

104年公務人員升官等考試、104年關務人員升官等考試
104年交通事業公路、港務人員升資考試試題

等 級：佐級晉員級

類科(別)：各類別—公路、港務

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 有關國民經濟，依照憲法及憲法增修條文之規定，下列敘述何者錯誤？
(A)國家應指導、保護國民對外貿易 (B)公營金融機構之管理，應本企業化經營原則
(C)經濟及科學技術發展，優先於環境及生態保護 (D)公用事業及其他有獨占性之企業，以公營為原則
- 2 下列何者非為實現憲法漲價歸公、平均地權與扶持自耕農之精神而採取之措施？
(A)制定土地徵收條例 (B)實施土地增值稅 (C)制定耕者有其田條例 (D)制定三七五減租條例
- 3 兵役法規定只有男子有服兵役之義務，依憲法規定及司法院大法官解釋意旨，下列敘述何者正確？
(A)憲法明文規定男子有服兵役之義務
(B)服兵役係人民之基本義務，立法者對兵役制度無形成自由
(C)兵役法之規定係基於男女生理及社會角色之差異，並未違憲
(D)兵役法之規定違反男女平等原則
- 4 臺灣地區人民收養其配偶之大陸地區子女，與下列何者基本權之保障無關？
(A)人格發展自由 (B)家業發展自由 (C)婚姻家庭自由 (D)收養子女自由
- 5 依司法院大法官解釋意旨，關於憲法第 14 條之集會自由，下列敘述何者正確？
(A)集會自由並未課予國家提供適當集會場所之義務
(B)集會自由並未課予國家採取有效保護集會安全措施之義務
(C)若法律規定室外緊急性集會遊行須事前向主管機關申請許可，該規定違憲
(D)若法律規定不得舉行集會遊行之禁制區，該規定違憲
- 6 有關地方行政機關訂定之自治規則，下列敘述何者錯誤？
(A)由地方行政機關訂定後，尚需經由地方議會發布
(B)地方自治行政機關就其自治事項，得依法定職權訂定自治規則
(C)自治規則不得涉及地方自治團體居民權利義務之創設、剝奪或限制
(D)自治規則僅得就執行所需之細節性、技術性事項予以規定
- 7 下列何種權利尚未出現在司法院大法官的解釋文之中？
(A)性行為自由權 (B)環境權 (C)婚姻自由 (D)隱私權
- 8 關於創制、複決與公民投票，下列敘述何者錯誤？
(A)三者皆為由人民作成決定之直接民主機制
(B)三者皆為由人民對於公共事務作成決定之機制
(C)創制複決適用於重大政策，公民投票僅限於立法原則
(D)憲法增修條文關於憲法修改，明文規定複決權，但無創制權
- 9 關於參政權之性質，下列敘述何者正確？
(A)得依據憲法規定直接行使，無待於法律制定
(B)參政權係人民得自行決定國家人事，不受外力干預之自由權
(C)參政權因直接參與國家政治生活，具有受益權之性質
(D)公民投票旨在針對公職人選作成決定
- 10 依據憲法規定，總統與行政院之關係為何？
(A)總統發布緊急命令，不須經行政院同意
(B)總統解散立法院，須向行政院院長諮詢
(C)行政院提出覆議案，不須總統核可
(D)立法院通過行政院院長不信任案後，行政院院長得呈請總統解散立法院

- 11 有關總統之罷免，下列敘述何者錯誤？
(A)總統就職未滿一年者，不得提起罷免 (B)罷免案經否決者，一年內不得再為罷免
(C)罷免案須經立法委員提議 (D)罷免案應附具罷免理由書
- 12 關於憲法第 44 條所謂「院際權限爭議調和權」之規定，下列敘述何者正確？
(A)其性質屬於元首之中立權 (B)得處理涉及憲法解釋問題
(C)總統得召集各院院長會商 (D)得處理法律案爭議
- 13 關於組織權之行使，下列敘述何者正確？
(A)國家安全會議之設立屬於行政組織權，但由總統行使
(B)行政院如因財政赤字，得考慮不設副院長一職
(C)立法院得設立委員會，院長對各委員會得行使監督權
(D)地方行政組織權依地方制度法規定行使，與憲法無關
- 14 下列何者屬司法權之審查範圍？
(A)固有疆域範圍之界定 (B)和某國宣告斷交
(C)行政院院長應否辭職 (D)與外國簽訂之條約是否牴觸憲法
- 15 下列何者非屬內閣制之特徵？
(A)行政與立法權由同一政黨掌握 (B)原則上僅能由國會提出法律案
(C)國會議員得兼任內閣閣員 (D)內閣閣揆為最高行政首長
- 16 下列關於勞動基準法工資之相關規定，何者正確？
(A)工資之給付，應以法定通用貨幣為之，勞雇不得約定以實物給付之
(B)工資應全額直接給付勞工，勞雇不得另為約定
(C)雇主對勞工不得因性別而有差別之待遇，工作相同、效率相同者，給付同等之工資
(D)工資之給付每月至少定期發給二次，勞雇不得另為約定
- 17 下列有關於著作人與著作財產權歸屬之敘述，何者錯誤？
(A)如未經約定歸屬，受雇人於職務上完成之著作，以該受雇人為著作人，其著作財產權歸雇用人享有
(B)如未經約定歸屬，出資聘請他人完成之著作，以該受聘人為著作人，其著作財產權歸受聘人享有
(C)公務員於職務上完成之著作，其著作財產權之歸屬原則，與受雇人相同
(D)於著作之原件或其已發行之重製物上，或將著作公開發表時，以通常之方法表示著作人之本名或眾所周知之別名者，視為該著作之著作人
- 18 下列何者不屬於股份有限公司監察人之權限？
(A)列席董事會陳述意見 (B)選任公司簽證會計師
(C)查核董事會所編造之表冊 (D)董事與公司進行交易時，為公司之代表人
- 19 關於刑法第 125 條濫用追訴或處罰職權罪之敘述，下列何者錯誤？
(A)本罪之行為主體包含警察人員 (B)本罪屬瀆職罪之一種
(C)本罪設有加重結果犯之處罰規定 (D)本罪包含意圖取供而施脅迫之行為態樣
- 20 下列何者並非正當防衛行為所必須具備的內涵？
(A)為排除侵害 (B)針對現在的侵害 (C)只能為了保全自己的利益 (D)針對不法的侵害
- 21 有關收養之要件，下列敘述何者正確？
(A)養父母得將其收養之養子女，再出養給他人收養
(B)被收養人為成年人時，其收養無須法院認可
(C)養父母與其所收養之養子女，彼此之間的年齡均應相差 20 歲以上
(D)養子女未滿 7 歲時，訂立收養契約應由其法定代理人代為並代受意思表示
- 22 關於相鄰關係，下列敘述何者正確？
(A)因相鄰關係而生之權利為從物權
(B)因土地之分割，而與公路無適宜之聯絡，致不能為通常使用者，土地所有人因至公路，僅得通行他分割人之所有地，但應支付償金
(C)土地所有人建築具有與房屋價值相當之倉庫，非因故意或重大過失逾越地界者，鄰地所有人如知其越界而不即提出異議，不得請求移去或變更其倉庫
(D)果實自落於相鄰之公用地者，視為屬於該公用地所有人

- 23 下列何種情形，限制行為能力人所為之行為無效？
(A)法定代理人允許限制行為能力人處分之財產，限制行為能力人就該財產為處分
(B)法定代理人允許限制行為能力人獨立營業者，限制行為能力人關於其營業所為之行為
(C)限制行為能力人用詐術使人信其為有行為能力人或已得法定代理人允許所為之行為
(D)限制行為能力人未得法定代理人同意所為之單獨行為
- 24 下列何者並非司法院大法官之職權？
(A)審理立法院所提出之罷免總統案 (B)審理立法院所提出之彈劾總統案
(C)審理政黨解散爭議 (D)統一解釋法令
- 25 下列何者為憲法所規定之總統職權？
(A)審議行政院所提出之宣戰案 (B)向立法院提出媾和案
(C)依法特赦 (D)彈劾公務員
- 26 人民團體法曾規定，人民團體不得主張共產主義及分裂國土。此種規定限制了人民何種憲法權利？
(A)人身自由 (B)選舉權 (C)言論自由 (D)宗教自由
- 27 某一法規命令，於民國 103 年 3 月 1 日發布，其規定「本辦法自發布日起生效」。其應於何日開始適用？
(A)民國 103 年 3 月 1 日 (B)民國 103 年 3 月 3 日 (C)民國 103 年 3 月 10 日 (D)民國 103 年 3 月 2 日
- 28 法律與憲法有無牴觸，若有爭議，最終解釋之機關為下列何者？
(A)總統 (B)最高法院 (C)司法院 (D)監察院
- 29 自治法規，地方行政機關未依規定期限公布或發布者，其效力如何？
(A)地方行政機關未公布或發布前，不生效力
(B)自期限屆滿之日起算至第三日起發生效力，並由地方立法機關或核定機關代為發布
(C)自期限屆滿之日發生效力，並由地方立法機關或核定機關代為發布
(D)自地方立法機關議決之日起發生效力
- 30 下列敘述何者錯誤？
(A)刑法適用罪刑法定主義 (B)行政罰不以故意過失為要件
(C)道義責任並非法律責任 (D)義務違反通常會產生不利法律效果
- 31 The new chemical will _____ all the insects in the house.
(A) exterminate (B) prosecute (C) quench (D) stimulate
- 32 Her odd behavior in the job interview was _____ his comprehension.
(A) against (B) beneath (C) beyond (D) above
- 33 Children are _____ to learn, and their parents and teachers can take advantage of this enthusiasm.
(A) obvious (B) funny (C) eager (D) reliable
- 34 In order to cope with the fast-changing fashion, clothes companies have to _____ design new products to attract their customers.
(A) paradoxically (B) universally (C) occasionally (D) continually
- 35 At the meeting room, the speaker's words were so moving that some audience _____ and wept.
(A) broke down (B) broke in (C) broke ground (D) broke through
- 36 Prisons everywhere are frequently _____, putting a strain on sanitation, ventilation and medical care.
(A) convenient (B) luxurious (C) overcrowded (D) spectacular
- 37 U.S. military leaders in early 2013 formally lifted the _____ on women serving in combat positions.
(A) ban (B) cap (C) dip (D) tan
- 38 The hurdle race was already quite challenging, and _____ lasting a distance of 3,000 meters made it seem sheer torture.
(A) it (B) its (C) it's (D) it'll

請依下文回答第 39 題至第 41 題

While most Taiwanese temples honor deities in more old-fashioned ways, Taipei's Songshan Fongtian Temple has introduced a series of cutting-edge services, enabling worshipers to enjoy a high level of convenience 39 it works to become more eco-friendly. 40 other temples, which use traditional plaques and lanterns, at Songshan Fongtian Temple, a light-emitting diode (LED) spinning text marquee and digital "good-fortune lanterns" greet visitors at the temple's entrance. The 60-year-old temple, 41 to Tien Gong (天公), the god of heaven, has this year revolutionized the worship candle — candles placed inside a transparent container, used when praying for good fortune — with "e-candles," which allow people to instantly locate their worship candles among thousands.

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| 39 (A) that | (B) as long as | (C) as | (D) whereas |
| 40 (A) Like | (B) Unlike | (C) Likewise | (D) Contrary |
| 41 (A) worshipping | (B) honoring | (C) dedicated | (D) deserted |

請依下文回答第 42 題至第 45 題

A polygraph is often called a “lie detector.” It is an instrument used to find out if a person is lying. Polygraph tests are used in courts, in the government, and in some private businesses. 42, polygraph tests are controversial. Many people do not believe they can accurately identify whether a person is lying. They think such tests are not 43. They measure changes in the body associated with stress, but these changes could be caused by other kinds of 44. Some people feel no stress at all when lying. Honest people may feel greatly stressed by the test itself. Because of this, the examiner may wrongly deduce that the subject is lying. The subject might then be 45 unfairly. Even companies that make polygraphs state that the machines cannot detect lies. They say that polygraphs can only identify behavior that should not be trusted.

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|---------------------|----------------|-----------------|-----------------|
| 42 (A) Consequently | (B) However | (C) Instead | (D) Moreover |
| 43 (A) available | (B) enjoyable | (C) preferable | (D) reliable |
| 44 (A) emotions | (B) inventions | (C) protections | (D) solutions |
| 45 (A) rewarded | (B) punished | (C) admired | (D) interrupted |

請依下文回答第 46 題至第 50 題

A man who became depressed, anxious, and phobic about flies after finding a dead insect in his bottled water has lost a claim for over \$300,000 in compensation from the bottling company. The Supreme Court of Canada said Culligan of Canada Ltd. wasn’t legally liable for the psychological damage suffered by Martin Mustapha, a hair stylist from Windsor, Ont..

Mustapha sued after finding a dead fly, and later half of another, in an unopened bottle of water delivered for his home dispenser. He never drank any of the water, but said he became obsessed with thoughts of dead flies, couldn’t sleep, and was constantly on edge—to the point where his business and his life suffered.

Chief Justice Beverley McLachlin didn’t question the fact that Mustapha had suffered real psychological harm. Medical evidence tendered at trial three years ago indicated he was afflicted with a psychiatric illness that was “debilitating and had a significant impact on his life,” said McLachlin. But she also noted that experts had described Mustapha’s reaction as “unusual and extreme” and concluded that Culligan could not have reasonably foreseen the harm he suffered—a key legal test for compensation in such cases.

- 46 What is the passage mainly about?
- (A) A fly found in a bottle.
 (B) A man who suffered from an insect bite.
 (C) A court ruling on a lawsuit concerning a dead fly.
 (D) A bottling company that had problems with cleanliness.
- 47 What does the word “liable” in the first paragraph mean?
- (A) Responsible. (B) Truthful. (C) Profitable. (D) Careful.
- 48 Which of the following statements about Chief Justice Beverley McLachlin is true?
- (A) She questioned Mustapha’s motive in suing the bottling company.
 (B) She believed that Mustapha really suffered psychologically.
 (C) She described Mustapha’s reaction as “unusual and extreme.”
 (D) She tendered Mustapha’s medical evidence at trial three years ago.
- 49 Which of the following statements is true?
- (A) Mustapha didn’t drink the bottled water that had a dead fly.
 (B) Mustapha’s business was successful despite his problems.
 (C) Only one fly survived in the bottle of water produced by Culligan of Canada, Ltd.
 (D) The judge drank some of the water and felt disgusted.
- 50 Why did Mustapha not get the compensation from the bottling company?
- (A) He didn’t sue the company.
 (B) He couldn’t show the court the fly in the bottle.
 (C) His doctor couldn’t provide any medical evidence.
 (D) The company could not foresee the harm done to him.