

102年公務人員升官等考試、102年關務人員升官等考試
102年交通事業郵政、港務、公路人員升資考試試題

等別(級)：薦任、員級晉高員級

類科(別)：各類科-公務、各類別-郵政、港務、公路

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 中央與地方權限若發生衝突爭議，依據憲法或相關法律之規定，下列何種解決方式錯誤？
(A)總統召集各院院長會商解決之 (B)由立法院解決之
(C)聲請司法院大法官釋憲 (D)循行政爭訟制度
- 2 依司法院釋字第 550 號解釋，全民健康保險對地方自治團體而言，係何種事項？
(A)自治事項 (B)委辦事項
(C)協力義務事項 (D)承辦義務但不受法令拘束事項
- 3 下列關於憲法修正機關與程序之敘述，何者為現行憲法之設計？
(A)憲法修正案應由中華民國自由地區選舉人以公民投票方式提出
(B)憲法修正案應由立法委員依法律案之提出與審議程序提出
(C)憲法之修改經立法院立法委員四分之三之出席及出席委員四分之三之決議後，即通過之
(D)憲法修正案須由立法院提出，並於公告半年後，經中華民國自由地區選舉人投票複決，始得通過
- 4 下列何者不構成特別犧牲？
(A)私有房屋被徵用 (B)私有道路被認定為具公共地役關係之既成道路
(C)私有土地被徵收 (D)私有騎樓通道經行政機關公告禁止設攤
- 5 依司法院釋字第 382 號解釋，各級學校依校規對學生所為之退學處分，係涉及下列何種基本權利之侵犯？
(A)人身自由權 (B)受教育權 (C)平等權 (D)財產權
- 6 有關憲法第 23 條規定，人民權利得以法律限制之敘述，下列何者正確？
(A)僅指立法院通過，總統公布之法律
(B)指立法院通過，總統公布之法律，或經法律具體明確授權發布之法規命令
(C)行政機關得訂定行政規則限制人民之基本權利
(D)地方自治團體不得制定自治條例限制地方人民之基本權利
- 7 依據公民投票法之規定，全國性公民投票適用事項不包括下列何者？
(A)預算事項之複決 (B)立法原則之創制 (C)憲法修正案之複決 (D)法律之複決
- 8 公民以法定人數的簽署，有提出法案並議決為法律之權利，依據我國憲法之規定為：
(A)複決權 (B)受益權 (C)創制權 (D)請願權
- 9 下列何者不屬於憲法第 8 條人身自由之保障範圍？
(A)警察對人民實施通訊監察 (B)行政強制執行之管收
(C)違反社會秩序維護法之拘留 (D)犯罪嫌疑人之逮捕
- 10 依公職人員選舉罷免法第 128 條之規定，選舉、罷免訴訟程序，原則上準用下列何種法律進行？
(A)刑事訴訟法 (B)民事訴訟法 (C)行政訴訟法 (D)非訟事件法
- 11 有關總統副總統選舉罷免訴訟之敘述，下列何者錯誤？
(A)總統副總統選舉、罷免訴訟，專屬中央政府所在地之高等行政法院管轄
(B)總統副總統選舉、罷免訴訟，設選舉法庭，採合議制審理
(C)總統副總統選舉、罷免訴訟，應先於其他訴訟審判之
(D)各審受理之法院應於六個月內審結
- 12 國會議長可以行使強制實力排除妨害國會運作者，此種權限可以稱為國會之何種權力？
(A)調查權 (B)彈劾權 (C)警察權 (D)懲戒權
- 13 依憲法增修條文之規定，下列何者不得連任？
(A)考試委員 (B)監察委員 (C)立法委員 (D)司法院大法官
- 14 依現行法規定，人民聲請解釋憲法之程序為：
(A)經終局法院裁判確定後，方能提出 (B)先經監察院審核後，方能提出
(C)只須經任何一個法院的敗訴判決後，即可提出 (D)只要有憲法疑義，即能提出
- 15 司法院大法官以下列何種方式審理司法院解釋憲法與統一解釋法律及命令之案件？
(A)專家參審制 (B)獨任制 (C)合議制 (D)人民參審制

- 16 爲了給予家庭暴力之被害人緊急救援、診療、安置等服務，各地方政府依家庭暴力防治法應設置以下那個機構，以整合所屬警政、教育、衛生、社政、民政、戶政、勞工、新聞等機關，並協調司法機關爲被害人提供有效率及全方位的協助？
(A)家事服務中心 (B)家庭暴力防治中心 (C)被害人轉介中心 (D)性騷擾防治中心
- 17 依性別工作平等法之規定，受僱於僱用 30 人以上雇主之受僱者，爲撫育未滿 3 歲子女，得向雇主請求每天減少工作時間 1 小時，減少之工作時間，其工資之發給相關規定爲何？
(A)工資照給 (B)發給工資 1/4 (C)發給工資 1/2 (D)受僱者不得請求工資
- 18 有關勞工保險失能補助費請領要件的描述，下列何者錯誤？
(A)須經治療後，症狀固定，再行治療仍不能期待其治療效果者
(B)須經特約醫院診斷爲永久失能者
(C)須符合失能給付標準者
(D)經評估爲終身無工作能力者
- 19 有關全民健康保險眷屬保險之描述，下列何者錯誤？
(A)眷屬爲被保險人之配偶且無職業者
(B)眷屬爲被保險人之直系血親尊親屬且無職業者
(C)眷屬爲被保險人直系血親卑親屬，滿 20 歲仍無職業者
(D)眷屬保險應隨同被保險人辦理投保與退保
- 20 直轄市或縣（市）政府就企業經營者提供之商品，經依法調查後認爲確有損害消費者生命、身體、健康或財產，或確有損害之虞者，依消費者保護法規定，應採取何種措施？
(A)主管機關應命企業經營者限期改善、回收或銷燬
(B)若企業經營者聲明得以其他措施除去該商品對消費者安全與健康之危害者，即不必回收該批商品或停止其服務
(C)主管機關僅得勸導企業經營者，回收該批商品或停止其服務
(D)雖尚未對消費者發生重大損害或有發生重大損害之虞，主管機關仍應在傳播媒體公告企業經營者之名稱、地址、商品、服務
- 21 犯罪人如爲累犯，依據刑法第 47 條規定，應如何科刑？
(A)加重本刑至二分之一 (B)加重本刑至三分之一 (C)加重本刑至四分之一 (D)不得加重其刑
- 22 下列何者並非法官依據刑法第 57 條規定於科刑時應審酌之情狀？
(A)犯罪行爲人之生活狀況 (B)犯罪行爲人之品行
(C)犯罪行爲人與被害人之關係 (D)犯罪行爲人之性別
- 23 下列那一種物品得單獨宣告沒收？
(A)違禁物 (B)供犯罪所用之物 (C)因犯罪所生之物 (D)因犯罪所得之物
- 24 下列何種法律行爲需要同時具備書面、證人與登記之要件，方能發生效力？
(A)訂婚 (B)結婚 (C)收養 (D)夫妻財產制的訂立
- 25 下列何者可以請求不當得利返還？
(A)誤以爲他人小孩是自己小孩而扶養
(B)誤以爲每月應扶養父母 5 萬元，但實則依法律規定，只須給付 2 萬元
(C)因賭債而給付金錢
(D)因意思表示錯誤，而撤銷對母親生日禮物的贈與
- 26 依司法院解釋，下列何者違反比例原則？
(A)「違反道路管理事件統一裁罰基準及處理細則」規定，違規停車以「每逾 2 小時」爲連續舉發之標準
(B)電信法規定未經核准擅自使用無線電頻率者，處拘役或科或併科新臺幣 20 萬元以下罰金，電信器材沒收之
(C)修正前身心障礙者權益保障法規定非視覺障礙者不得從事按摩業
(D)菸害防制法規定菸品所含之尼古丁及焦油含量，應以中文標示於菸品容器上
- 27 憲法增修條文規定，總統爲避免國家或人民遭受緊急危難，得發布緊急命令。試問總統曾於下列何時發布緊急命令？
(A)我國退出聯合國 (B)莫拉克颱風八八水災 (C)九二一大地震 (D) SARS 發生時
- 28 法律對其施行前所發生之具體案件，原則上不得適用，稱爲：
(A)法律不溯及既往原則 (B)從新從輕原則
(C)特別法優於普通法原則 (D)後法優於前法原則
- 29 民國 99 年 5 月 12 日總統公布都市更新條例部分修正條文，並自公布時施行，則修正之條文於何時開始發生效力？
(A)民國 99 年 5 月 12 日 (B)民國 99 年 5 月 13 日 (C)民國 99 年 5 月 14 日 (D)民國 99 年 5 月 15 日
- 30 法官於審理案件時，對於應適用的法律，確信有牴觸憲法之疑義，得採取何種方式？
(A)逕行拒絕適用該法律，並且宣告該法律違憲 (B)逕行拒絕適用該法律，但不得宣告該法律違憲
(C)裁定停止訴訟程序，並聲請大法官解釋 (D)逕行拒絕該法律，但可聲請大法官解釋

- 31 The city government declared its commitment to clean up all the school walls covered with racist _____.
(A) foci (B) graffiti (C) stimuli (D) syllabi
- 32 A _____ truck on the highway caused many other vehicles stuck in traffic for more than an hour during the morning rush hour.
(A) hunted (B) launched (C) stalled (D) treaded
- 33 For many people who want to learn to swim, the first _____ they have to overcome is to put their face into the water.
(A) defeat (B) diving (C) hint (D) hurdle
- 34 Heat waves are the most fatal type of weather phenomenon. The average annual number of deaths attributed to _____ heat is about 400 in the country.
(A) comprehensive (B) excessive (C) indispensable (D) miserable
- 35 People who were chronic binge drinkers often made decisions that would put them at high risk of losing money.
(A) People who drank too much continually risked their money in the stock market in the end.
(B) Habitual heavy drinkers tended to make risky decisions leading to losing money.
(C) People who were alcoholic often made decisions that prevented them from taking risks.
(D) Those who indulged in material comforts were at great risk of losing too much money.
- 36 It seems that few American exports have proved as popular as credit cards.
(A) Credit cards seem to have been among the most popular exports from the United States.
(B) The United States seems to have exported more credit cards than any other countries have.
(C) When it comes to American exports, credit cards seem to have been the least popular ones.
(D) American credit cards seem to have more overseas users than local users in the United States.

請依下文回答第 37 題至第 40 題

People evolve a language in order to describe and thus control their circumstances, or in order not to be submerged by a reality that they cannot articulate. A Frenchman living in Paris speaks a subtly and crucially different language from that of the man living in Marseilles; 37 sounds very much like a man living in Quebec; and they would all have great difficulty in apprehending what the man from Guadeloupe, or Martinique, is saying, 38 the man from Senegal—although the “common” language of all these areas is French. But each has paid, and is paying, a different price for this “common” language, in which, as it turns out, they are not saying, and cannot be saying, the same things: they each have very different realities to articulate or control.

What joins all languages and all men is the necessity to confront life, in order, not inconceivably, to outwit death: the price for this is the acceptance and achievement of one’s temporal identity. So that, for example, though it is not taught in the schools, the south of France still clings to its ancient and musical Provençal, which resists being described as a “dialect.” And much of the 39 in the Basque countries, and in Wales, is due to the Basque and Welsh determination not to allow their languages to be destroyed. This determination also 40 the flames in Ireland for among the many indignities the Irish have been forced to undergo at English hands is the English contempt for their language.

- 37 (A) each (B) either (C) one (D) neither
38 (A) in terms of (B) to say nothing of (C) in accordance with (D) together with
39 (A) adhesion (B) cooperation (C) suspension (D) tension
40 (A) feeds (B) fights (C) lowers (D) quenches

請依下文回答第 41 題至第 45 題

The story of Orlando’s stunning transformation from swamp and sinkhole to a metropolis began, inevitably, with Walt Disney and Mickey Mouse. Disney first flew over central Florida in an airplane on the fateful day of November 22, 1963. The Kennedy assassination would mark America forever. So would the decision Walt Disney made that day to turn an inland Florida agricultural center into an epicenter of world tourism.

Disney chose Orlando first because it was at the confluence of two of the most important thoroughfares, what today are Interstate 4 and Florida’s Turnpike. Moreover, since Walt Disney’s original theme park—Disneyland, in southern California—covered fewer than 300 acres and was soon ringed with the suburban blight that its success inevitably attracted—motels, strip malls, and copycat amusement parks, Disney hoped to rectify in Florida his mistake of not making Disneyland big enough. He set out to create a new, bigger, better Magic Kingdom. Here, arriving visitors would not be permitted to choose their own parking spaces; smiling Disney characters would do that for them. Besides, water in this Magic Kingdom could not be the tannic brown common in central Florida. So Bay Lake was drained, the sludge removed, and clear water pumped into the resulting lagoon. Even dry land would be turned into another Disney illusion: As you traverse the theme park, you are actually walking on the roof of an immense, underground control building from which the operation is run, staffed, and supplied.

- 41 Why is November 22, 1963 important in the history of Orlando?
 (A) President Kennedy was assassinated on that day.
 (B) The location for Disney World was chosen on that day.
 (C) Mickey Mouse flew over Orlando in an airplane on that day.
 (D) Disney World was first open to the public in Orlando on that day.
- 42 Where is the first Disney theme park?
 (A) In southern California (B) In central California (C) In northern Florida (D) In inland Florida
- 43 According to the article, why did Walt Disney build a theme park in Orlando?
 (A) Orlando had a tradition of tourism. (B) Orlando was famous for its clear water.
 (C) Orlando was a metropolis in the 1960s. (D) Orlando was a meeting point of highways.
- 44 According to the article, what was the problem with the Disneyland in California?
 (A) Its success made it overcrowded. (B) It provided nothing but a Disney illusion.
 (C) It was too far away from hotels, motels, and malls. (D) It failed to compete with other amusement parks.
- 45 According to the article, which of the following statements is true about the Disney World in Orlando?
 (A) It was built in memory of President Kennedy.
 (B) It is Disney characters that do the parking for visitors.
 (C) It is smaller but better than the Disney theme park in California.
 (D) It invites tourists to visit its underground control building.

請依下文回答第 46 題至第 50 題

Eugene O’Kelly was the chief executive officer (CEO) of KPMG—one of the largest accounting firms in the world. On May 24, 2005, Eugene visited his doctor with a full calendar and a lifetime of plans on his mind. Before this meeting, he was in the prime of his life. However, during the meeting, his doctor told him that he was diagnosed as having brain cancer. All of a sudden, his lifetime of plans dwindled to 100 days, leaving him just enough time to say goodbye. All the plans he had made as CEO were shattered. However, instead of falling into despair and confining himself in denial, Eugene decided to take a more constructive approach to face his “fate,” not spending an ounce of energy lamenting the time that he had lost. Eugene made the most of every moment to discover the world around him—nature, connection with loved ones, and living in the moment—as if he had never seen it before. He searched for ways to live a more vivid and meaningful life and to savor or enjoy what was within his reach without aspiring for the impossible. He even completed an inspirational memoir (*Chasing Daylight*) in three-and-a-half months, reminding people to embrace the fragile, fleeting moments of our lives. Throughout the memoir, Eugene attempts to send a message to the readers:

The past is your guide.

The present is a gift, so live it to the fullest.

The future is for dreamers. Dream. Dream all you can—without reservation.

- 46 Which of the following may be the best title of this passage?
 (A) Seize the Day (B) A Journey to Success
 (C) An Inconvenient Truth (D) Keys to becoming a Successful Accountant
- 47 What can we infer about Eugene O’Kelly’s lifestyle before he learned about his cancer?
 (A) Busy (B) Relaxed (C) Peaceful (D) Persistent
- 48 According to the passage, which of the following statements is true?
 (A) Eugene was in denial of his suffering.
 (B) Eugene faced his illness with courage.
 (C) Eugene’s memoir described his affection for the next life.
 (D) Eugene’s health condition was not as critical as it seemed.
- 49 What does the underlined word “dwindled” in the passage mean?
 (A) Reduced (B) Doubled (C) Defined (D) Kindled
- 50 Which of the following words best describes Eugene O’Kelly’s attitude towards the remaining days of his life?
 (A) Fearful (B) Enthusiastic (C) Depressed (D) Indifferent