

105年公務人員高等考試三級考試試題

類 科：各類科（除公職土木工程技師、公職醫事檢驗師、公職護理師、公職食品技師外）
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 憲法有關縣自治之規定，下列敘述何者錯誤？
(A)縣之立法權由縣議會行之 (B)縣長辦理縣自治
(C)縣長執行中央及省委任事項 (D)縣設縣政府，置縣長一人，由縣民選舉之
- 2 公務員之懲戒，屬下列何種國家公權力之範圍？
(A)行政權 (B)監察權 (C)司法權 (D)考試權
- 3 人民因為犯罪嫌疑被逮捕拘禁時，憲法規定至遲應於多少時間內移送該管法院審問？
(A)72 小時 (B)48 小時 (C)36 小時 (D)24 小時
- 4 依憲法增修條文第 10 條之規定，國家對於下列何者之政治參與應予保障？
(A)新住民 (B)身心障礙者 (C)外籍勞工 (D)僑居國外國民
- 5 下列何者為公務人員保障法所稱之公務人員？
(A)擔任公營事業勞工 (B)擔任地方政府機關之科長
(C)擔任直轄市議會議員 (D)擔任政務人員
- 6 司法院大法官解釋之下述內涵：「衡諸人民可能受罰之次數與累計負擔之金額，相較於維護與確保之公益」，「採取劃一之處罰方式，於個案之處罰顯然過苛時，法律未設適當之調整機制」，體現出下列何種憲法原則？
(A)明確原則 (B)制衡原則 (C)平等原則 (D)比例原則
- 7 憲法有關教育基本權之規定，其保障主體為何？
(A)父母 (B)學生 (C)國家 (D)教師
- 8 依公民投票法第 9 條之規定，全國性公民投票案提案人之領銜人以幾人為限？
(A)1 人 (B)3 人
(C)5 人 (D)該條條文針對此一領銜人之人數並無設限
- 9 下列何者屬於國家賠償法第 3 條之公有公共設施？
(A)二二八和平紀念公園之雕塑 (B)中國電視公司之攝影棚
(C)中影文化城之古城門及護城河 (D)民間航業公司所經營的淡水渡輪
- 10 下列公職人員，何者非由選舉產生？
(A)省政府主席 (B)直轄市市長 (C)縣長 (D)市長
- 11 依憲法增修條文之規定，下列何者非屬行政院得向立法院提請覆議之議案？
(A)戒嚴案 (B)法律案 (C)預算案 (D)條約案
- 12 有關立法委員兼職之限制，下列敘述何者正確？
(A)得兼任公營事業機關之總經理 (B)不得兼任官吏，但只限於政務官
(C)得兼任其他民意代表 (D)不得兼任公營事業機關之董事
- 13 關於憲法第 80 條法官須超出黨派以外之規定，下列敘述何者正確？
(A)法官於任職期間不得參加政黨，但得參加政黨活動
(B)法官退休後不得參加政黨、政治團體及其活動
(C)法官任職前已參加政黨者，應退出之
(D)法官得參與政黨職務之選舉
- 14 依憲法增修條文之規定，總統、副總統之選舉投票方式為下列何者？
(A)總統、副總統候選人各有一張選票，分別投票 (B)總統、副總統候選人同列在一張選票，分別圈選
(C)總統、副總統候選人同列在一組，分別圈選 (D)總統、副總統候選人同列在一組，圈選一組

- 15 依憲法之規定，下列何者須超出黨派以外，依法獨立行使職權？
(A)立法委員 (B)考試委員 (C)行政院院長 (D)總統府資政
- 16 下列有關鄉（鎮、市）規約之敘述，何者正確？
(A)規約不得規定罰則
(B)規約發布後，應報內政部備查
(C)規約係指鄉（鎮、市）公所訂定之自治規則
(D)規約與上級自治團體自治條例有無牴觸發生疑義時，由內政部解釋之
- 17 各機關受理人民聲請許可案件適用法規時，在處理程序終結前，據以准許之法規有變更者，於下列何種情形，應適用變更前之舊法規？
(A)依其性質應適用行為時之舊法規者
(B)舊法規有利於當事人且新法規已廢除所聲請之事項者
(C)舊法規有利於當事人且新法規已禁止所聲請之事項者
(D)當事人同意適用舊法規者
- 18 行政機關修改法令規定，減少退休公務員公保養老給付得辦理優惠存款金額之規定，主要涉及以下何種法律原則？
(A)平等原則 (B)比例原則 (C)法律明確性原則 (D)信賴保護原則
- 19 公務人員保障法第 1 條規定：「為保障公務人員之權益，特制定本法。本法未規定者，適用其他有關法律之規定。」依本條規定可知，關於公務人員權益之保障，相對於其他公務員法規，其性質為：
(A)特別法 (B)例外法 (C)普通法 (D)原則法
- 20 涉及到規範性要素時（如猥褻文書），行為人除了要認識到實現該要素的自然事實外，還必須要認識到下列何者，才能滿足故意的認知要求？
(A)行為的違法性 (B)行為的道德違反性
(C)相關自然事實的社會意義 (D)客觀可罰性條件
- 21 某稅法之罰則規定，對違反者得科漏稅額 2 倍至 5 倍罰鍰，主管機關科以 7 倍罰鍰，屬於何種類型行政裁量瑕疵？
(A)裁量收縮 (B)裁量濫用 (C)裁量逾越 (D)裁量怠惰
- 22 有關行政程序法第 3 條第 3 項事項適用之除外規定，不包括下列何種情形？
(A)刑事案件犯罪偵查程序 (B)外交行為
(C)核發建造執照之程序 (D)私權爭執之行政裁決程序
- 23 依據中央法規標準法之規定，法規條文書寫體例格式中，冠以一、二、三等數字者為：
(A)條 (B)項 (C)款 (D)目
- 24 甲未經乙之許可，在乙之土地上種植蔬菜，並與丙訂立買賣契約，將該尚未採收之蔬菜賣給丙。下列敘述，何者正確？
(A)因蔬菜為甲所種植，故甲為蔬菜之所有權人 (B)丙與甲訂立買賣契約，故丙取得蔬菜所有權
(C)蔬菜長在乙之土地上，乙為蔬菜之所有權人 (D)丙因與甲訂立買賣契約，故得對乙主張採收之權
- 25 關於承攬之瑕疵擔保，下列敘述何者錯誤？
(A)定作人在承攬工作進行中發現有瑕疵時，不得主張瑕疵擔保請求權，須至工作完成時才能主張
(B)承攬人的瑕疵擔保責任為一種無過失責任
(C)定作人主張瑕疵擔保請求權，應遵守瑕疵發現期間
(D)承攬人之瑕疵擔保責任得以特約減輕或免除，但承攬人故意不告知瑕疵者，該特約無效
- 26 繼承人於繼承開始前，從被繼承人所受贈之下列何種財產，於繼承開始後不必先歸入被繼承人之總財產中，計算各繼承人之法定應繼分？
(A)因結婚所受的贈與 (B)因生日所受的贈與
(C)因分居所受的贈與 (D)因營業所受的贈與

- 27 下列何者並非成立加重結果犯的要件？
(A)行為人是出於故意犯基本犯罪行為 (B)行為人不能預見加重結果的發生
(C)基本犯罪行為與加重結果間須具有因果關聯 (D)法律對於加重結果犯設有明文規定
- 28 關於假釋撤銷之敘述，下列何者錯誤？
(A)假釋中因故意再犯罪，受有期徒刑以上刑之宣告者，撤銷其假釋
(B)假釋撤銷後，其出獄日數算入刑期內
(C)撤銷假釋者，其刑罰尚未執行完畢，自無由成立累犯
(D)在無期徒刑假釋後滿二十年，其未執行之刑，以已執行論
- 29 下列行為，何者侵害著作權？
(A)購買合法電影光碟，用以出租他人
(B)拍攝公園中的雕像，並將照片貼於公開之網頁
(C)於餐廳中以附有擴音器之設備播放廣播節目
(D)為編輯教育部審定之教科書，於合理範圍內，重製該已公開發表之著作
- 30 甲公司無論對於新進員工或一般員工皆有定期進行性別平等相關訓練，亦有完整之申訴處理機制；一日乙與其同事丙一同出差，丙該日突然爆發對於乙之長期不滿，並以性騷擾之言語羞辱乙，且企圖性侵害不成，乙身心受創乃向甲申訴，並請求甲及丙依性別工作平等法，賠償其因此而遭受之精神上損害以及無法工作期間之賠償；惟丙所有資產皆因積欠卡債而遭法院拍賣，無償還能力，乙遂單獨向甲請求，有理否？
(A)無理，丙之行為，並非在事業場所內發生，甲之防治責任，不及於此
(B)無理，甲對於員工已有定期訓練，並建置完善之防治機制，已盡到雇主之責任，而丙之私人行為，不應由甲負責
(C)無理，有關於性侵害之行為，不是性別工作平等法所規範的性騷擾防治之範圍，甲無須擔負任何雇主責任
(D)有理，縱使甲可舉證其已依法採行各種防治性騷擾之措施，且對該事情之發生已盡力防止仍不免發生，但法院仍可因為乙之請求，斟酌甲及乙之經濟狀況，令甲為全部或一部之損害賠償
- 31 Studying Latin is helpful for enlarging one's vocabulary in English, since so many English words _____ from Latin.
(A) bombard (B) derive (C) compile (D) formulate
- 32 To have access to the confidential documents, one needs special _____ from the headquarters.
(A) authorization (B) institution (C) intonation (D) transmission
- 33 _____ is the art of narration and expression through body movement.
(A) Anatomy (B) Pantomime (C) Traitor (D) Valor
- 34 Christine longed for some breathing space in her relationship because she felt _____ by his nearly 24-hour company over the past few weeks.
(A) delighted (B) dedicated (C) suffocated (D) terminated
- 35 The US Supreme Court rules that, barring circumstances like child abduction or a ticking time bomb, the Fourth Amendment of the US Constitution requires police to get a warrant before examining a cell phone after an arrest. This ruling makes our digital privacy no "less worthy of the protection for which the Founders of our nation fought."
(A) Under certain extreme conditions, the Fourth Amendment can be temporarily suspended.
(B) The Fourth Amendment is considered a ticking time bomb by the US Constitution.
(C) The police needs to get the authorities' approval to search any suspect's cell phone.
(D) The founders of the USA also fought for their digital privacy.

請依下文回答第 36 題至第 40 題

It would be quite naive to expect a life without conflict, naive and boring. After all, as we struggle to find solutions, conflict leads to new ways of thinking. Nothing ever 36 in a world without conflicts. We see this in our lives; we see this in science. In fact, in science crises are essential: without them there is no 37. A life lived in harmony 38 a life without conflict. It must be a life where conflict leads to growth. Harmony is not the absence of conflict. It is the state in which conflict leads to positive change. Harmony is dynamic, not static. Innovation and growth challenge the status quo, shaking the very foundations where most base their values. Change only comes when we are ready to embrace it; change needs 39. It is much easier to plant our feet in the traditional, the convenient, in what does not force us to reexamine our views. No one likes to be wrong. This is why great innovation comes with 40, often bloody. The blood that is spilled is not always the one coursing through our veins: it is the blood of conviction, of prejudices, of deep-seated ideas that are abandoned by the inexorable force of reason.

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| 36 | (A) forsakes | (B) chooses | (C) changes | (D) reports |
| 37 | (A) innovation | (B) place | (C) time | (D) relationship |
| 38 | (A) can't be | (B) isn't that | (C) is what | (D) must do |
| 39 | (A) rhetorical questions | (B) open minds | (C) no evaluation | (D) weak links |
| 40 | (A) revolution | (B) information | (C) tradition | (D) conjunction |

請依下文回答第 41 題至第 45 題

E-waste is being produced on a scale never seen before. Computers and other electronic devices 41 obsolete in just a few years, leaving consumers with few alternatives but to catch up by buying newer models. Tens of millions of tons of computers, TVs, VCRs, monitors, cell phones, and other gadgets 42 each year. Unfortunately, in most parts of the world, the bulk of all this e-waste 43 landfills, where it poisons the environment. This is because it contains a variety of toxic 44 such as lead, mercury, and arsenic that leak into the ground. In theory, recycling seems to be a good 45. However, the problem is that a large percentage of e-waste dropped off for recycling in rich countries is sold to the developing world, where its toxin may threaten the health of people living there.

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| 41 | (A) beget | (B) begot | (C) become | (D) became |
| 42 | (A) is discarded | (B) are discarded | (C) is disputed | (D) are disputed |
| 43 | (A) end at | (B) ends up | (C) end up to | (D) ends up in |
| 44 | (A) subtitles | (B) subsidies | (C) substances | (D) subordinates |
| 45 | (A) solution | (B) pollution | (C) salutation | (D) population |

請依下文回答第 46 題至第 50 題

At 16, Maya Angelou became San Francisco's first black female streetcar conductor. Her first book, *I know Why the Caged Bird Sings*, tells us her early life. Its unsparing account of black life in the South during the Depression and of her sexual abuse is not easy reading. But her tough, funny, lyrical voice transforms her story into a hymn of endurance that influenced later memoirists. Her own obituary sums up her life: "Love is that condition which encourages us to build bridges and to trust them and cross them in attempts to reach other human beings."

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| 46 | What can we infer from the passage? | |
| | (A) Growing up in the American South was tough for her. | (B) Because her unique voice was inspiring. |
| | (C) She used to be a bird lover. | (D) Because she wrote her own obituary. |
| 47 | Why was her first book influential? | |
| | (A) Because she sang like a caged bird. | (B) Because her unique voice was inspiring. |
| | (C) Because her style was not easy to follow. | (D) Because she wrote her own obituary. |
| 48 | Who are most likely influenced by her writing style? | |
| | (A) tour guides. | (B) memoir writers. |
| | (C) monument builders. | (D) souvenir sellers. |
| 49 | Which of the following statements is true? | |
| | (A) She published her first book at 16. | (B) She liked to build bridges in her free time. |
| | (C) Her last words were pessimistic. | (D) Her attitude toward life was positive. |
| 50 | Which statement best paraphrases Angelou's definition of "love"? | |
| | (A) Love is irresistible. | (B) Love enables us to connect with others. |
| | (C) Love makes the world sink. | (D) Love is spontaneous. |