

109年公務人員高等考試三級考試試題

類 科：各類科（除公職護理師、公職食品技師、公職醫事檢驗師、公職藥師外）

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)本測驗試題為單一選擇題，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 關於憲法前言及憲法增修條文前言，下列敘述何者正確？
(A)憲法之前言因憲法增修條文前言而暫時停止適用
(B)兩者之效力與後續各條文之規範效力相同
(C)其所揭示之內容均具本質重要性，乃現行憲法所賴以存立之基礎，即使透過修憲亦不得變更
(D)兩者皆係由國民大會所制定
- 2 關於憲法及憲法增修條文明定應給予特別保障與扶助之對象，不包括下列何者？
(A)藝術工作者 (B)學行俱優無力升學之學生
(C)軍人 (D)政黨
- 3 依司法院釋字第329號解釋，下列有關條約之敘述，何者正確？
(A)我國與其他國家所締結之任何國際書面協定，均應送立法院審議
(B)我國與國際組織所締結之任何國際書面協定，均應送立法院審議
(C)未附有批准條款之國際書面協定，即不須送立法院審議
(D)國際書面協定之內容如與國內法律相同，則不須送立法院審議
- 4 依司法院大法官解釋意旨，下列何者不受憲法表意自由之保障？
(A)於網路上對不特定人散布促使人為性交易的訊息
(B)於網路上刊登化粧品廣告
(C)網友未經主管機關許可，於公共場所緊急舉行集會遊行
(D)對他人可受公評且確信其為真實之事項，所為不利之事實陳述
- 5 依司法院大法官解釋，下列何者受憲法絕對保障，不得限制？
(A)生命權 (B)思想自由 (C)言論自由 (D)財產權
- 6 依司法院釋字第613號解釋及憲法規定，下列敘述何者正確？
(A)行政一體旨在使行政院掌理之事務，最終仍受總統之指揮監督
(B)行政院毋須為獨立行政機關之整體施政表現負責
(C)層級式行政體制之金字塔頂端為行政院
(D)總統府為當前國家最高行政機關
- 7 司法院釋字第690號解釋，係對於傳染病防治法中關於必要處置及強制隔離規定所為之違憲審查。下列何者，並非上述解釋所引用之原則？
(A)比例原則 (B)信賴保護原則 (C)法律明確性原則 (D)正當法律程序原則
- 8 有關憲法第44條賦予總統的權限爭議處理權，下列敘述何者錯誤？
(A)此項職權未經憲法增修條文凍結或另為規定
(B)大法官解釋曾指出，將此職權定位為元首中立權，是否符合民主政治、權力分立等原則，有商榷餘地
(C)如副總統兼任行政院院長，總統在行使本條職權時，將發生協調者與被協調者相同的矛盾
(D)經過憲法第44條之程序所獲得的解決方法對總統與各院院長均無法律拘束力
- 9 司法院釋字第696號解釋，宣告所得稅法關於夫妻非薪資所得強制合併計算之規定，與單獨計算稅額比較，有增加稅負之情形而違憲。其違憲理由，應為下列那一個原則？
(A)信賴保護原則 (B)平等原則 (C)實質課稅原則 (D)法律保留原則
- 10 下列何者不屬於對於職業選擇自由的客觀限制？
(A)原住民族教育師資以具備原住民族身分者為限
(B)以總量管制方式核發計程車牌照，亦即須有人繳回牌照，始得接受新申請案
(C)禁止非視障者從事按摩業
(D)藥師經登記領照執業後，執業處所以一處為限

- 11 依憲法增修條文規定，監察院不再行使下列何種職權？
(A)糾舉權 (B)糾正權 (C)同意權 (D)審計權
- 12 依司法院大法官解釋，下列何者並非憲法第80條所稱之法官？
(A)司法院大法官 (B)行政法院法官
(C)懲戒法院法官 (D)檢察官
- 13 依司法院釋字第553號解釋，有關中央與地方權限爭議及地方自治之監督，下列敘述何者錯誤？
(A)涉及中央與地方權限劃分之爭議，是大法官得以解釋之事項
(B)地方自治團體處理自治事項，中央僅能為適法性監督
(C)地方自治團體辦理委辦事項，中央得為適法性與合目的性監督
(D)地方自治事項如涉及不確定法律概念，上級監督機關即不得撤銷或變更地方自治團體所為合法性之判斷
- 14 下列何者不是司法院之權限？
(A)公務員懲戒 (B)犯罪偵查 (C)統一解釋法律命令 (D)解釋憲法
- 15 依據憲法規定，下列何者並非專屬中央立法並執行，且不得交由地方執行之事項？
(A)電政 (B)司法制度 (C)教育制度 (D)商事法律
- 16 關於立法院通過，總統公布之法規範，下列敘述何者正確？
(A)皆為公法 (B)為形式意義之法律
(C)無須經行政院院長之副署 (D)得以「規則」為其名稱
- 17 下列何者非法規命令之無效事由？
(A)牴觸憲法、法律或上級機關之命令者
(B)無法律之授權而剝奪或限制人民之自由、權利者
(C)其訂定依法應經其他機關核准，而未經核准者
(D)其訂定未經聽證程序者
- 18 下列何者非屬法院適用法律必須遵循之原則？
(A)上下命令服從之原則 (B)不告不理原則 (C)獨立審判原則 (D)一事不再理原則
- 19 依司法院釋字第666號解釋意旨，對於從事性交易之行為人，僅處罰意圖得利之一方，而不處罰支付對價之相對人，係違反下列何者？
(A)平等原則 (B)比例原則 (C)信賴保護原則 (D)公益原則
- 20 下列何者非屬信賴保護原則之要件？
(A)信賴基礎 (B)信賴表現 (C)值得保護之信賴利益 (D)信賴利益應大過於公共利益
- 21 甲為自己利益，擅自以自己名義將乙所有、市值100萬（新臺幣，以下同）之A古玩，以150萬出賣並交付予善意無過失之丙。下列敘述何者正確？
(A)乙得對丙主張所有權人之物上返還請求權 (B)乙得依侵權行為請求權向甲請求150萬
(C)乙得依不當得利返還請求權向甲請求150萬 (D)乙得請求甲因不法管理行為所得之全部利益150萬
- 22 甲之妻乙已過世，留下岳父丙獨居；甲每月匯款一千元予某公益團體評估需受助養的家境清寒兒童丁；甲尚有姑姑戊以及未成年的乾女兒（義女）己；甲每月各匯六千元予丙戊己作為生活費；甲若因車禍死亡後，下述何者不得請求遺產酌給？
(A)丙 (B)丁 (C)戊 (D)己
- 23 依民法之規定，侵害下列何種權益，被害人不得向加害人請求非財產上之損害賠償？
(A)所有權 (B)信用權 (C)姓名權 (D)自由權
- 24 關於動產之敘述，下列何者錯誤？
(A)甲以所有之意思，占有被遺棄之流浪狗，甲取得該狗之所有權
(B)電影院管理員在電影院內拾得遺失物者，對遺失人不得請求報酬
(C)甲在乙所有之土地上挖掘發見龍銀一批，該批龍銀由甲、乙二人共有各一半
(D)加工於他人之動產者，其加工物之所有權，原則上屬於加工人
- 25 擔任公家機關採購業務的公務員甲，將公有地標售底價事前告訴投標人乙，構成下列何種犯罪？
(A)刑法第130條公務員廢弛職務罪 (B)刑法第132條公務員洩漏秘密罪
(C)刑法第120條公務員委棄守地罪 (D)刑法第134條假借職務機會犯罪

- 26 關於我國刑法未遂犯之處罰規定，下列敘述何者正確？
(A)不能未遂應減輕或免除其刑 (B)中止未遂應減輕或免除其刑
(C)所有犯罪都有未遂處罰規定 (D)未遂犯與既遂犯之處罰相同
- 27 關於股份有限公司之資訊，下列何者係任何人得向主管機關申請查閱或抄錄之事項？
(A)公司章程
(B)閉鎖性股份有限公司之股東非現金出資所繳納之股款金額
(C)實收資本額與資本公積
(D)董監事之姓名、住址、持股
- 28 下列何者不屬於衍生著作？
(A)將既存樂曲變換他種演奏形式之樂曲 (B)將小說轉換成劇本
(C)將漫畫拍攝成電影著作 (D)將詩作編排成詩集
- 29 依全民健康保險法第43條之規定，除不經轉診，於地區醫院、區域醫院、醫學中心門診就醫者外，關於保險對象應自行負擔門診費用之比例，下列敘述何者正確？
(A)保險對象應自行負擔門診費用之百分之十 (B)保險對象應自行負擔門診費用之百分之二十
(C)保險對象應自行負擔門診費用之百分之三十 (D)保險對象應自行負擔門診費用之百分之四十
- 30 直轄市、縣（市）主管機關得核發家庭暴力被害人之補助，下列敘述何者錯誤？
(A)緊急生活服務費用，準用於目睹家庭暴力之兒童及少年
(B)非屬全民健康保險給付範圍之醫療費用及身心治療、諮商與輔導費用
(C)子女教育、生活費用、兒童托育費、安置費用與房屋租金費用
(D)家庭暴力被害人年滿18歲者，得申請創業貸款；其申請資格、程序、利息補助金額、名額及期限等，由中央目的事業主管機關定之
- 31 As an accomplished popular science writer, Richard Rhodes brings his _____ to bear and provides an accessible but detailed history of energy use since about 1600.
(A)execution (B)expectancy (C)explosion (D)expertise
- 32 The beer market currently faces its fifth consecutive year of overall volume losses, and the sales of light beers have been consistently _____.
(A)dwindling (B)expanding (C)manipulating (D)speculating
- 33 Lung cancer deaths _____ a quarter of all American cancer deaths, killing more people every year than prostate, breast, and colon cancer combined.
(A)account for (B)emerge as (C)are due to (D)are damaged by
- 34 The U.S. has hiked the tariffs on \$200 billion of Chinese goods from 10% to 25% overnight, _____ the battle between the two economic powers.
(A)colluding (B)debilitating (C)corrupting (D)escalating
- 35 The victim said, "If the police want to keep me in jail, they will _____ a case of keeping a weapon without a license or just anything."
(A)turn up (B)trump up (C)petition for (D)plan on
- 36 This case is said to be the most insulting instance of attempting to abuse the very machinery of justice for an individual's own _____ end.
(A)novel (B)lofty (C)fair (D)evil
- 37 Some academic conference events were attended because of their potential for _____ rather than as an imperative for research.
(A)leisure (B)boycott (C)treasury (D)measure
- 38 To improve the air quality of the city, it is _____ that all residents join hands to cut down air pollution by 20% in the next five years.
(A)adaptable (B)eccentric (C)imperative (D)outrageous
- 39 The long-run Broadway musical *Cats* in New York city has featured many of the most _____ performers to attract millions of viewers each year.
(A)liberated (B)pronounced (C)reconciled (D)speculated
- 40 If Erica invited his ex-wife to the party, Ted would _____ a believable excuse for non-attendance.
(A)accommodate (B)incorporate (C)fabricate (D)replicate

請依下文回答第41題至第45題：

Collaborative online international learning (COIL) is a recently developed form of education that promotes global learning between colleges and universities from different countries around the world. With the aid of modern technology such as the Internet and videoconferencing, students from schools in different countries can 41 their learning with peers of different cultural and language backgrounds. This is also an affordable way of international learning through 42 students can establish friendship with people of similar age and learn together without having to spend much money going abroad in order to do so. As the word, collaborative, indicates, this is a pedagogy that focuses on a student-centered approach of learning with teachers playing merely the role of 43. They need to build up a sounding collaboration by developing 44 learning strategies and activities that can boost students' motivation in learning and their willingness to learn with and through each other. Through modern technology such as videoconferencing, students could discuss topics that are of interest to them and communicate with each other cross-culturally. This is one fruitful way of gaining one's own global literacy and cross-cultural 45. That is the reason why some universities in both the United States and Japan play an active role in encouraging this kind of learning world-wide.

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|----|-----------------|-----------------|---------------|-----------------|
| 41 | (A)apply for | (B)embark on | (C)iron out | (D)down up |
| 42 | (A)whom | (B)what | (C)which | (D)where |
| 43 | (A)controllers | (B)remainders | (C)narrators | (D)facilitators |
| 44 | (A)advantageous | (B)bureaucratic | (C)charitable | (D)defensible |
| 45 | (A)competence | (B)diligence | (C)emergence | (D)indifference |

請依下文回答第46題至第50題：

The origin of cursive script is one which intertwines technology and efficiency. We get the word “cursive” from the Latin *currere*-- 46 “to run.” It distinguishes writing in which the pen lifts from the page between words, 47 between each individual letter. Cursive developed out of typeface and print technologies, but more importantly it came from the need to write well and to write quickly.

But, cursive is fading. There is a debate over whether it has value in the classroom, but that debate extends further than simply a matter of cursive--it's about writing itself. Many curricula are even favoring typing lessons 48 teaching handwriting.

The battle for cursive reaches deeper than questions of whether your letters “connect.” The pen--even more than the text--might say something about us. Our handwriting might indicate our nationalities and educational background, 49 Adrienne Bernhard's “What Your Handwriting Says About You.” Yet, Bernhard's article also indicates that the proliferation of typing--via emails, text messages, etc--might in fact undermine the distinctness of our handwritings. The battle for cursive has always been a battle for the uniqueness of our handwriting and ourselves, verses and the evolution of technology and push towards efficiency.

Not too long ago, cursive--Spencerian script to be specific--“was the de facto standard writing style for business correspondence before the widespread adoption of the typewriter.” With the development of the typewriter, cursive 50 out of business usage into the usage of personal correspondence; technology supplanted cursive's original purpose, but cursive remained an act of self expression.

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|----|-----------------|-----------------|----------------|-----------------|
| 46 | (A)incidentally | (B)accidentally | (C)partially | (D)literally |
| 47 | (A)apart from | (B)less than | (C)rather than | (D)let alone |
| 48 | (A)over | (B)than | (C)for | (D)instead |
| 49 | (A)claims | (B)to claim | (C)claiming | (D)are claiming |
| 50 | (A)rose | (B)fell | (C)decreased | (D)increased |