

104年公務人員特種考試司法人員、法務部調查局調查人員、國家安全局
國家安全情報人員、海岸巡防人員及移民行政人員考試試題

考試別：司法人員、海岸巡防人員、移民行政人員

等別：三等考試

類科組：各類科、各科別、移民行政

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 依司法院釋字第 599 號解釋，有關大法官作成暫時處分要件之敘述，下列何者錯誤？
(A)爭議法令之適用可能對人民基本權利造成不可回復或難以回復之重大損害
(B)對人民基本權利損害之防止事實上具急迫必要性
(C)別無其他手段可資防免
(D)暫時處分於本案解釋後仍得作成
- 2 下列何者不屬於憲法第 8 條所規定之法定程序的適用範圍？
(A)逮捕 (B)拘禁 (C)提審 (D)公務員懲戒
- 3 依地方制度法第 16 條規定，有關直轄市民、縣（市）民、鄉（鎮、市）民之權利，下列何者非屬該權利之一？
(A)對於地方議會之議長，有依法行使同意之權 (B)對於地方公共設施有使用之權
(C)對於地方政府資訊，有依法請求公開之權 (D)對於地方自治事項，有依法行使創制、複決之權
- 4 下列有關直轄市副市長之職務敘述，何者正確？
(A)由市民依法選舉之 (B)職務比照簡任第十三職等
(C)由市議員選舉之 (D)市長卸任，隨同離職
- 5 依憲法增修條文之規定，對何者之政治參與應予保障？
(A)僑居國外國民 (B)身心障礙者 (C)大陸地區人民 (D)在臺之外國人士
- 6 依司法院釋字第 509 號解釋意旨，下列何者非屬憲法保障言論自由之功能？
(A)滿足人民知的權利 (B)監督各種政治活動 (C)溝通意見追求真理 (D)確保人民服公職權利
- 7 依司法院解釋，有關訴訟權之敘述，下列何者錯誤？
(A)國家不只消極的不侵害人民訴訟權，更應積極的建立一套保障權利的訴訟制度
(B)「受送達權」屬於訴訟權所保障之範圍
(C)對於律師懲戒覆審委員會所為之決議，不得向最高行政法院再行提起行政爭訟，不生侵害訴訟權之疑慮
(D)法官於審判案件時，除憲法與法律外，亦受行政釋示之拘束
- 8 如立法者制定法律，規定僅原住民得擔任原住民族教育工作者，則對於此規定所進行違憲審查時，應考慮之主要基準為何？
(A)涉及執行職業自由之限制，為追求一般公益，立法者得予適當之限制
(B)涉及選擇職業之主觀要件，為保障重要公益，立法者得予適當之限制
(C)涉及選擇職業之客觀要件，基於特別重要公益，立法者始得予以限制
(D)涉及執行職業之身分要件，基於保障特定身分之人，立法者均得予限制
- 9 憲法保障之集會結社自由，在人權體系中，屬於自由權當中的何種權利？
(A)內部精神自由 (B)人身自由 (C)集體表現自由 (D)經濟自由
- 10 有關總統、副總統罷免案之敘述，下列何者錯誤？
(A)須經全體立法委員三分之一之提議 (B)全體立法委員三分之二之同意後提出
(C)經中華民國自由地區選舉人總額過半數之投票 (D)選舉人投票之有效票過半數同意罷免為通過
- 11 下列何者具有申請登記為民國 105 年 1 月總統選舉之總統候選人資格？
(A)登記時於陸軍服役且任職於國防部之甲
(B)因歸化而取得中華民國國籍之乙
(C)民國 63 年出生於德國，旋定居於臺南具中華民國國籍之丙
(D)於民國 104 年 12 月返國定居之丁
- 12 依憲法規定，被選舉人得依法罷免。惟公職人員選舉罷免法規定，公職人員就職未滿多少時間，不得罷免？
(A)2 年 3 個月 (B)1 年 6 個月 (C)1 年 (D)2 年

- 13 有關行政院組織與職務運作之規定，下列敘述何者正確？
(A)行政院經行政院會議及立法院之決議，得增設、裁併各部、各委員會
(B)行政院院長因事故不能視事時，由副院長代理其職務
(C)行政院為處理特定事務，得於院內設各種委員會或局處署，其組織得以命令訂之
(D)行政院院長不得邀請有關人員列席行政院會議
- 14 依司法院釋字第 461 號解釋，除具有正當理由外，下列何人有義務到立法院委員會備詢？
(A)縣（市）長 (B)參謀總長 (C)司法院院長 (D)考試院院長
- 15 除行政院外，立法委員亦得連署提出法律案，但至少應經多少委員連署？
(A) 25 人以上 (B)全體委員四分之一 (C) 15 人以上 (D)全體委員三分之一
- 16 憲法第 22 條規定：「凡人民之其他自由及權利，不妨害社會秩序公共利益者，均受憲法之保障」。下列何者非本條規定所保障之權利？
(A)收養子女之權利 (B)受國民教育之權利 (C)隱私權 (D)一般行動自由
- 17 公園揭示「禁止攀折花木」之禁令，竹林雖非花木，解釋上應在禁止攀折之列。此項解釋方法屬於下列何者？
(A)歷史解釋 (B)限縮解釋 (C)當然解釋 (D)文義解釋
- 18 法律原則上只能對於自施行日期起所發生之事項生效，而不能對於施行日期前發生之事項生效。以上敘述係涉及何種法律原則？
(A)平等原則 (B)法律保留原則 (C)比例原則 (D)法律不溯及既往原則
- 19 下列何者非屬法規廢止之事由？
(A)裁罰基準於個案中被法院拒絕適用
(B)機關裁併，有關法規無保留之必要者
(C)法規規定之事項已執行完畢，或因情勢變遷，無繼續施行之必要者
(D)法規因有關法規之廢止或修正致失其依據，而無單獨施行之必要者
- 20 依地方制度法規定，下列何者非「應以自治條例定之」之事項？
(A)法律或自治條例規定應經地方立法機關議決者
(B)地方行政首長認為屬於重要之事項
(C)創設、剝奪或限制地方自治團體居民之權利義務者
(D)關於地方自治團體及所營事業機構之組織者
- 21 對於下列何項事件，總統曾發布緊急命令為必要處置？
(A) 921 地震 (B) 911 世貿恐怖攻擊 (C) 2008 金融海嘯 (D) 2009 莫拉克颱風
- 22 下列有關強行法與任意法之敘述，何者錯誤？
(A)違反法律禁止規定者，法律效果皆為無效
(B)民法之規定如屬任意規定，通常允許當事人自主決定是否適用
(C)公務員違法從事營利行為，雖可能被懲戒，但其營利行為並非當然無效
(D)強行法之規定可分禁止與命令規定
- 23 下列何種公權力之行使，對相對人而言，原則上不涉及信賴利益，因而無保護之必要？
(A)授益行政處分之撤銷 (B)授益行政處分之廢止 (C)行政法規之廢止或變更 (D)授益行政處分之更正
- 24 關於自然人的權利能力，下列敘述何者錯誤？
(A)始於出生，終於死亡 (B)胎兒亦無條件地享有權利能力
(C)得享受權利、負擔義務的能力 (D)外國自然人依法律規定亦有權利能力
- 25 下列何種法律行為之法律效果是得撤銷？
(A) 17 歲之甲，未經法定代理人之允許，向 20 歲之乙購買重型機車
(B)甲未經乙之授權，以乙之代理人名義，與丙訂立房屋買賣契約
(C)甲未經乙之授權，以甲自己之名義，將乙之書所有權移轉於丙
(D)甲受乙之詐欺，陷於錯誤，將自己所有之當代名畫廉價出售於乙
- 26 甲向乙佯稱其擁有一種抗癌新藥專利權，乙不疑有他並以高價向甲買該專利權，乙付錢後才知甲根本無此專利權，乙得向甲為如何之主張？
(A)買賣契約標的自始不存在所以契約無效 (B)買賣契約有效且甲負物之瑕疵擔保責任
(C)買賣契約有效且甲負權利瑕疵擔保責任 (D)買賣契約因標的嗣後不能而無效
- 27 關於緩刑之敘述，下列何者錯誤？
(A)受 2 年以下有期徒刑、拘役或罰金之宣告，認以暫不執行為適當者，得宣告緩刑
(B)緩刑之期間自裁判確定之日起算
(C)緩刑之效力及於從刑與保安處分之宣告
(D)受緩刑之宣告，而於緩刑期內因故意犯他罪，在緩刑期內受逾六月有期徒刑之宣告確定者，撤銷其宣告

- 28 關於刑法第 121 條不違背職務受賄罪之敘述，下列何者正確？
(A) 本罪之行為態樣不包含單純之要求
(B) 本罪之成立不須檢視賄賂與職務行為之對價關係
(C) 若收受之時係於就任公務員之前，亦得適用本罪
(D) 本罪之行為主體包含仲裁人
- 29 依消費者保護法規定，下列有關定型化契約條款之敘述，何者正確？
(A) 定型化契約條款是否違反誠信原則，對消費者顯失公平，應斟酌契約之性質、締約目的、全部條款內容、交易習慣及其他情事判斷之
(B) 定型化契約條款因字體、印刷或其他情事，致難以注意其存在或辨識者，消費者不得主張該條款仍構成契約內容
(C) 相對於個別磋商條款，定型化契約條款具有優先之效力，前者牴觸後者，其牴觸部分無效
(D) 基於私法自治原則及契約自由原則，企業經營者與消費者間之定型化契約內容，主管機關不得干預其應記載或不記載之事項
- 30 有關性別工作平等會設置之敘述，下列何者錯誤？
(A) 為審議、諮詢及促進性別工作平等事項，各級主管機關應設性別工作平等會
(B) 性別工作平等會應置委員 5 人至 11 人，任期兩年
(C) 性別工作平等會之女性委員應占全體委員人數二分之一以上
(D) 地方主管機關如設有就業歧視評議委員會，仍應設性別工作平等會，不得由就業歧視評議委員會處理相關事宜
- 31 Conduct and attitude appropriate and respectable for an athlete, especially grace in losing, can best be termed _____.
(A) philosophy (B) religion (C) sportsmanship (D) relationship
- 32 Burnout is a general feeling of _____ when a person experiences too much stress.
(A) relaxation (B) donation (C) exhaustion (D) aspiration
- 33 As far as global energy consumption is concerned, there is a positive _____ between wealth and energy consumption.
(A) contradiction (B) correlation (C) isolation (D) detension
- 34 Mr. Lin had ignored his doctor's advice for years, and got a heart stroke last month. He now has to _____ to a strict diet in order to maintain his health.
(A) detach (B) present (C) adhere (D) include
- 35 New-born deer have the _____ ability to walk. When they are just born, they immediately move their legs and try to walk, even though quite unsteadily at first.
(A) incidental (B) desperate (C) mature (D) innate

請依下文回答第 36 題至第 40 題：

Preschoolers and kindergartners represent one of the fastest-growing markets for after-school tutors. Parents think that if their kids learn to read before first grade, it will ultimately help them get into college and get good jobs. 36 moms and dads are no longer satisfied with traditional nursery school which focuses on learning through play. And of course, after years of Baby Einstein marketing, some parents have become 37 that the more math and reading skills their children master, the better. One mom began sending her daughter to after-school tutoring shortly before the child's third birthday. To the mom's 38, after only a few weeks, the child was found not only counting the 14 dots on her homework work sheet but also writing the number 14 beside them. Because of such a quick effect, after-school tutoring services geared toward small children are popping up everywhere. This phenomenon may be intensified by a study published recently. Researchers who examined long-term data on 36,000 preschoolers found that the best 39 of success in later school years was in entering kindergarten with elementary math and reading skills, although experts did caution that these findings should not be taken as 40 of academic drills for preschoolers. According to the research, the kinds of skills that matter in affecting later learning are such basics as the knowledge of letters and the order of numbers. These are things parents can pretty easily convey to their children at home. There is really no need to expect too much too soon and hurt the child's ability to become lifelong learners.

- 36 (A) anxious (B) handsome (C) foreign (D) divorced
 37 (A) contradicted (B) convinced (C) confronted (D) converted
 38 (A) disappointment (B) determination (C) delight (D) disapproval
 39 (A) evidence (B) contract (C) frame (D) dedication
 40 (A) an endorsement (B) an illusion (C) an expression (D) an enjoyment
- 41 The forensic team worked day and night looking for clues and evidence to _____ the truth about the murder.
 (A) trigger (B) ascend (C) discern (D) orient
- 42 _____ you have been to the lecture, can you tell me what the speaker said?
 (A) Just now (B) Now that (C) As much as (D) As a result
- 43 Professors at community college often have the same _____ as university professors, but the latter are required to spend more time on research.
 (A) systems (B) credentials (C) permission (D) curriculum
- 44 To make sure that breakable items arrive safe and sound, boxes for such items are typically marked “_____.”
 (A) Safe (B) Hands On (C) Sturdy (D) Fragile
- 45 Foreign brides introduce the greatest population _____ in Taiwan since the last great wave of immigration in 1949.
 (A) break (B) resistance (C) shift (D) modesty

請依下文回答第 46 題至第 50 題：

Next time you watch a digital ad in a mall, be aware that the ad could be watching you! Small cameras and special software are installed in the ad’s screen. They track who is looking at the ad and for how long. The software works out age and gender before serving up an ad specifically for that demographic. Men are shown razor ads, women can see cosmetics ads, and teens can learn about the latest video games. This targeted advertising creates a personalized digital city for consumers. Some people don’t like it, though.

In Germany, a supermarket chain used loyalty cards implanted with RFID tracking chips to learn about its customers’ shopping habits. The chips let the store know customers’ purchasing histories and even their movements inside the stores. The chips were removed after people complained their privacy was being invaded. These new technologies are raising red flags about how far companies are willing to go to make a profit. Consumers have no idea when they’re being watched, and there’s no regulation in place to deal with these practices. Privacy campaigners urge companies to tell consumers what details are being collected, how it is done, and why. Even though it is meant to make data-analyzing convenient, the spying ends up being a little creepy.

- 46 What do many digital ads in malls now do?
 (A) Target specific people. (B) Advertise special deals in stores.
 (C) Show ads for screens and cameras. (D) Feature consumers in the ads themselves.
- 47 What is **TRUE** about targeted advertising?
 (A) It doesn’t focus on teenagers. (B) It isn’t popular with everyone.
 (C) It allows consumers to shop from home. (D) It shortens the time that people spend on shopping.
- 48 What happened when a German supermarket chain started using RFID chips?
 (A) Customers knew about each other’s purchasing histories.
 (B) Shopping became more convenient for customers.
 (C) Customers moved around the supermarkets more easily.
 (D) Customers complained about their privacy being invaded.
- 49 Why are these new technologies raising red flags?
 (A) People don’t want to spend too much money.
 (B) People often aren’t happy that they’re being watched.
 (C) People start to feel annoyed by advertisement letters.
 (D) People are jealous of the big companies’ profits.
- 50 What is the best title for this passage?
 (A) Data Collection vs. Shopping (B) RFID Tracking Chips
 (C) Technology vs. Privacy (D) Customers’ Shopping Habits