

# 105年警察人員升官等考試、105年 交通事業郵政人員升資考試試題

等(級)別：警正、員級晉高員級

科(類)別：各科別、各類別

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 依司法院大法官之解釋及地方制度法之規定，下列何者得聲請司法院解釋？  
(A)自治法規與法律有無牴觸發生疑義時  
(B)地方自治團體不服中央主管機關之代行處理  
(C)地方自治團體之行政機關對該團體之立法機關所議決之事項有爭議時  
(D)地方立法機關認為自己議決通過之自治法規有牴觸憲法之疑義時
- 2 依據憲法及司法院大法官解釋意旨，有關人身自由之保障，下列敘述何者錯誤？  
(A)人民因犯罪嫌疑被逮捕拘禁，至遲應於 24 小時內移送法院審問  
(B)逮捕拘禁之機關，對於法院之提審，不得拒絕或遲延  
(C)依據行政執行法規定對債務人所為之管收，須受憲法第 8 條規定之拘束  
(D)基於防治傳染病之必要，於緊急而有限制人身自由之必要時，仍須受憲法第 8 條法官保留原則之拘束
- 3 依司法院大法官之解釋，人民身體自由之保障，係屬於何種層級之法律保留？  
(A)憲法保留 (B)絕對法律保留 (C)相對法律保留 (D)最廣義法律保留
- 4 關於秘密通訊自由，下列敘述何者正確？  
(A)秘密通訊自由為憲法所保障之隱私權具體態樣，亦屬於言論自由範疇  
(B)凡人民所為與公共利益無關之通訊內容，不受秘密通訊自由之保障  
(C)父母擅自閱讀子女手機中儲存之訊息，子女並不受秘密通訊自由之保障  
(D)警察為偵查犯罪進行監聽，向檢察官聲請核發監聽票，符合正當法律程序
- 5 依司法院大法官解釋之意旨，有關訴訟權保障之敘述，下列何者錯誤？  
(A)受羈押被告認執行羈押機關對其所為之不利決定，逾越達成羈押目的或維持羈押處所秩序之必要範圍，應許其向法院提起訴訟請求救濟  
(B)有關課稅之處分，以繳納全部或一定比例之稅款作為提起行政救濟條件之規定，係為增進公共利益所必要，與憲法第 16 條之規定尚無牴觸  
(C)刑事被告與辯護人能在不受干預下充分自由溝通，為辯護人協助被告行使防禦權之重要內涵，應受憲法訴訟權之保障  
(D)刑事訴訟法規定，對於配偶不得提起自訴，係為維持家庭和諧及人倫關係所為之合理限制，並非不得對配偶提出告訴，與憲法並無牴觸
- 6 有關比例原則之敘述，下列何者正確？  
(A)比例原則意指教、科、文預算應占政府預算總額一定比例  
(B)比例原則一詞係憲法明文採用  
(C)比例原則非僅拘束行政，對所有政府機關皆具拘束力  
(D)比例原則適用對象為合法納稅者，未合法納稅者不得主張
- 7 依司法院大法官解釋之意旨及公民投票法之規定，有關公民投票之敘述，下列何者錯誤？  
(A)公民投票是一種直接民主的展現  
(B)公民投票訴訟以二審終結，且不得提起再審之訴  
(C)基於憲法第 22 條規定，人民得以公民投票方式議決國家重要事項  
(D)總統具有公民投票案之交付權
- 8 關於國家賠償責任，下列敘述何者正確？  
(A)公務員因故意或過失造成人民損害時，應與其所屬機關負連帶損害賠償責任  
(B)公務員怠於執行職務造成人民損害時，限於公務員有故意或重大過失之情形，其所屬機關始負國家賠償責任  
(C)受委託行使公權力之私人於受託範圍內視為行政機關，其因故意或過失造成人民損害時，應自負國家賠償責任  
(D)公務員因故意或過失致公有公共設施之設置管理有欠缺，造成人民生命、身體、財產之損害時，其所屬機關應負國家賠償責任
- 9 有關總統刑事豁免權之規定，下列敘述何者錯誤？  
(A)總統享有刑事豁免權，乃是對於總統的特殊身分所為之尊崇與保障  
(B)總統享有刑事豁免權是一身專屬權，僅限於任職期間享有  
(C)總統享有刑事豁免權，但得因他人刑事案件而對總統進行證據調查與證據保全  
(D)總統為證明自己之清白，得拋棄其刑事豁免權

- 10 依司法院釋字第 520 號解釋之意旨，有關預算案之執行，下列敘述何者正確？  
 (A)預算案為措施性法律，行政院不得拒絕執行  
 (B)未涉及重要政策變更之預算執行，行政院仍不得拒絕執行  
 (C)維持法定機關運作之法定預算，行政院不得拒絕執行  
 (D)涉及重要政策變更之預算執行，行政院得彈性執行預算
- 11 關於立法院得行使之職權，下列何者錯誤？  
 (A)每年集會時得聽取總統國情報告  
 (B)強制地方政府人員應到會備詢  
 (C)設置各種委員會，包括調查委員會  
 (D)議決宣戰案
- 12 每屆立法委員任期屆滿時，尚未議決之議案，下屆不予繼續審議，下列何者適用此一原則？  
 (A)法律案  
 (B)預算案  
 (C)決算案  
 (D)人民請願案
- 13 司法院為國家最高司法機關，下列敘述何者正確？  
 (A)司法院掌理公務員之懲戒  
 (B)司法院為審判上之實質最高機關  
 (C)司法院指揮監督所屬各級法院審判職務  
 (D)司法院為國家機關，地方法院則為地方機關
- 14 依司法院大法官審理案件法相關規定，聲請解釋憲法或聲請統一解釋不合聲請要件而無法補正時，如何處理？  
 (A)應以無理由駁回  
 (B)應議決不予受理  
 (C)應指導命重行聲請  
 (D)應裁定停止程序
- 15 總統任命下列何種人員，須經立法院同意？  
 (A)行政院院長  
 (B)考試院院長  
 (C)中央研究院院長  
 (D)國史館館長
- 16 若行政機關與人民在土地徵收事件上發生爭議，應依下列何種程序解決？  
 (A)行政訴訟程序  
 (B)民事訴訟程序  
 (C)強制執行程序  
 (D)破產程序
- 17 在立法院內，應經三讀程序者，為下列何種議案？  
 (A)覆議案  
 (B)預算案  
 (C)人民請願案  
 (D)總統之彈劾案
- 18 下列那一個法律領域，當行為後法律變更，應適用從舊從輕原則？  
 (A)行政法  
 (B)憲法  
 (C)民法  
 (D)刑法
- 19 憲法第 22 條規定：「凡人民之其他自由及權利，不妨害社會秩序公共利益者，均受憲法之保障。」故自由或權利妨害社會秩序公共利益者，解釋上不受憲法之保障。此項解釋方法屬於下列何者？  
 (A)補正解釋  
 (B)文義解釋  
 (C)當然解釋  
 (D)反面解釋
- 20 依司法院大法官解釋，下列何者被宣告違反平等原則？  
 (A)身心障礙者保護法有關非視覺功能障礙者，不得從事按摩業之規定  
 (B)兵役法有關中華民國男子依法有服兵役義務之規定  
 (C)遺產及贈與稅法規定，配偶相互贈與之財產不計入贈與總額，不包含未成立法律上婚姻關係之異性伴侶  
 (D)兩岸關係條例舊法規定，原設籍大陸地區人民設籍臺灣地區未滿 10 年，不得擔任公務員
- 21 依司法院釋字第 603 號解釋之見解，個人資料之資訊隱私權保障，係基於下列何項自由民主憲政秩序之核心價值？  
 (A)維護社會秩序與保障公共利益  
 (B)維護多元文化與促進族群融合  
 (C)維護人性尊嚴與尊重人格自由發展  
 (D)維護法治國原則與遵守國際法秩序
- 22 甲向乙借錢，由甲之友人丙提供土地為乙設定抵押權，擔保乙之債權。債務清償期屆至，甲無力清償債務。下列敘述，何者正確？  
 (A)丙得向乙清償甲之債務  
 (B)甲得拒絕丙代為清償債務  
 (C)乙得拒絕丙之清償債務  
 (D)甲異議時，乙始得拒絕丙清償
- 23 下列法律行為，何者不違反公共秩序或善良風俗？  
 (A)一方以將來與他方結婚而為之贈與，約定一方於他方日後不願結婚時，得請求返還贈與物  
 (B)夫妻間為恐一方於日後有虐待或侮辱他方情事，而預立離婚契約  
 (C)債權人與債務人約定訂立以人身為抵押標的之契約  
 (D)對涉訟之人，提供證據資料或允諾負擔費用，而與之約定應於勝訴後給付訟爭標的物之一部分或其價額之若干比例
- 24 甲駕駛其所有市價 100 萬元之愛車，遭乙自後追撞而受損，修復費用為 20 萬元，但修復之後該車之市場價格，亦跌為 75 萬元（減少 25 萬元），甲心疼不已。下列敘述，何者正確？  
 (A)甲僅可向乙請求賠償該車之修復費用 20 萬元  
 (B)甲僅可向乙請求賠償該車因毀損所減少之價額 25 萬元  
 (C)甲可向乙請求賠償該車之修復費用及因毀損所減少之價額共 45 萬元  
 (D)甲除請求賠償該車因毀損所減少之價額外，尚可請求非財產上之損害賠償
- 25 甲、乙相約至 X 家行竊，偷竊完畢離去時，乙未料甲臨時起意將 X 屋放火燒燬。對於甲燒燬 X 屋所成立之放火罪，乙應如何處斷？  
 (A)成立作為放火罪  
 (B)成立不作為放火罪  
 (C)成立放火罪之幫助犯  
 (D)不成立放火罪
- 26 甲教唆乙殺 X。乙於前往殺 X 的途中見到自己的仇家 Y，於是將 Y 擊斃，隨即被捕。乙對 Y 的死亡構成故意殺人既遂，甲在刑法上應如何處斷？  
 (A)乙已經因為甲而產生殺 X 的決意，完成教唆行為之甲，應成立教唆殺人既遂  
 (B)X 並未被殺死，教唆目的並未達成，甲應成立教唆殺人未遂  
 (C)Y 被殺死，與甲教唆乙之行為具有因果關係，甲應負教唆責任  
 (D)乙殺 Y 之行為，並不在甲教唆範圍內，甲不負教唆責任
- 27 B 公司為 A 公司之控制公司，B 公司使 A 公司以低於市場之價格，出售土地予 B 公司之從屬公司 C 公司。下列敘述，何者錯誤？  
 (A)B 公司於會計年度終了時應對 A 公司為適當補償，否則應負賠償責任  
 (B)B 公司於會計年度終了時未對 A 公司為適當補償者，B 公司與其負責人對 A 公司之損害應負連帶賠償責任  
 (C)C 公司於受有利益之範圍內，應與 B 公司對 A 公司之損害負連帶賠償責任  
 (D)A 公司經股東會決議得免除 B 公司對其損害賠償之責任

- 28 A 法人股東當選為 B 公司董事，指定自然人 C 代表其行使職務，該代表人 C 並經 B 公司董事會推選為董事長。下列敘述，何者正確？  
(A) A 法人股東得隨時改派代表人補足原董事之任期  
(B) A 法人股東得隨時改派代表人補足該董事長之任期  
(C) A 法人股東應經 B 公司監察人之同意，始得改派代表人  
(D) A 法人股東應經 B 公司股東會之同意，始得改派代表人
- 29 下列那一項非屬勞動基準法所定勞工得自請退休之情形？  
(A) 工作 5 年且年滿 70 歲者  
(B) 工作 25 年者  
(C) 工作 10 年且年滿 60 歲者  
(D) 工作 15 年且年滿 55 歲者
- 30 我國性別工作平等法中有關性騷擾之防治相關規定，下列何者是其最重要的立法精神？  
(A) 嚴懲此類事件之行為人  
(B) 強調雇主應負擔提供一免遭職場性騷擾而安全工作場所給所有員工之責任  
(C) 給予此類事件被害人適當之補償  
(D) 強調雇主與此類事件之行為人負連帶損害賠償責任
- 31 Roughly 4.5 billion years ago, a planetary embryo the size of Mars \_\_\_\_\_ into Earth, ripping off Earth's outer layers and sending a cloud of molten debris into orbit.  
(A) converted (B) slammed (C) tucked (D) evolved
- 32 The new product sold in the market comes with some \_\_\_\_\_, including a backpack and an adapter.  
(A) accessories (B) commuters (C) syndromes (D) impairments
- 33 In the gravity-free environment, our body cannot \_\_\_\_\_ up from down. Its internal balance system sends confusing signals to the brain, which can result in nausea.  
(A) distinguish (B) extinguish (C) accomplish (D) relinquish
- 34 Virus writers are skilled programmers who create and spread \_\_\_\_\_ viruses, which may cause great damage to the operating system of your computer.  
(A) intimate (B) malicious (C) beneficial (D) delectable
- 35 For some families, the topic of marriage is frequently initiated not by the child but rather by the parent.  
(A) For some families, usually it is the parent rather than the child who starts talking about marriage.  
(B) For some families, the child welcomes the topic of marriage over dinner table.  
(C) For some families, marriage is a serious topic that the child prefers to talk about.  
(D) For some families, it is the parent who forces the child not to talk about marriage.

請依下文回答第 36 題至第 40 題：

Like identical twins, Maureen and Jessica have many similarities \_\_\_\_36\_\_\_\_. Their faces and builds are the same, and they wear their short, dark hair in styles similar to each other. But physicality is where the similarities \_\_\_\_37\_\_\_\_. In terms of their academic interests and abilities, Maureen and Jessica are very different from one another. While Maureen likes math and science classes, Jessica excels at literature and arts classes. Instead of watching TV or wasting her spare time, Maureen likes to conduct scientific experiments or work on complicated math problems. Like her sister, Jessica also \_\_\_\_38\_\_\_\_ busy during her spare time; \_\_\_\_39\_\_\_\_, she would much rather read novels, write poetry, or paint. Instead of presenting the twins with problems and conflicts, their differences seem to have brought them closer together. Many people wonder if the twins are always in \_\_\_\_40\_\_\_\_ about their interests and ideas; on the contrary, they enjoy learning about each others' interests. Maureen and Jessica's relationship suggests that people's differences can bring them closer together instead of separating them.

- 36 (A) down and out (B) ups and downs (C) to the point (D) on the surface  
37 (A) sink (B) end (C) lose (D) wish  
38 (A) is unable to keep (B) is not used to being (C) feels sorry for being (D) prefers to keep  
39 (A) on the other hand (B) on the up side (C) for her sister's sake (D) for her innocence  
40 (A) connection (B) concern (C) conflict (D) control

請依下文回答第 41 題至第 45 題：

Starbucks serves over 25 million customers a week in 15,000 stores in 44 countries around the world. \_\_\_\_41\_\_\_\_ So how did a company currently worth \$5 billion get started?

Starbucks Coffee, Tea, and Spice, as it was originally known, roasted its first coffee beans in 1971. This tiny coffee house in Seattle, named after a character in the novel *Moby Dick*, was the vision of three men—Baldwin, Siegel, and Bowker—who cared passionately about fine coffee and tea. \_\_\_\_42\_\_\_\_ A decade later, their fourth store in Seattle opened.

Meanwhile, in New York, Howard Schultz, a businessman specializing in kitchen equipment, noticed that a small company in Seattle was ordering a large number of a special type of coffeemaker. \_\_\_\_43\_\_\_\_ As soon as he saw the Starbucks store, he knew that he wanted to be a part of it. The three founding members weren't initially very eager, but a persistent Schultz was eventually hired to be the head of Starbucks marketing in 1982. \_\_\_\_44\_\_\_\_ Within the next ten years, Schultz had already opened 150 new stores and had bought the company! There are now stores all over Europe, Asia, and the Middle East. \_\_\_\_45\_\_\_\_

- 41 (A) These are just a few of the many specialty coffees on offer at Starbucks.  
(B) But global success comes at a price.  
(C) And this figure is increasing rapidly.  
(D) Many people feel that big corporations, even responsible ones, are never a good thing.

- 42 (A)Facing competition from lower-priced coffee offered by McDonald's, Starbucks recently closed about 2 stores in New York.  
(B)But global success comes at a price.  
(C)There are now stores all over Europe, Asia, and the Middle East.  
(D)Their determination to provide the best quality coffee helped their business to succeed.
- 43 (A)He modeled the Starbucks stores on Italian espresso bars and made them comfortable places to relax.  
(B)He determined to provide the best quality coffee to help their business to succeed.  
(C)He made the cross-country trip to Seattle out of curiosity to find out more.  
(D)He faced competition from Starbucks and wanted to defeat it.
- 44 (A)He modeled the Starbucks stores on Italian espresso bars and made them comfortable places to relax.  
(B)He felt that big corporations are never a good thing, so he gave up global business.  
(C)He fired their partners and sold the company as a revenge.  
(D)He had no money to run the store.
- 45 (A)However, Starbucks's continued success last for a short period of time.  
(B)Starbucks has become the recent target of antiglobalization protests.  
(C)Today Starbucks is one of the world's most recognized brands.  
(D)Starbucks recently closed about 600 stores in the U.S.

請依下文回答第 46 題至第 50 題：

As the concept of human rights is based on fairness, the exposure of so many people in poor countries to hazardous industrial processes and toxic wastes violates their rights. This is the view of many experts. In 1994, a group of experts met in Geneva to compose a more general document: "Draft Declaration of Principles on Human Rights and the Environment." It proclaims, among other things, a universal human right to a "secure, healthy, ecologically sound environment."

But many economists give priority to economic growth because it leads to generally higher salaries and more spending power for average individuals. Market exchanges generally promote economic growth, except where public goods are concerned. In those cases, economists use cost-benefit analysis (CBA) to identify new rules of market exchange that maximize growth.

We note problems with this approach. Economic growth does not improve human welfare if it merely reflects higher prices and longer working hours stemming from the increasing scarcity of essential items, such as land to grow crops. When governments use CBA, they give equal consideration to each dollar rather than to each person. This goes against the ideal of equal government concern for all citizens. Also, CBA discounts the lives of future generation, as if people living later have few human rights than those living now.

CBAs put all variables in dollar terms so that optimal policies can be identified mathematically. Shadow prices are assigned to whatever is not traded in markets, including human lives. Economists estimate how much people value their lives in monetary terms from how much they spend on life insurance and medical care, as well as how much extra pay they demand for dangerous work. Also, when people are killed in accidents caused by negligence, jury awards suggest common estimates of a life's monetary worth. The problem is that on such measures an average human life in a poor country is worth much less money than an American, European, or Japanese life. This denies an equal human right to life.

- 46 Which of the following is a suitable title for this passage?  
(A)How Much Money Is a Human Life Worth? (B)Human Rights and the Environment  
(C)Human Rights vs. CBA (D)How to Use CBA
- 47 Which of the following is the focus of 1994 document composed by experts in Geneva?  
(A)Human rights and the environment (B)Human rights and economic growth  
(C)Human rights of people in poor countries (D)Human rights vs. the concept of fairness
- 48 According to the passage, what might be the problem of using CBA to estimate a life's monetary worth?  
(A)It will call attention to the valuable lives of future generation.  
(B)It fails to reflect the higher prices of certain valuables.  
(C)It leads to correct measurements of human life.  
(D)It will notice the essential items in life.
- 49 According to the passage, which of the following statements is an argument for the benefit of economic growth?  
(A)Economic growth leads to higher salaries and more spending power for average Americans.  
(B)Human welfare will be improved independent of economic growth.  
(C)Government will give equal concern to all citizens.  
(D)People in poor countries will be given equal human rights.
- 50 Which of the following is closest in meaning to the word "optimal" ?  
(A)favorable (B)negligent (C)inappropriate (D)equal