

108年特種考試地方政府公務人員考試試題

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 關於人民違反行政法上義務之裁罰，下列何者得由行政機關依職權以命令訂之？
(A)處罰對象 (B)處罰之法律效果 (C)裁罰基準 (D)處罰之構成要件
- 2 依司法院大法官解釋意旨，下列何者不屬於大學自治之保障範疇？
(A)設立翻轉教育實驗辦公室 (B)以學則規定學生退學之條件
(C)於聘任契約訂定專任教師限期升等條款 (D)對工作表現不佳之人事室主任予以記一大過之懲處
- 3 依司法院大法官解釋意旨，下列何種權利係為實現以廣播電視表達意見之自由？
(A)以相同時段澄清廣電媒體錯誤報導內容之權利
(B)以合理費率使用廣電媒體報導時段宣揚政治主張之權利
(C)要求傳播媒體報導特定事件之權利
(D)平等接近使用傳播媒體之權利
- 4 依司法院大法官解釋意旨，下列何者非屬對於人民職業選擇自由之客觀限制？
(A)私人不得設立軍校 (B)非視障者不得從事按摩業
(C)限制同一區域內有線電視系統業者之經營總數 (D)藥師僅得於單一處所執業
- 5 依憲法及憲法增修條文規定，下列何者並非總統之職權？
(A)發布任命考試院院長之命令 (B)向立法院提出法律案
(C)發布解散立法院之命令 (D)核可行政院提出之覆議案
- 6 依憲法及憲法增修條文之規定，有關中央政府體制，下列敘述何者正確？
(A)立法院為國家最高立法機關，總統及行政院均應對之負責
(B)總統直接民選之後，行政院已非國家最高行政機關
(C)總統任命行政院各部會首長，無須立法院同意
(D)行政院就立法院議決之大赦案要提出覆議，應先經總統核可
- 7 憲法增修條文第 4 條第 2 項「各政黨當選名單中，婦女不得低於二分之一」之規定，涉及下列何種基本權利？
(A)選舉權 (B)創制權 (C)複決權 (D)公民投票權
- 8 依司法院釋字第 448 號解釋之見解，我國法院之審判系統係採行：
(A)一級一審制度 (B)二級二審制度 (C)一元訴訟制度 (D)二元訴訟制度
- 9 下列涉及人民工作權之法律規定，依司法院大法官解釋意旨，何者違反比例原則而侵害人民之工作權？
(A)禁止公務員於其離職 3 年內，擔任與其離職前 5 年內之職務直接相關之營利事業董事、監察人、經理、執行業務之股東或顧問
(B)對於新聞採訪者於公共場域中，以跟追方式進行採訪之行為，施加合理限制
(C)對於拒絕接受酒精濃度測試之職業駕駛人，除吊銷其駕駛執照外，並限制其 3 年內不得再考領駕駛執照
(D)對於教師曾因「行為不檢有損師道，經有關機關查證屬實」之原因而被解聘、停聘或不續聘為教師者，終身禁止再任教職
- 10 依司法院釋字第 485 號解釋，促進民生福祉乃憲法基本原則之一，其依據不包括下列何者？
(A)憲法基本國策之規定 (B)憲法前言
(C)憲法增修條文第 10 條之規定 (D)憲法第 15 條生存權保障之規定
- 11 依司法院釋字第 445 號解釋，對於室外的偶發性集會，下列敘述何者正確？
(A)應於 6 日前向主管機關申請
(B)應於 2 日前向主管機關申請
(C)不即刻舉行無法達到目的者，不受申請日期的限制
(D)不問任何原因及目的，均得即刻舉行
- 12 有關立法院對於行政院院長提出不信任案之程序，下列敘述何者錯誤？
(A)不信任案於全院委員會審查前，連署之立法委員得撤回連署
(B)不信任案於全院委員會審查時如不足全體立法委員三分之一以上連署者，該不信任案視為撤回
(C)不信任案之表決，由立法委員以無記名投票表決之
(D)立法院處理不信任案之結果，應咨送總統
- 13 下列何者有統一解釋法律之權？
(A)行政院法規委員會 (B)立法院法制局 (C)司法院大法官 (D)法務部
- 14 憲法法庭囑託檢察官為搜索、扣押，應準用何法？
(A)行政訴訟法 (B)刑事訴訟法 (C)民事訴訟法 (D)行政程序法

- 15 有關考試院之敘述，下列何者正確？
(A)考試院院長為政治任命
(B)考試委員之任期為 5 年
(C)考試院院長由考試委員間相互推選，以票數最高者當選之
(D)考試院不得向立法院提出法律案
- 16 關於委任契約受任人之報酬，下列敘述何者錯誤？
(A)受有報酬之受任人之注意義務，高於未受報酬之受任人之注意義務
(B)原則上民法規定受任人於契約關係終止時，須明確報告顛末後才能請求報酬
(C)受任人於委任事務處理完畢前任意終止契約者，得就已經處理之部分比例請求報酬
(D)當事人未約定報酬，但依交易習慣或委任事務之性質應給予報酬者，受任人得向委任人請求報酬
- 17 下列何者不屬於行政院所屬機關所為一般與抽象之規定？
(A)行政規則 (B)緊急命令 (C)授權命令 (D)職權命令
- 18 關於行政機關受理人民聲請許可案件之適用法規，下列敘述何者錯誤？
(A)依案件性質應適用行為時之法規者，適用該法規
(B)在處理程序終結前，據以准許之法規有變更者，原則上適用新法規，但舊法規有利於當事人者，適用舊法規
(C)在處理程序終結前，據以准許之法規有變更，而廢除或禁止所聲請之事項者，適用新法規
(D)無論處理程序終結前，據以准許之法規有無變更，一律適用舊法規
- 19 關於法律保留原則，下列敘述何者錯誤？
(A)關於人民權利之限制，應以法律定之 (B)關於中央三級以上機關之組織，應以法律定之
(C)國家重要事項，應以法律定之 (D)給付行政措施，應以法律定之
- 20 關於行政機關執行法令時所為法令解釋之敘述，下列何者錯誤？
(A)行政機關解釋之範圍，應僅限於各自職權內所掌管事項有關之法令
(B)下級機關為最直接適用法令之機關，其解釋之效力應優於上級機關之解釋
(C)適用法令如有牴觸憲法之疑義時，於符合法定要件下得聲請司法院大法官解釋
(D)本於行政上下監督之精神，對於下級機關所為之解釋，上級機關亦得變更之
- 21 關於法律不溯及既往原則，下列敘述何者錯誤？
(A)新訂之法規，原則上不得適用於該法規生效前業已終結之事實或法律關係
(B)倘新法規所規範之法律關係，跨越新、舊法規施行時期，而構成要件事實於新法規生效施行後始完全實現者，除法規別有規定外，應適用新法規
(C)將新法規適用於舊法規施行時期內已發生，且於新法規施行後始終結之事實或法律關係，乃新法規之溯及適用，若有減損規範對象既存之有利法律地位或可得預期之利益，為法律不溯及既往原則所禁止
(D)如法律有溯及適用之特別規定，且溯及適用之結果有利於人民者，非法律不溯及既往原則所禁止
- 22 依行政程序法以及司法院大法官解釋，關於信賴保護之敘述，下列何者錯誤？
(A)若當事人之信賴利益大於公益，即不得撤銷對其授益之行政處分
(B)當事人之信賴利益，因公益遭受損失時，基於公益原則，無須給予補償
(C)立法機關為確保人民之信賴利益，得於相關法規中訂定過渡期間條款
(D)因重大過失不知行政處分違法者，不得主張信賴保護
- 23 有關不動產之相鄰關係，下列敘述何者正確？
(A)一方所有權權能擴張，他方所有權權能一併擴張
(B)為調和權利行使而有補償請求權
(C)相鄰關係的本質得獨立於所有權之外，而為任何之處分
(D)相鄰關係的準用擴張及於擔保物權人
- 24 甲因車禍死亡時，留下配偶乙，以及姊妹丙、丁、戊 3 人，丙依法拋棄繼承，丙育有 1 名子女庚。下列有關法定應繼分分配的敘述，何者正確？
(A)乙、丁、戊、庚各四分之一 (B)乙、丁、戊各三分之一
(C)乙二分之一，丁、戊各四分之一 (D)乙二分之一，丁、戊、庚各六分之一
- 25 下列何者不屬於刑法第 10 條第 3 項的公文書？
(A)書記官所製作之審判筆錄 (B)地政士所提出之登記申請書
(C)戶政事務所所發戶籍謄本 (D)檢察官所提出之羈押聲請書
- 26 某市市議員甲因為貪污案遭地方法院宣告 10 年有期徒刑，第二天即逃亡出境。下列敘述何者正確？
(A)行刑權時效自甲所受判決上訴期間屆滿而未上訴時起算
(B)若於上訴期間屆滿前，就公告通緝，則行刑權時效停止計算
(C)若於上訴期間屆滿前，就公告通緝，則追訴權時效繼續進行
(D)若於上訴期間屆滿前，一方提出上訴，則追訴權時效繼續計算
- 27 A 股份有限公司召開股東會，甲股東以電子方式行使表決權，並以委託書委託代理人乙出席股東會時，應以何者所行使之表決權為準？
(A)甲股東以電子方式行使之表決權 (B)代理人乙出席行使之表決權
(C)以甲或乙行使之表決權最先送達 A 公司者為準 (D)甲與乙行使之表決權皆不予計算表決權數

- 28 關於消費訴訟，下列敘述何者正確？
(A)專屬企業經營者營業地管轄
(B)須透過消費者保護團體提起
(C)消費者保護團體為消費者提起團體訴訟時，應委任律師代理訴訟
(D)消費者保護團體為消費者提起團體訴訟時，得向消費者請求報酬
- 29 下列各項權利之行使期間，何者正確？
(A)勞工違反勞動契約或工作規則情節重大者，雇主依勞動基準法之規定終止契約時，應自知悉損害結果之日起，30 日內為之
(B)雇主於訂立勞動契約時為虛偽之意思表示，使勞工誤信而有受損害之虞者，勞工依勞動基準法之規定終止契約者，應於知悉損害結果之日起，30 日內為之
(C)勞工依勞動基準法之規定請領退休金之權利，自退休之次月起，因 5 年間不行使而消滅
(D)勞工因遭遇職業災害而致死亡、失能、傷害或疾病，依勞動基準法第 59 條規定對雇主之受領補償權，自得受領之日起，因 5 年間不行使而消滅
- 30 受僱者於育嬰留職停薪期滿後，申請復職時，下列何者非雇主得拒絕之原因？
(A)歇業、虧損或業務緊縮者
(B)雇主調整內部組織，致受僱者無法回復原工作者
(C)不可抗力暫停工作在 1 個月以上者
(D)業務性質變更，有減少受僱者之必要，又無適當工作可供安置者
- 31 Permanence, grandeur, deliberation, lucidity and calm are _____ virtues of the art of painting which have been emphasized by critics for centuries.
(A)paramount (B)superfluous (C)hedonic (D)theological
- 32 The job provides fantastic benefits, including insurance, meals, vacations, and _____. Thus, a retirement plan is in place.
(A)tension (B)ransom (C)resume (D)pension
- 33 When you make a speech, you don't really need to memorize everything. If you forget something, just _____.
(A)compliment (B)improvise (C)recommend (D)accomplish
- 34 The teacher tells the students that the syllabus is subject to change. What the students get is a _____ one.
(A)permanent (B)tentative (C)verifiable (D)temporal
- 35 These never-before-published photos were captured by one of the first Western photographers _____ into the once-reclusive Japan after it opened to the world in the 1850s.
(A)allowed (B)allow (C)allowing (D)to allow

請依下文回答第 36 題至第 40 題

The Wu family moved to Vancouver, Canada in the early 1990s. As they were living in an English-speaking region of the country and hoped to _____ 36 _____ themselves more quickly to the new environment, they made up their mind by stopping using their native language and speaking only English at home. However, when the Wu children grew up and went back to their home country, China, the children had difficulty communicating with relatives there. At that time, they realized that it was a _____ 37 _____ for them not to make their children become bilingual. Linguistically speaking, the most _____ 38 _____ advantage of being bilingual is that those people will be able to communicate with more people around the world. They are more autonomous and do not need to rely on other people to understand other languages. Apart from this linguistic benefit, bilingual people have got the _____ 39 _____ over other people because they have a higher level of cultural and social awareness of another group of people. Knowing the vocabulary, idiomatic expressions, and even jokes of another language enhances people's understanding of another culture. One more advantage of being bilingual is that people can gain global awareness. Different regions of the world can be more closely connected if mutual understanding between people of different nations can be achieved. _____ 40 _____, lack of the ability to speak a second or third language can only result in miscommunication and even hostility among people. Since bilingualism offers people many assets at their disposal, it is always wise to learn to speak a second or third language.

- 36 (A)acclaim (B)accustom (C)caution (D)conceal
37 (A)merit (B)default (C)flaw (D)intake
38 (A)overt (B)ruthless (C)shrewd (D)unbearable
39 (A)margin (B)edge (C)corner (D)angle
40 (A)Eternally (B)Adversely (C)Bilaterally (D)Conversely

請依下文回答第 41 題至第 45 題

By most standards, Austin Jia holds an enviable position. A rising sophomore at Duke, Mr. Jia attends one of the top universities in the country, setting him up for success.

With his high G.P.A., nearly perfect SAT score and activities — debate team, tennis captain and state orchestra — Mr. Jia believes he should have had a fair shot at Harvard, Princeton, Columbia and the University of Pennsylvania. However, those Ivy League colleges rejected him after he applied in the fall of 2015.

It was particularly disturbing, Mr. Jia said, when classmates with lower scores than his — but who were not Asian-American, like him — were admitted to those Ivy League institutions.

"My gut reaction was that I was super disillusioned by how the whole system was set up," Mr. Jia, said.

Students like Mr. Jia are now the subject of a lawsuit accusing Harvard of discriminating against Asian-Americans in admissions by imposing a penalty for their high achievement and giving preferences to other racial minorities.

- 41 According to the passage, which Ivy League colleges Mr. Jia did not apply for admission?
 (A)Columbia. (B)Harvard. (C)Princeton. (D)Yale.
- 42 How does Mr. Jia feel about the student-recruiting process of these Ivy League colleges?
 (A)A bit disappointed. (B)Greatly satisfied. (C)Somewhat satisfied. (D)Totally disappointed.
- 43 Which of the following does NOT apply to Mr. Jia?
 (A)Scoring nearly perfectly in SAT. (B)A tennis captain.
 (C)A Harvard dropout. (D)A Duke sophomore.
- 44 Which of the following groups of applicants – others being equal – has a better chance of being admitted to Harvard?
 (A)African-American. (B)Vietnamese-American. (C)Korean-American. (D)Japanese-American.
- 45 According to the passage, which of the following statements is NOT true?
 (A)Austin Jia is a victim of his racial background.
 (B)Duke, though not one of the Ivy League colleges, is one of the top universities in the US.
 (C)Austin Jia is rejected owing to his unimpressive academic performance.
 (D)Because of cases like Mr. Jia's, Harvard is being accused of racial discrimination.

請依下文回答第 46 題至第 50 題

Throughout its long history, Earth has warmed and cooled time and again. Climate has changed when the planet received more or less sunlight due to subtle shifts in its orbit, as the atmosphere or surface changed, or when the Sun's energy varied.

Global warming is the unusually rapid increase in Earth's average surface temperature over the past century primarily due to the greenhouse gases released as people burn fossil fuels. The global average surface temperature rose 0.6 to 0.9 degrees Celsius (1.1 to 1.6°F) between 1906 and 2005, and the rate of temperature increase has nearly doubled in the last 50 years. Temperatures are certain to go up further.

Earth's temperature begins with the Sun. Roughly 30 percent of incoming sunlight is reflected back into space by bright surfaces like clouds and ice. Of the remaining 70 percent, most is absorbed by the land and ocean, and the rest is absorbed by the atmosphere. The absorbed solar energy heats our planet. As the rocks, the air, and the seas warm, they radiate "heat" energy (thermal infrared radiation). From the surface, this energy travels into the atmosphere where much of it is absorbed by water vapor and long-lived greenhouse gases such as carbon dioxide and methane. When they absorb the energy radiating from Earth's surface, microscopic water or greenhouse gas molecules turn into tiny heaters—like the bricks in a fireplace, they radiate heat even after the fire goes out. They radiate in all directions. The energy that radiates back toward Earth heats both the lower atmosphere and the surface, enhancing the heating they get from direct sunlight. This absorption and radiation of heat by the atmosphere—the natural greenhouse effect—is beneficial for life on Earth. If there were no greenhouse effect, the Earth's average surface temperature would be a very chilly -18°C (0°F) instead of the comfortable 15°C (59°F) that it is today.

What has scientists concerned now is that over the past 250 years, humans have been artificially raising the concentration of greenhouse gases in the atmosphere at an ever-increasing rate, mostly by burning fossil fuels, but also from cutting down carbon-absorbing forests. Since the Industrial Revolution began in about 1750, carbon dioxide levels have increased nearly 38 percent as of 2009 and methane levels have increased 148 percent. The atmosphere today contains more greenhouse gas molecules, so more of the infrared energy emitted by the surface ends up being absorbed by the atmosphere. Since some of the extra energy from a warmer atmosphere radiates back down to the surface, Earth's surface temperature rises.

- 46 What is the main idea of this article?
 (A)Public reactions toward global warming and the greenhouse effects.
 (B)How human beings cause global warming.
 (C)Global warming and greenhouse effects on earth.
 (D)Solutions of global warming and greenhouse effects.
- 47 What is the main factor causing greenhouse gases?
 (A)Petroleum. (B)Sunlight. (C)Vapor. (D)Carbon dioxide.
- 48 According to the second paragraph, which of the following is true?
 (A)Sunlight is the main cause that increases the Earth's temperature during the past 50 years.
 (B)Gas using could be the main reason for the increase in global surface temperature.
 (C)Clouds and ice cannot help the sunlight to reflect back into spaces.
 (D)The rate of temperature increase has nearly doubled in the past two decades.
- 49 Which of the following has the closest meaning to "emitted"?
 (A)exploited (B)strained (C)discharged (D)garnered
- 50 Which of the following is NOT true about this article?
 (A)Global warming increases Earth's average surface temperature.
 (B)Without greenhouse effect, the Earth's temperature would be much cooler.
 (C)Burning fossil fuels and cutting down carbon-absorbing forests cause increasing greenhouse effect.
 (D)Lands radiate "heat" energy due to natural greenhouse gases such as carbon dioxide.