法之規定，以下敘述何者正確？
(A)拾金不昧良善美德，納為己有無法究責 (B)拾金不昧良善美德，歸還原主得求報酬
(C)天上掉下來的禮物，納為己有該當竊盜 (D)天上掉下來的禮物，招領無著充為公有
- D 24 憲法第 8 條第 1 項前段規定：「人民身體之自由應予保障，除現行犯之逮捕由法律另定外，非經司法或警察機關依法定程序，不得逮捕拘禁。」試問有關本項條文敘述，以下何者正確？
(A)「司法機關」的意義，等同法院組織法法院機關
(B)「警察機關」的意義，等同刑事訴訟法偵查機關
(C)「法定程序」之意旨，同意檢察機關實施羈押限制人身自由
(D)「法定程序」之意旨，適用偵查、訴追、審判、刑之執行
- C 25 近年，我國刑事司法制度採行「證據法則」導入「交互詰問」，乃源自以下何種制度思潮之影響？
(A)糾問主義 (B)職權進行主義 (C)當事人進行主義 (D)公開審理主義

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- D 26 人民權利遭受不法侵害，認確定終局裁判適用法律或命令所表示之見解，與其他審判機關之確定終局裁判，適用同一法律或命令時所已表示之見解有異者，得向何機關聲請統一解釋？
(A) 立法院 (B) 監察院 (C) 最高法院 (D) 司法院
- C 27 下列有關法律性質之區分，何者正確？
(A) 民法、民事訴訟法均為實體法 (B) 刑法、刑事訴訟法均為程序法
(C) 民事訴訟法、刑事訴訟法均為程序法 (D) 民法為實體法、刑法為程序法
- D 28 下列何種行為，不成立犯罪？
(A) 殺人未遂行為 (B) 使人受重傷未遂行為 (C) 竊盜未遂行為 (D) 偽造、變造私文書未遂
- C 29 公務員服務法第 17 條規定：「公務員執行職務時，遇有涉及本身或其家族之利害事件，應行迴避。」此原則稱為：
(A) 信賴保護原則 (B) 誠實信用原則 (C) 利益迴避原則 (D) 比例原則
- D 30 下列何種行為，依刑法之規定，有處罰預備犯？
(A) 傷害直系血親尊親屬 (B) 強制性交 (C) 妨害公務 (D) 殺人
- B 31 Typically, as people grow older, their brain functions such as memory and concentration begin to _____.
(A) inherit (B) decline (C) skyrocket (D) suffice
- C 32 That author has already _____ several novels from English into Chinese.
(A) written (B) discussed (C) translated (D) published
- B 33 According to the latest news report, two people were killed and three _____ in the car accident.
(A) damaged (B) injured (C) dispirited (D) deconstructed
- D 34 Such a workload may be a _____. Your boss is simply trying to test your ability before you are promoted.
(A) wolf in sheep's clothing (B) castle in the air (C) whisper in the wind (D) blessing in disguise
- C 35 The government official apologized for the negative comments released in newspapers and said he never meant to _____ any single woman.
(A) inspire (B) convince (C) offend (D) detect
- A 36 Owing to pollution and excessive fishing, the _____ of whales are seriously threatened.
(A) habitats (B) resorts (C) currents (D) circulations
- C 37 Doctors are _____ to keep their patients' records secret.
(A) offended (B) obtained (C) obliged (D) obscured
- B 38 Rachel was too _____ to talk to her teacher, so she wrote him a letter.
(A) liberal (B) nervous (C) attractive (D) confident
- B 39 _____ the typhoon, they still had to work.
(A) In case of (B) In spite of (C) Even (D) Even if

Francisco Goya (1746-1828) has been regarded as the last of the old masters and as the first of the moderns. His paintings of the Spanish royal family show his great skills as a classical painter 40 his bold and daring creativity revealed in his later years anticipates geniuses like Manet and Picasso. The cause of this divergent creative power, judging from Goya's life, might be his diseases. After 41 a high fever in 1792, Goya was left deaf, which kept him gradually isolating himself from the world. He started producing frightening paintings of insanity and fantasy, the so-called *Black Paintings*, as a way to 42 the fears and nightmares in his dark mind. The deafness and noises in his head may be a result of a prolonged viral encephalitis or a series of minor strokes. In brief, it was perhaps Goya's diseases that caused his astounding creativity.

- A 40 (A) while (B) when (C) which (D) what
- B 41 (A) contacting (B) contracting (C) contrasting (D) contributing
- C 42 (A) secure (B) sustain (C) soothe (D) stimulate

- B 43 Woman: I am sensing a degree of strain in our relationship.
Man: _____
Woman: Okay, let me get this straight. I think we should break up.
Man: Why?
(A) I'm not really sure what I am getting at. (B) I am not sure if I follow you.
(C) I'm afraid you are following me. (D) I need to clarify this degree.
- D 44 Sara: Miriam, you look pale. What's wrong?
Miriam: _____
Sara: If that's the case, you'd better see a doctor right away.
(A) Don't make a fuss. (B) None of your business.
(C) No big deal. I'm just fine! (D) I think I might be coming down with the flu.
- B 45 Frank: Jeff got a ticket for speeding.
Harry: Good. _____
Frank: True. He is too reckless.
(A) I'm sorry to hear that. (B) That'll teach him a lesson.
(C) You'd better not mention it. (D) There's no mistake about it.

Are you one of the millions of Americans who have been hospitalized for heart-related chest pain or a certain type of heart attack? One more thing could help make a difference.

If you've been hospitalized for heart-related chest pain or a certain type of heart attack, what doctors call ACS (Acute Coronary Syndrome), ask your doctor about adding PLIVAX.

Clots in your blood may block the flow to the heart or brain. Do you think aspirin and your other medications alone are enough? Adding PLIVAX could help protect you against a future heart attack or stroke.

Prescription PLIVAX, taken with aspirin, plays its own role in keeping platelets from sticking together and forming clots—which helps keep blood flowing.

Important Information: If you have a medical condition that causes bleeding, such as stomach ulcer, you shouldn't use PLIVAX. The risk of bleeding may increase with PLIVAX, and when you take PLIVAX with certain other medicines, including aspirin. Review your medicines with your doctor to minimize this risk. Additional rare, but serious, side effects could occur.

For more information, visit www.plivax.com or call 1-888-680-1224.

- A 46 What is the purpose of the advertisement?
(A) To promote a certain drug. (B) To recommend a healthy diet.
(C) To explain the risk of taking drugs. (D) To publicize new medical equipment.
- B 47 Which of the following directions is correct when taking PLIVAX?
(A) Take it four times a day. (B) Take it together with aspirin.
(C) Take it when the patient is bleeding. (D) Take it when a person is hospitalized.
- B 48 What is supposed to be the effect of PLIVAX?
(A) To stop bleeding. (B) To prevent a stroke.
(C) To treat stomachache. (D) To block the flow of blood.
- D 49 What is advised in the advertisement?
(A) Keeping your doctor from knowing about PLIVAX. (B) Eating natural foods instead of depending on drugs.
(C) Getting hospitalized when there is chest pain. (D) Bewaring of the side effects before taking PLIVAX.
- C 50 What is a "platelet"?
(A) The possible side effect of PLIVAX. (B) The new treatment for stomach ulcer.
(C) The cell to help the blood become solid. (D) The commonest disease among American adults.