

107年特種考試地方政府公務人員考試試題

代號：2301
頁次：6-1

等 別：三等考試

類 科：各類科

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)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 國家機關之職權、設立程序及總員額，得以法律為準則性之規定，涉及下列何種憲法原則？
(A)法律優位原則 (B)法律保留原則 (C)比例原則 (D)法明確性原則
- 2 依憲法增修條文第 9 條之規定，省承下列何者之命，監督縣自治事項？
(A)立法院 (B)總統 (C)行政院 (D)監察院
- 3 有關憲法保障言論自由之敘述，下列敘述何者錯誤？
(A)政府不得針對政治性言論之內容，採取寬嚴不同之管制手段
(B)政府得針對政治性言論之表現方式、時間、地點予以管制
(C)宗教性言論與學術性言論之保障程度並無不同
(D)食品成分之標示不受言論自由保障
- 4 依司法院大法官解釋意旨，下列何者屬於對財產權之違憲侵害？
(A)規定未進用一定比例原住民員工之政府採購得標廠商應繳代金
(B)規定業者應於菸品容器上標示尼古丁含量
(C)命應履行負擔之緩起訴處分確定後，依法再處罰鍰
(D)遺屬年金自提出申請且符合條件之當月起，始按月給付
- 5 依司法院大法官解釋，下列何者不涉及憲法第 15 條工作權之保障？
(A)人民團體經主管機關限期整理者，其理事、監事應即停止職權
(B)警察大學招生簡章規定色盲者不得報考
(C)公務員於其離職後 3 年內，不得擔任與其離職前 5 年內之職務直接相關之營利事業董事等職務之規定
(D)以外國學歷應牙醫師考試者，須在主管機關認可之醫療機構完成臨床實作訓練之規定
- 6 依憲法及增修條文規定，下列何者並非行政院院長之職權？
(A)提請總統任命行政院各部會首長 (B)副署總統任命考選部部長之命令
(C)副總統不能視事時，代行副總統職權 (D)呈請總統解散立法院
- 7 依憲法規定，人民因犯罪嫌疑被逮捕拘禁時，逮捕拘禁機關應將逮捕拘禁原因，以書面告知下列何者？
(A)本人及其父母 (B)本人及其配偶
(C)本人及其戶長 (D)本人及其本人指定之親友
- 8 下列關於平等權之敘述，何者錯誤？
(A)行政機關訂定之行政命令，其屬給付性之行政措施具授與人民利益之效果者，亦應受相關憲法原則，尤其是平等原則之拘束
(B)法律規定無政黨推薦之候選人，須繳納較政黨推薦之候選人為高之保證金之規定，乃不合理之差別待遇
(C)由軍事機關受理之案件中，自由、權利受損害之人民不能享有冤獄賠償請求權之規定，乃未具正當理由而為之差別待遇
(D)臺灣地區與大陸地區人民關係條例第 21 條第 1 項前段規定，大陸地區人民經許可進入臺灣地區者，非在臺灣地區設有戶籍滿十年，不得擔任公務人員，乃明顯違反平等原則

- 9 依司法院大法官解釋之意旨，關於集會遊行法規定之合憲性，下列敘述何者錯誤？
(A)集會遊行主張共產主義作為主管機關不予許可之要件，違憲
(B)有危害國家安全之虞作為不予許可集會遊行之要件，合憲
(C)無發起人之偶發性集會遊行仍應事先申請許可之規定，違憲
(D)為兼顧集會自由保障與社會秩序維持而採事前許可之規定，合憲
- 10 依司法院大法官解釋意旨，有關憲法第 19 條租稅法律主義，下列敘述何者錯誤？
(A)最高行政法院決議所表示之法律見解，若增減法律所定租稅義務者，即與憲法第 19 條規定之租稅法律主義不符
(B)租稅法律主義並不禁止主管機關本於法定職權就稅法規定為闡釋，惟其解釋應符合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
(C)稅捐稽徵程序，屬執行法律技術性、細節性事項，主管機關得本於職權逕以行政命令規定之
(D)租稅法律主義之要求，於國家課予人民繳納稅捐之義務，以及給予人民減免稅捐之優惠時，均有適用
- 11 依憲法規定，下列何者非屬公職人員選舉應遵守之原則？
(A)普通原則 (B)平等原則 (C)直接原則 (D)記名原則
- 12 下列何者非總統解職之事由？
(A)罷免案經罷免投票通過 (B)彈劾案經憲法法庭判決成立
(C)因犯內亂或外患罪經第一審判決有罪 (D)任期屆滿
- 13 依憲法增修條文之規定，立法院經解散後，在新選出立法委員就職前，視同下列何種狀態？
(A)會議期間 (B)特別會 (C)休會 (D)散會
- 14 下列何者非憲法或法律規定須超出黨派以外行使職權之人員？
(A)監察委員 (B)考試委員 (C)法官 (D)國防部部長
- 15 依司法院大法官審理案件法，關於政黨違憲解散案件審理之規定，下列敘述何者錯誤？
(A)被宣告解散之政黨，應即停止一切活動，並不得成立目的相同之代替組織，其依政黨比例方式產生之民意代表自判決生效時起喪失其資格
(B)憲法法庭審理政黨違憲解散案件，如認該政黨之行為已足以危害國家安全或社會秩序，而有必要時，於判決前得依聲請機關之請求，以裁定命被聲請政黨停止全部或一部之活動
(C)對於憲法法庭之裁判，得聲明不服，進行救濟進行再審
(D)憲法法庭應本於言詞辯論而為裁判。但駁回聲請而認無行言詞辯論之必要者，不在此限
- 16 得僅公布法律名稱，而無須公布異動條文者，為下列何者？
(A)法律之制定 (B)法律之修正 (C)法律之廢止 (D)法律之恢復適用
- 17 關於習慣法之敘述，下列何者錯誤？
(A)民法第 1 條規定所稱「習慣」，非僅指單純多年慣行之事實，而係指具有法之效力者
(B)習慣法為法源之一種
(C)除法律別有規定外，同一事項法律與習慣法均有規定者，適用習慣法
(D)習慣法不得違背公序良俗
- 18 現行行政程序法中行政處分的概念與相關規定，主要係繼受自下列那一個國家？
(A)日本 (B)德國 (C)英國 (D)法國
- 19 依司法院解釋，關於大學自治之敘述，下列何者錯誤？
(A)大學自治之制度性保障可完全排除法律保留原則之適用
(B)大學特定組織設置，屬大學自治範圍
(C)大學畢業之條件，屬大學自治範圍
(D)大學學生退學要件，屬大學自治範圍
- 20 行政機關對法律之解釋函令具有下列何種效力？
(A)公定力 (B)拘束力 (C)存續力 (D)確定力

- 21 國防部預備軍士官班招生簡章規定，曾受刑之宣告者不得報考。關於該規定，依司法院解釋意旨，下列敘述何者正確？
(A)違反法律保留原則 (B)違反比例原則
(C)違反平等原則 (D)與憲法保障人民服公職權利之意旨尚無違背
- 22 有關法律優越原則，下列敘述何者正確？
(A)又稱為積極的依法行政原則
(B)法律優越原則中所稱之法律，係指實質意義的法律，包含法規命令
(C)法律優越原則係要求一切行政行為須至少有法規命令之明文依據
(D)依憲法第 172 條規定，命令與法律牴觸者無效，即屬關於法律優越原則之規定
- 23 關於意思表示之敘述，在下列何種情形原則上為有效？
(A)單獨虛偽意思表示 (B)通謀虛偽意思表示
(C)無行為能力人所為之意思表示 (D)限制行為能力人之單獨行為
- 24 甲擅自將乙託其保管之 A 字畫出賣給丙，其後乙取回 A 畫，致甲無法交付 A 畫予丙。下列敘述，何者正確？
(A)不可歸責於甲事由所致之嗣後給付不能，甲免負損害賠償責任
(B)可歸責於甲事由所致之自始主觀給付不能，甲負損害賠償責任
(C)可歸責於甲事由所致之遲延給付，甲負損害賠償責任
(D)不可歸責於甲事由所致之自始客觀給付不能，甲免負損害賠償責任
- 25 關於刑法第 23 條的正當防衛，下列敘述何者錯誤？
(A)須存在現在不法之侵害 (B)須基於防衛自己或他人之權利
(C)成立之效果為不罰 (D)防衛行為可不拘手段
- 26 被告犯通姦罪被起訴，如果立法院修法將通姦罪改為不處罰，有關被告不予論罪的理由，下列何者正確？
(A)維護訴訟經濟原則 (B)對被告的信賴保護
(C)適用有利被告法律 (D)通姦罪本身為惡法
- 27 依消費者保護法之規定，關於分期付款買賣契約，下列敘述何者錯誤？
(A)得以書面為之 (B)契約應載明頭期款
(C)契約應載明各期價款 (D)契約應載明利率
- 28 下列關於著作權法上專有名詞之定義，何者正確？
(A)公開上映：指向公眾展示著作內容
(B)公開展示：指權利人散布能滿足公眾合理需要之重製物
(C)公開發表：指權利人以發行、播送、上映、口述、演出、展示或其他方式向公眾公開提示著作內容
(D)公開演出：指以言詞或其他方式向公眾傳達著作內容
- 29 依全民健康保險法第 2 條之規定，扣費義務人係指下列何者？
(A)受僱用獲得薪資之人 (B)參與全民健康保險之被保險人及其眷屬
(C)雇主或自營業主 (D)所得稅法所定之扣繳義務人
- 30 小美與小明皆為高三 17 歲學生，兩人各自住在家中，但隱瞞家人交往 1 年，最近小明因為功課壓力經常會對小美大聲叫囂，甚至限制小美回家的自由，並要求小美交出手機密碼等。針對小美所受傷害，關於家庭暴力法之適用，下列何者錯誤？
(A)小美已經滿 16 歲，縱使沒有同居的事實，但基於有情感的親密互動行為，可以依家庭暴力防治法聲請保護令
(B)小美為未滿 20 歲的未成年人，其法定代理人、三親等以內之血親或姻親，得為其向法院聲請保護令
(C)小美除了可以依法聲請保護令外，還可以向戶籍所在之縣市政府申請訴訟費用及律師費用補助
(D)小美得依法聲請家庭暴力防治法之通常及暫時保護令

第 31 題至第 35 題為題組：

Life in a big city has some advantages. In a big city, there is every kind of facility for education. Any kind of education, liberal or vocational or technical is 31 the reach of the persons living in big cities. An ordinary man living in a big city can afford for his children that education which a rich man in a village cannot afford easily. Good and well equipped educational institutions are the permanent assets of big cities. A boy or girl living in a big city has a better general knowledge than a village boy or girl has and 32 well-informed about the affairs of the world. Thus a child born and bred in the city is more enlightened than a child born and brought up in rural atmosphere.

Life in a big city is free from 33 and diseases because ample medical facilities are available there. Hospitals, well equipped with latest medical instruments, are the source of medical relief to every reason living in a big city. 34 the government hospitals, we find well qualified and highly competent private medical practitioners in big cities. Such facilities are not available in a village.

Life in a big city is not dull and drab because there are 35 means of recreation there. The picture halls, theaters, the beautifully illuminated markets, the well-furnished and well-maintained hotels and restaurants, the charming parks and gardens and the good-looking and heart-captivating towns of new styled buildings give immense pleasure to everybody living in a big city.

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|----|---------------|---------------|---------------------|-------------------|
| 31 | (A)for | (B)with | (C)without | (D)within |
| 32 | (A)being | (B)be | (C)are | (D)is |
| 33 | (A)alignments | (B)amendments | (C)ailments | (D)alternatives |
| 34 | (A)In case of | (B)Except for | (C)In opposition to | (D)In addition to |
| 35 | (A)limited | (B)countless | (C)aggressive | (D)priceless |

第 36 題至第 40 題為題組：

The French president, Emmanuel Macron, is facing a people's revolt against plans to give his wife an official "first lady" role.

More than 150,000 people have signed a 36 against the move that would give Brigitte Macron an office, staff and an allowance from the 37 purse.

The rebellion comes 38 Macron's popularity continues to plummet. Polls last month showed he had dropped seven percentage points with only 36% of French people 39 they were happy with their new leader. At the same period in their mandate Macron's predecessors François Hollande and Nicolas Sarkozy were at 56% at 66% 40.

During his presidential campaign, Macron promised to "clarify" the role of the French president's wife by giving them an official status, describing the current situation as a "kind of French hypocrisy".

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|----|-------------|---------------|-----------------|-----------------|
| 36 | (A)contract | (B)document | (C)petition | (D)treaty |
| 37 | (A)domestic | (B)foreign | (C)private | (D)public |
| 38 | (A)as | (B)like | (C)to | (D)in |
| 39 | (A)said | (B)say | (C)saying | (D)to say |
| 40 | (A)totally | (B)personally | (C)individually | (D)respectively |

請依下文回答第 41 題至第 45 題：

In a city where eating well is an obsession, a statement by a senior official published in a national newspaper caused a public outcry. Vallop Suwandee, who chairs an advisory board to the governor of Bangkok, was quoted as saying that street vendors would be removed from all 50 districts of the city. It seemed that one of the most popular and distinctive aspects of Bangkok life was to be wiped out, days after CNN had voted Bangkok the best place in the world for street food, and just two months before the city government was planning to hold a street-food festival.

Mr. Vallop now says he was misquoted: “Let me be clear, on behalf of the city of Bangkok. Street food will continue to be part of Bangkok life, on the condition that there will not be obstructions for pedestrians, and that the vendors observe sanitary rules in the interest of public health. We will allow them to be in certain areas, under strict conditions.”

This is not the first time the Bangkok Metropolitan Authority (BMA), which is responsible for running the city, has tried to impose order and standards on the hundreds of thousands of food vendors operating on the streets. Right after the BMA was first established in 1972, it launched a similar campaign to force the vendors to operate in designated markets instead.

Variations of that campaign were revived every few years but implementation has always been weak because the BMA recognised the vital role street vending played in providing a source of income in difficult economic times. Most of the time it has quietly chosen not to push too hard.

This time may be different. The number of officially approved locations for street food vendors has been cut dramatically, from a peak of 726 four years ago to 243 by the end of last year. Tens of thousands of vendors have been forced to move already, leaving many downtown areas like Siam Square, Asok and Silom with few or no street-food stalls now visible during the day and night.

The most recent area to be cleared is the increasingly wealthy neighbourhood of Thonglor. A small side street, or soi, which for many years had been famous for its street food, is no more, although city officials say the vendors were offered alternative locations in smaller sois further away.

- 41 What is the main idea of the passage?
- (A) To criticize BMA's decision to remove street vendors.
(B) To support BMA's efforts to remove street vendors.
(C) To inform the reader about the removal of street vendors.
(D) To support street vendors in their fight against removal.
- 42 How does the public react to the gradual removal of street food vendors?
- (A) They are profoundly shocked. (B) They are genuinely pleased.
(C) They utterly agreed. (D) They strongly opposed.
- 43 Why didn't BMA carry out their plans to remove street vendors much earlier?
- (A) Because they didn't have enough governmental and public support.
(B) Because they didn't have appropriate means of implementing.
(C) Because they acknowledged the vendors' contributions to the country's economy.
(D) Because they didn't propose acceptable and effective strategies for implementation.
- 44 According to Mr. Vallop Suwande, which of the following is true?
- (A) Street food will cease to be a part of Bangkok life.
(B) Street food will remain a part of Bangkok life, but with certain constraints.
(C) Street food will remain a part of Bangkok life without any alterations.
(D) Street food will never cease to be a part of Bangkok life unless the vendors themselves decide to do so.
- 45 According to the passage, what is the profile of Bangkok?
- (A) A city where eating is an inextricable part of everyday life.
(B) A city in which street food stalls keep thriving and flourishing.
(C) A city which is famous for its night life and small sois.
(D) A city where numbers of street vendors increase considerably.

請依下文回答第 46 題至第 50 題：

Music activates many regions of the brain, including auditory, motor and limbic (associated with emotions). Such widespread activation of brain explains many beneficial emotional and cognitive music effects. The idea that music makes you smarter received considerable attention from scientists and the media. Listening to music or playing an instrument can actually make you learn better. And research confirms this by showing that music has the power to enhance some kinds of higher brain function: literacy skill, spatial-temporal reasoning, mathematical abilities (even children with attention deficit/hyperactivity disorder could benefit in mathematics tests from listening to music beforehand), emotional intelligence, and recall of autobiographical and episodic information.

The power of music to affect memory is quite intriguing. Earlier it has been thought that listening to classical music, particularly Mozart, enhances performance on cognitive tests. However, there are findings that show that listening to any personally enjoyable music has positive effects on cognition. Listening to music also facilitates the recall of information. Researchers have shown that certain types of music are great keys for recalling memories. Information learned while listening to a particular song can often be recalled simply by “playing” the songs mentally. Musical training has even better effect than just listening to classical music. Activities, such as playing an instrument or singing, involve both sides of the brain at the same time. The information being studied activates the left brain while the music activates the right brain. The simultaneous left and right brain action causes the brain to be more capable of processing information, hence maximizing learning and retention of information. There is clear evidence that children who take music lessons develop a better memory compared with children who have no musical training.

Moreover, music that is easy to listen to or relaxing classics improves the duration and intensity of concentration in all age groups and ability levels. It's not clear what type of music is better, or what kind of musical structure produces the best results, but many studies have shown significant effects.

- 46 What is this passage mainly about?
(A) Effects of music on our health. (B) Effects of music on our brain.
(C) Effects of music on our emotion. (D) Effects of music on our memory.
- 47 According to the passage, which of the following statements about the benefits of music can NOT be inferred?
(A) Music can cure one's attention deficit or the hyperactivity disorder.
(B) Music can enhance one's awareness of his/her own and other's emotions.
(C) Music can improve one's ability to process and retain numerical information.
(D) Music can enhance one's command of language use, like reading and writing.
- 48 What can be inferred about the passage if one wants to maximize the cognitive benefits of music?
(A) Learning to play the piano may bring out larger benefits.
(B) Listening to Mozart's music only may exert the greatest effects.
(C) Learning to process music with the left brain only may exert greater effects.
(D) Listening to background music of a movie may be the most effective method.
- 49 According to the passage, why is it possible for children to develop a better memory after receiving musical training?
(A) Because musical training may make brain activities less intense.
(B) Because musical training may help to release more memory space.
(C) Because musical training makes certain brain areas more specialized in recall.
(D) Because musical training results in more concurrent activation of the left and right brain.
- 50 Which of the following is closest in meaning to the word “intriguing”?
(A) engaging (B) dispiriting (C) disturbing (D) soothing