

106年公務人員特種考試外交領事人員及外交行政人員、民航人員、稅務人員及原住民族考試試題

考試別：稅務人員特考

等別：三等考試

類科組：各科別

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 依司法院解釋意旨，下列何項職業資格無須通過國家考試取得資格？
(A)記帳士 (B)地政士 (C)教師 (D)醫師
- 2 依司法院解釋，法官於審理案件時，對於應適用之法律，依其合理之確信，認為有牴觸憲法之疑義者，各級法院得裁定停止訴訟程序，聲請大法官解釋。此處所謂「法官於審理案件時」，係指法官審理下列何種訴訟案件？
(A)限於刑事案件
(B)限於刑事案件、民事事件與非訟事件
(C)限於刑事案件、民事事件與行政訴訟事件
(D)包括刑事案件、民事事件、行政訴訟事件與非訟事件
- 3 依司法院釋字第 461 號解釋之意旨，下列何者受立法院邀請，應列席委員會備詢？
(A)考試委員 (B)公平交易委員會委員 (C)參謀總長 (D)檢察官
- 4 有關立法院之決議，下列何者應以記名投票方式為之？
(A)對緊急命令之表決 (B)對人事同意權之行使
(C)對行政院所提之覆議案 (D)總統彈劾案
- 5 行政院對立法院決議之下列何種議案，不得提出覆議？
(A)法律案 (B)條約案 (C)預算案 (D)決算案
- 6 依司法院解釋意旨，有關人民依法律納稅之義務，下列敘述何者錯誤？
(A)國家課人民以繳納稅捐之義務時，應就租稅主體、租稅客體、稅基、稅率等租稅構成要件，以法律定之
(B)國家給予人民減免稅捐之優惠時，因屬對人民有利之行為，並不適用法律保留原則
(C)主管機關對人民裁處漏稅罰時，應符合行政罰法受處罰者須有故意、過失之規定
(D)主管機關本於法定職權就相關規定為闡釋，不得違背各該法律之立法目的、租稅之經濟意義及實質課稅之公平原則
- 7 有關總統與行政院關係之敘述，下列何者錯誤？
(A)總統得經由其任命之行政院院長，依循憲法及法律規定之程序，變更先前存在，與其政見未洽之施政方針或政策
(B)依據憲法增修條文之規定，行政院院長雖由總統逕行任命，但行政院對立法院負責之精神，並無本質上之改變
(C)所有國家之行政事務，除憲法別有規定外，均應納入以行政院為金字塔頂端之層級式行政體制掌理，方符合憲法第 53 條：「行政院為國家最高行政機關」規定之意旨
(D)依據憲法增修條文與司法院解釋之意旨，任命立法院多數黨接受之行政院院長人選，是總統之憲法義務
- 8 公職人員之罷免，得由原選舉區選舉人向選舉委員會提出罷免案，但下列何者不適用？
(A)鄉鎮公所代表選舉當選人 (B)全國不分區立法委員選舉當選人
(C)平地原住民區立法委員選舉當選人 (D)直轄市議員選舉當選人
- 9 依國家賠償法明文規定，除了國家賠償法本身之外，國家賠償訴訟應適用下列何種法律？
(A)行政程序法 (B)行政訴訟法 (C)民事訴訟法 (D)刑事訴訟法
- 10 關於婦女保障名額之規定，下列何者正確？
(A)我國各種選舉之婦女當選名額皆明定於憲法增修條文
(B)我國各選舉區選出之直轄市議員名額達 4 人者，應有婦女當選名額 1 人；超過 4 人者，每增加 4 人增 1 人
(C)全國不分區立法委員之婦女當選名額，採取與區域立法委員相同之當選名額比例規定
(D)政黨於提出全國不分區立法委員提名名單時，婦女候選人不得少於三分之一
- 11 有關集會結社自由之敘述，下列何者錯誤？
(A)集會自由之保障，包括參加及不參加集會的自由
(B)集會自由也是一種表現自由
(C)結社之團體名稱，亦屬結社自由之保障範圍
(D)依司法院解釋，對集會遊行採事前許可制，一律違憲

- 12 依律師法規定，律師應加入律師公會始得執業。此項規定限制了下列那一種基本權？
(A)職業自由 (B)宗教自由 (C)人格權 (D)集會自由
- 13 憲法第 8 條第 1 項後段規定「非由法院依法定程序，不得審問處罰」，此處所稱之「法院」，係指下列何者？
(A)包括法官及檢察官 (B)包括檢察官及公務員懲戒委員會委員
(C)有審判權之法官所構成之獨任或合議之法院 (D)包括司法院大法官
- 14 下列何者屬於現行修憲程序？
(A)行政院提出憲法修正案送立法院決議 (B)國民大會複決立法院所通過之憲法修正案
(C)司法院大法官審議立法院所通過之憲法修正案 (D)公民投票複決立法院所提憲法修正案
- 15 依地方制度法之規定，除山地原住民區外，有關「直轄市」之「區」，下列敘述何者正確？
(A)區為直轄市政府之內部單位 (B)區為直轄市下之地方自治團體
(C)區長任期為 6 年 (D)區為直轄市政府之派出機關
- 16 依性別工作平等法規定，下列那一個公司應訂定性騷擾防治措施、申訴及獎懲辦法？
(A)員工 5 人之網路購物公司 (B)員工 10 人之鐵板燒餐廳
(C)員工 20 人之律師事務所 (D)員工 35 人之電腦公司
- 17 下列關於勞動基準法適用之敘述，何者錯誤？
(A)目前我國全國的勞工並非均已具有勞動基準法之適用
(B)中央勞工行政主管機關有權限將原本適用勞動基準法之勞工，指定為排除適用，或將原本不適用者，指定為適用勞動基準法
(C)外籍勞工從事製造業工作者亦有勞動基準法之適用
(D)公司法上經理人雖與公司間為委任契約，但仍有勞動基準法之適用
- 18 某有限公司開業後，事業蒸蒸日上，為擴大業務範圍，擬辦理增資，下列敘述何者正確？
(A)應經全體股東之同意。若股東不按原出資數比例出資，得經全體股東過半數之同意，由新股東參加
(B)應經全體股東之同意。同意增資之股東，即負有按原出資數比例出資之義務
(C)應經股東過半數之同意。股東雖同意增資，但無按原出資數比例出資之義務
(D)應經股東過半數之同意。同意增資之股東，負有按原出資數比例出資之義務
- 19 甲以強暴方式壓制 X 反抗，從 X 身上取得現金五千元後，又喝令 X 交出手上金錶，X 正要將手錶脫下，正巧有巡邏警察經過，甲於是倉皇離去。前述情形，甲應成立何罪？
(A)強盜取財既遂 (B)強盜取財未遂 (C)預備強盜取財 (D)不成立犯罪
- 20 刑法第 121 條第 1 項規定「公務員或仲裁人對於職務上之行為，要求、期約或收受賄賂或其他不正利益者，處七年以下有期徒刑，得併科五千元以下罰金。」該規定不具有下列何種性質？
(A)行為犯 (B)身分犯 (C)親手犯 (D)對向犯
- 21 下列何種情形，係為請求權之行使？
(A)買受人就買受之物有瑕疵，解除契約
(B)出租人就承租人遲付租金，終止契約
(C)在種類物買賣中，買受人就有瑕疵之物，請求另行交付無瑕疵之物
(D)贈與物之權利未移轉前，贈與人撤銷贈與
- 22 下列關於侵權行為損害賠償請求權之敘述，何者正確？
(A)不法侵害他人之自由者，必須情節重大，被害人才能請求非財產上之損害賠償
(B)不法侵害他人基於配偶關係之身分法益者，必須情節重大，被害人才能請求非財產上之損害賠償
(C)加害他人致死者，被害人之兄弟，亦能請求非財產上之損害賠償
(D)因人格權或身分法益之侵害所生之非財產上損害賠償請求權，原則上可以讓與或繼承
- 23 下列何種財產，應列入夫妻剩餘財產差額之分配？
(A)夫或妻因繼承取得之財產 (B)夫或妻因贈與取得之財產
(C)夫或妻婚前財產於婚姻關係存續中所生之孳息 (D)夫或妻之慰撫金
- 24 有關結婚之敘述，下列何者正確？
(A)男未滿 17 歲，女未滿 15 歲者，不得結婚
(B)結婚只須以書面為之，並由雙方當事人向戶政機關為結婚之登記
(C)未成年之男女已達結婚之法定年齡而結婚者，若未得法定代理人之同意，其結婚無效
(D)結婚撤銷之效力，不溯及既往
- 25 我國刑法對於中止未遂減免其刑，下列何者非此一法律效果在學理上之根據？
(A)刑事政策理論 (B)獎賞理論 (C)犯罪支配理論 (D)刑罰目的理論

- 26 下列何者得受著作權之保護？
(A)道路交通之超速照相 (B)高等考試試題
(C)機器操作方式 (D)電子資料庫
- 27 人工生殖法第 1 條規定：「為健全人工生殖之發展，保障不孕夫妻、人工生殖子女與捐贈人之權益，維護國民之倫理及健康，特制定本法。」如欲使人工生殖法適用於不孕同居男女，採取下列何項法律解釋方法最為妥適？
(A)文義解釋 (B)反對解釋 (C)歷史解釋 (D)目的解釋
- 28 關於法律廢止之敘述，下列何者正確？
(A)應經立法院通過，總統公布
(B)由目的事業主管行政機關公布即可
(C)法規明訂有施行期限者，期滿當然廢止，且不需主管機關公告
(D)法律之廢止，自公布日起即失效
- 29 法律定有施行期限，主管機關認為需要延長者，至遲應於期限屆滿多久前送立法院審議？
(A)7 日 (B)15 日 (C)1 個月 (D)2 個月
- 30 下列關於習慣法之敘述，何者錯誤？
(A)習慣法係為法律所未規定
(B)即使違背善良風俗，若多數人遵循，仍可成為習慣法
(C)習慣法須為社會長期慣行之事實
(D)須一般人對於該習慣具有法的確信
- 31 There's no uniform _____ for beauty because beauty is in the eyes of beholders.
(A)standard (B)hostility (C)cuisine (D)parasite
- 32 To be a successful football player, you need great focus and excellent hand-eye _____.
(A)dissipation (B)relaxation (C)coordination (D)renovation
- 33 On the trip to visit his uncle, Joe _____ a weird disease which cannot be cured.
(A)confirmed (B)constructed (C)contaminated (D)contracted
- 34 Chimpanzees have intelligence as they can make _____ tools, like sharpened sticks, for eating, drinking, and hunting.
(A)preceeded (B)primitive (C)plagiarized (D)protective
- 35 A college in China is trying to stop excessive toilet flushing by giving students electronic passes to access the _____ on campus.
(A)arms (B)facilities (C)hostels (D)outskirts
- 36 As the _____ of Mr. Roald Dahl's (1916-1990) birth approaches, the author's estate is developing at least 23 projects based on his works.
(A)anecdote (B)centennial (C)epidemic (D)missionary
- 37 Gymnasts perfect their skills by repeating the same motions again and again until the motions become _____.
(A)automatic (B)compatible (C)decisive (D)eloquent
- 38 The city government will _____ a new policy regarding bus fare starting next month.
(A)imply (B)implement (C)transport (D)trespass
- 39 It was no surprise to us that May decided to become a nurse since she was such a caring person full of _____ for needed people.
(A)compassion (B)precaution (C)reservation (D)temptation
- 40 Philosophers sit and contemplate the nature of existence and mankind's _____ with everything around us.
(A)admission (B)censorship (C)submission (D)relationship
- 41 Teenagers love reading the stories about the _____ of Harry Potter and his friends.
(A)adventures (B)features (C)accusation (D)interruption

請回答第 42 題至第 46 題

Howard Brock, in his column in Sunday's edition, discussed a recent report about consumer lifestyles. The report said more and more people are able to buy more luxury products. 42, this doesn't necessarily make them happy. Mr. Brock believes that society's attitudes toward material goods are wrong. He wrote about the need for us to return to old-fashioned values.

While I agree with much of what Mr. Brock wrote, I was disappointed that he didn't 43 a more important issue. Many of us are enjoying a consumer lifestyle, but we don't think about whether it is 44. We are using up the world's resources at a rapid rate. Unfortunately, many of them cannot be replaced, though. By 45 increasing their own wealth and comfort, humans are living in a dream. When we wake up, we will find many things have changed. There will still be people who cannot afford to buy much. But the gap between rich and poor will be impossible to 46. Also, the earth's resources will have mostly disappeared. In short, people are becoming victims of their own success. The future does not look so promising.

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|----|------------------|----------------|------------------|-----------------|
| 42 | (A) Besides | (B) However | (C) Moreover | (D) Therefore |
| 43 | (A) address | (B) avoid | (C) discard | (D) defer |
| 44 | (A) flexible | (B) pitiable | (C) tangible | (D) sustainable |
| 45 | (A) slowing down | (B) kicking in | (C) caring about | (D) putting off |
| 46 | (A) bridge | (B) convert | (C) recover | (D) transform |

請依下文回答第 47 題至第 50 題

As the modern world has become more complex, our lifestyles have become more challenging, demanding, and exhausting. Food consumption patterns, in pace with these changes, have altered remarkably over the past few decades. For instance, we are dining outside the home more often, skipping more meals, consuming food more on-the-go, eating later in the day, and eating more irregularly. In the past, dietary guidelines used to focus exclusively on 'what' you should eat in terms of food and nutrients. Now the equivalent amount of attention is being placed on 'when' you should eat over the course of a day. Concentrating on both what we eat and when we eat, although beneficial in keeping us healthy and warding off chronic diseases, can be quite overwhelming.

According to studies on the effect of meal patterns on health, eating inconsistently is likely to be associated with a higher risk of metabolic syndrome, such as high blood pressure, type 2 diabetes, and obesity. Eating irregularly may affect our internal body clock which normally follows a 24-hour cycle. For people working shifts, their irregular dietary patterns create a greater risk of getting cancer, cardiovascular disease, and metabolic syndrome.

In the 1960s, nutritionist Adelle Davis promoted the mantra, "Eat breakfast like a king, lunch like a prince and dinner like a pauper." A good meal in the morning can give you fuel and prepare your body for the work to come. According to Harvard School of Public Health researchers, skipping breakfast may make you hungrier and crave larger meals later in the day. Unfortunately, this will lead to a surge in blood sugar, and increase your risk of heart disease, diabetes, and obesity.

Although calories get burned up no matter when you eat them, having a hearty meal at night can cause weight problems. "What you don't burn off is more likely to be stored as fat, as you become less active toward the end of the day," said Tracy Lockwood, a registered dietitian. "Eating too close to bedtime increases your blood sugar and insulin, which causes you to have a hard time falling asleep. Therefore, your last meal should be the lightest of the day and should be eaten at least three hours before you go to sleep."

Having small but frequent meals to regulate appetite and control weight is a concept of fad diets; yet some studies argue consuming more meals is linked to a greater risk of being overweight. It is clear that there is no single golden rule for healthy eating for everyone. Paying attention to when to eat, what to eat, and how many calories to consume will definitely be a good place to start.

- 47 What does "these changes" in the first paragraph refer to?
- | | |
|-----------------------------|-------------------------------|
| (A) Our living styles. | (B) Our sleeping schedules. |
| (C) Our nutrition concepts. | (D) Our consumption patterns. |
- 48 According to the passage, why do people need to manage when and how often you eat during the day?
- | | |
|---|--|
| (A) To set blood sugar level. | (B) To even out the interval of each meal. |
| (C) To avoid feeling hungry in-between meals. | (D) To control weight and ward off chronic diseases. |
- 49 Why do the experts discourage people from having a heavy dinner?
- | |
|---|
| (A) It will directly link to the happening of chronic diseases. |
| (B) It will cause low blood pressure and high cholesterol levels. |
| (C) It will be highly likely for them to gain weights. |
| (D) It will provide too little energy to promote the body's natural repair cycle. |
- 50 Which of the following is closest to "fad diets" in meaning?
- | | | | |
|----------------------|-------------------------|-------------------------|-----------------------|
| (A) Caloric intakes. | (B) Dietary guidelines. | (C) Fashionable eating. | (D) Food consumption. |
|----------------------|-------------------------|-------------------------|-----------------------|