

## 測驗題標準答案

考試名稱： 99年公務人員特種考試海岸巡防人員考試、基層警察人員考試、關務人員考試、  
經濟部專利商標審查人員考試、第一次司法人員考試及國軍上校以上軍官轉任公務人員考試

類科名稱： 各科別

科目名稱： 法學知識與英文（試題代號：2302）

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	B	B	A	B	D	B	C	D	B	D	D	A	C	C	D	C	D	B	B	C

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

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

備註： 無更正紀錄。

99年公務人員特種考試海岸巡防人員考試、99年公務人員特種考試基層警察人員考試、  
99年公務人員特種考試關務人員考試、99年公務人員特種考試經濟部專利商標審查人員考試、  
99年第一次公務人員特種考試司法人員考試及99年國軍上校以上軍官轉任公務人員考試試題

等 別：三等專利商標審查人員考試、三等司法人員考試

類(科)別：各類科（專利商標審查人員）、司法事務官營繕工程事務組（司法人員）

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)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 依地方制度法第 30 條規定，自治法規與憲法、法律或該自治團體自治條例有無抵觸發生疑義時，得聲請下列何機關解釋之？  
(A)立法院 (B)司法院 (C)行政院 (D)考試院
- 2 依地方制度法第 26 條第 3 項規定，下列那一種行政罰，非屬直轄市或縣（市）之自治條例所能規定者？  
(A)勒令停工 (B)強制拆除 (C)停止營業 (D)吊扣執照
- 3 法律規定「菸品所含尼古丁及焦油含量，應以中文標示於菸品容器上」，依司法院大法官解釋，下列敘述何者錯誤？  
(A)該項標示已逾越菸品財產權所具有之社會義務 (B)此係對人民就特定商品資訊不表述自由的限制  
(C)該項標示對菸品財產權之限制尚屬輕微 (D)該規定不違反法律明確性原則
- 4 法律規定請領國民身分證應捺指紋並錄存，否則不發給身分證，涉及何種基本權利？  
(A)姓名權 (B)隱私權 (C)名譽權 (D)財產權
- 5 依司法院大法官解釋，關於大學自治，下列敘述何者正確？  
(A)立法機關得以法律強制大學應設特定教學研究單位  
(B)教育部得以命令干預大學教學之內容及課程  
(C)各大學不得訂定碩士生資格考二次未通過即退學之規定  
(D)成績未符合一定標準之學生，大學得予以退學處分
- 6 依司法院大法官解釋，下列關於軍事審判之敘述，何者正確？  
(A)軍事法庭對於軍人之各種犯罪應有專屬審判權  
(B)在平時，經軍事審判之被告，應得上訴至普通法院  
(C)軍人平時各種犯罪之軍事審判，均不得上訴至普通法院  
(D)對軍人之軍事審判權非屬國家刑罰權之作用
- 7 國家對職業自由之限制，下列敘述何者正確？  
(A)對職業自由之限制，即使其限制內容有所差異，但基於平等權之考量，在憲法上不可有寬嚴不同之容許標準  
(B)關於從事工作之時間，屬執行職業之自由，立法者不得予以限制  
(C)從事特定職業之專業能力或資格，立法者欲對此加以限制，須有重要公共利益存在  
(D)為保障視覺障礙者，得限制非視覺障礙者，不得從事按摩業
- 8 申請設立人民團體，不得主張共產主義或分裂國土，否則即不予許可之規定，依司法院大法官解釋，下列敘述何者錯誤？  
(A)與憲法保障人民結社自由之意旨不符  
(B)以政治上言論之內容而為審查，並作為不予許可設立人民團體，顯已逾越必要之程度  
(C)倘於申請設立人民團體之始，僅因其主張共產主義或分裂國土即予禁止，已逾越憲法第 23 條所定之必要性  
(D)主管機關於許可設立人民團體，可先就其所主張之內容為實質審查
- 9 下列何者不屬於行政院可提出覆議之對象？  
(A)預算案 (B)戒嚴案 (C)法律案 (D)條約案
- 10 依憲法第 60 條規定，行政院於會計年度結束後幾個月內，應提出決算於監察院？  
(A)一個月 (B)二個月 (C)三個月 (D)四個月
- 11 直轄市長有辭職、去職或死亡之情形時，所遺任期若不足二年，其遺缺應如何遞補？  
(A)由副市長代理至新任市長補選選出為止 (B)由市議會議長代理至新任市長補選選出為止  
(C)由內政部派員代理至新任市長補選選出為止 (D)由行政院派員代理至該屆任期屆滿為止
- 12 依總統副總統選舉罷免法第 35 條規定，總統、副總統選舉，應於總統、副總統任期屆滿多久前完成選舉投票？  
(A)三十日 (B)四十五日 (C)五十日 (D)二個月

- 13 依司法院釋字第 520 號解釋對預算案之見解，下列敘述何者錯誤？  
(A)預算案經立法院通過及公布後即為法定預算  
(B)法定預算因形式上與法律相當，又稱為措施性法律  
(C)縱使屬國家重要政策變更且符合預算法所定要件，主管機關亦不得裁減經費或變動執行  
(D)停止法定預算執行致影響機關存續者，非法之所許
- 14 有關政黨被宣告解散後之敘述，下列何者錯誤？  
(A)被宣告解散之政黨，應即停止一切活動  
(B)被宣告解散之政黨不得成立目的相同之代替組織  
(C)該黨所有民意代表自判決生效時起喪失其資格  
(D)政黨解散後，其財產之清算，準用民法法人有關之規定
- 15 依司法院大法官解釋，國家領土範圍之界定不宜由釋憲機關予以解釋的原因，係基於以下何項理由？  
(A)此屬於法律問題 (B)此屬於社會問題 (C)此屬於人民認知問題 (D)此屬於政治問題
- 16 下列有關強行法與任意法之敘述，何者錯誤？  
(A)行政法、訴訟法等公法性質法律，多數規定屬強行法  
(B)法律之禁止規定屬強行法  
(C)刑法的規定一律為強行法  
(D)債法之規定多數屬任意法
- 17 請問下列對三段論法的敘述，何者錯誤？  
(A)三段論法的推論需要透過涵攝  
(B)「傷害人之身體或健康者，處三年以下有期徒刑、拘役或一千元以下罰金。」這項規定屬於三段論法的大前提  
(C)民事審判時，在法律未規定的情況下，法官可以將習慣法視為大前提而形成判決  
(D)類推適用的推論與三段論法毫無關係
- 18 下列有關法規廢止之敘述，何者錯誤？  
(A)法律之廢止，應經立法院通過，總統公布  
(B)命令之廢止，由原發布機關之上級機關為之  
(C)法律之廢止，自公布之日起，算至第三日起失效  
(D)命令之廢止，自發布之日起，算至第三日起失效
- 19 下列有關自治條例之敘述，何者正確？  
(A)不得有罰鍰之規定 (B)應冠以各該地方自治團體之名稱  
(C)不得規定勒令停工之不利處分 (D)應報經總統核定後發布
- 20 下列何者非屬行政法上之救濟途徑？  
(A)復查 (B)訴願 (C)請願 (D)訴訟
- 21 有關司法院釋字第 589 號解釋對於信賴保護原則的適用要件，下列何者錯誤？  
(A)須在法規施行而產生信賴基礎之存續期間之內 (B)應衡酌國家財政負擔能力  
(C)要有客觀具體表現之行爲 (D)須有值得保護之利益
- 22 下列何者非屬財產權？  
(A)信用 (B)私人照片 (C)信用卡 (D)專利權
- 23 下列何種規定，應從嚴解釋，不可擴張解釋？  
(A)行政機關管轄權規定 (B)例外規定 (C)賦予機關職權的規定 (D)給付行政規定
- 24 甲將其結婚戒指，放在大華銀行的保管箱中，甲與大華銀行成立何種契約？  
(A)委任契約 (B)倉庫契約 (C)租賃契約 (D)混藏寄託
- 25 關於承攬人之法定抵押權，下列敘述何者錯誤？  
(A)限承攬之工作物為建築物或其他土地上之工作物，或為此等工作物之修繕  
(B)因為此抵押權在於保障承攬人之報酬請求權，所以限於工作完成時方可請求為抵押權之登記  
(C)法定抵押權之登記，如承攬契約已經公證者，承攬人得單獨申請  
(D)就重大修繕所登記之抵押權，於工作物所增加之價值限度內，優先於成立在先之抵押權
- 26 下列何者為要式契約？  
(A)終身定期金 (B)保證契約 (C)旅遊契約 (D)和解契約
- 27 關於著作權侵害之救濟，下列何者正確？  
(A)著作權人僅得請求排除現有侵害，無法排除未來可能之侵害  
(B)侵害著作人格權者，如非財產上之損害，被害人不得請求損害賠償  
(C)侵害製版權者，以故意為限，始負損害賠償責任  
(D)數人共同不法侵害製版權者，應連帶負賠償責任
- 28 下列何者不屬於著作權法之改作行為？  
(A)將小說內容繪製成漫畫 (B)將五篇短篇小說合訂為一本小說集  
(C)將小說內容拍攝成電影 (D)將中文小說翻譯成英文小說

- 29 消費者債務清理條例之施行，係由下列何者所公布？  
(A)行政院消費者保護委員會 (B)司法院  
(C)行政院公平交易委員會 (D)總統
- 30 下列何種刑罰為我國刑法所無？  
(A)生命刑 (B)身體刑 (C)自由刑 (D)財產刑
- 31 What impresses students most when they read early American literature is the spirit of the American Dream and their \_\_\_\_\_ in self-made success.  
(A) diffidence (B) confinement (C) confidence (D) disrespect
- 32 Judges are \_\_\_\_\_ increasingly heavy fines for minor driving offences.  
(A) exposing (B) imposing (C) reposing (D) deposing
- 33 If I had had enough money last year, I \_\_\_\_\_ to visit Morocco, Libya, and Egypt.  
(A) will go (B) would go (C) would have gone (D) would have been
- 34 As readers of my column know, your organization is one I have \_\_\_\_\_ for years to help victims of abuse.  
(A) insisted upon (B) acted upon (C) relied upon (D) imposed upon
- The nation's labor market softened slightly last month, with the unemployment rate edging up to 4.6 percent as job growth slowed. The report issued by the Labor Department fits with widespread government 35 that the economy will slow to a cooler but still-solid pace of growth this year after expanding rapidly last year. That is expected to cause the drum-tight job market to ease and inflation pressures to 36. The jobless rate ticked up in January from 4.5 percent in December but remains low by historical standards. Much of the increase occurred because hundreds of thousands of workers 37 the labor force last month, likely drawn by booming job growth at the end of last year. Employers increased their 38 by 196,000 workers in November and by 206,000 in December, the department said, revising earlier estimates. Employers turned more cautious in January, adding a modest 111,000 jobs, the Labor Department said. Some of the biggest employment gains were in education, health care, finance, and other services, 39 was the case last year. Wage growth also slowed in January, which should help ease concerns at the Federal Reserve that a tight job market might drive inflation higher.
- 35 (A) policies (B) forecasts (C) commitments (D) infrastructures  
36 (A) withdraw (B) ebb (C) deflate (D) elevate  
37 (A) poured into (B) pumped into (C) dwindled off (D) shrunk off  
38 (A) commodities (B) distributions (C) payrolls (D) transactions  
39 (A) and nor (B) but it (C) neither (D) as
- 40 Mexican agricultural workers, often officially classified as illegal aliens, live in camps that show on no county map and that would pass no health inspection if any official should seek them out.  
(A) Mexican agricultural workers are often classified as illegal aliens and are responsible for inspecting their health.  
(B) The illegal aliens who live in the camps would pass the health inspection if only they could find an official.  
(C) Even if the illegal Mexican workers could be found, the camps they live in wouldn't pass the health inspection.  
(D) Mexican agricultural workers arranged illegal aliens to live in the camps where no officials could find them.
- 41 It is the province of knowledge to speak and it is the privilege of wisdom to listen.  
(A) A knowledgeable man speaks, while a wise man listens.  
(B) One must have provincial knowledge for speaking and special wisdom for listening.  
(C) One should not speak if he lacks knowledge; one could not listen even if he has wisdom.  
(D) In a province, knowledge can speak and in privilege, wisdom listens.
- 42 Office politics is easy to recognize in particular situations but difficult to describe in general terms.  
(A) Office politics is not a very hard subject, but few people know the nature of it.  
(B) It may be hard to define office politics, but people know when it happens.  
(C) A general term has not been found yet to describe the essence of office politics.  
(D) The campaign office always knows when is the right time to talk about politics.
- 43 It is generally believed that prodigies are half born, half made, and mostly discovered and given proper upbringing at an early age.  
(A) Half of prodigies are children who are born with certain talents and the other half are made through their upbringing.  
(B) Gifted children will eventually turn into prodigies, especially those whose inborn gifts are discovered at an early age.  
(C) Children who are born with certain talents have a good chance to become prodigies if they are brought up under professional care.  
(D) For gifted children to become prodigies, their inborn gifts need to be found early and be fostered in time.

Many of us have come to expect the traditional and reliable sources of energy will be available forever. But, what is the source of all this energy that we have used so carelessly? In most of the world, energy is created by burning fossil fuel—coal, natural gas, and oil. However, there is a problem. These resources are finite. And, at our current rate of use, by the year 2080, the world's supply of oil will almost be gone. Afterwards, the day will probably come when we will not have enough gasoline for our cars or electricity for our appliances. The three most commonly proposed solutions to this worldwide problem are increasing the efficiency of appliances and vehicles, improving conservation efforts, and finding alternative energy sources.

Manufacturers have been working on the first solution for three decades. However, the overall consumption of appliances and vehicles continues to rise. The second solution is to improve our conservation like installing high-efficiency light bulbs in our homes, offices, and schools, and remember to turn off the lights in locations that we do not intend to use. Unfortunately, such strategies are only temporary solutions.

Currently, the leading alternatives to fossil fuels are fusion and solar energy. The former is a nuclear reaction that results in a massive release of energy and is practically pollution-free. The latter can be utilized to heat water and buildings and to generate electricity and also purify fuels for automobiles.

- 44 According to the passage, which of the following statements is true?  
(A) If we conserve energy, it will last forever.  
(B) "Worldwide energy problem" means different energy consumptions between western and eastern countries.  
(C) Every country in the world will suffer from the same energy crisis.  
(D) The problem of energy consumption is caused by pollution.
- 45 According to the passage, which of the following statements is true?  
(A) After 2080, all appliances and vehicles will not use traditional energy.  
(B) Nuclear energy will probably become one of the alternative fuels in our future.  
(C) Scientists' efforts to solve energy problems did not prove successful until 1999.  
(D) Fossil is a kind of solar energy that generates electricity and causes no pollution.
- 46 According to the passage, which is the best solution to energy problems?  
(A) Improving conservation efforts (B) Inventing fuel-free appliances and vehicles  
(C) Increasing the efficiency of appliances and vehicles (D) Searching for alternative energy sources

編號第 47 題至第 50 題為篇章結構，各題請依文意，從四個選項中選出最合適者，各題答案內容不重複。

After more than 450 years of trade and cultural relations with China, Japan has produced a unique heritage of its own, the Kingdom of Ryukyu. Shurijo Castle was the center of the kingdom's politics, economy, and culture. 47 The "administrative sphere" was centered on the forecourt. It was composed of several buildings—Seiden, Nanden/Bandokoro complex, Hokuden, and others. 48 Political and ceremonial activities involving the King himself also took place here. Many religious sites around the administrative sphere, foremost among them the largest Kyo-no-uchi, made up the "sacerdotal sphere." 49 On the sacred sites, priestesses prayed for the prosperity of the royal family, safe sea voyages, and good harvests. 50 Here lived the King and his family along with their many female attendants. Men were strictly forbidden to enter this area. The Ouchibara was a private space where women ruled.

- 47 (A) This was the castle's largest religious space.  
(B) The castle can be thought of as comprising three main spheres, divided according to function.  
(C) Finally, the royal family's living quarters and surroundings, called Ouchibara, formed the living or private sphere.  
(D) Dances created during the Ryukyu Kingdom period to celebrate the arrival of the Sappushi were called court dances.
- 48 (A) The kingdom officials worked in the sphere.  
(B) The castle can be thought of as comprising three main spheres, divided according to function.  
(C) Dances created during the Ryukyu Kingdom period to celebrate the arrival of the Sappushi were called court dances.  
(D) This gate was normally for daily use, but when a king died, his successor entered through it to receive the crown.
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