

104年公務人員特種考試警察人員、一般警察人員考試及104年
特種考試交通事業鐵路人員、退除役軍人轉任公務人員考試試題

等 別：員級鐵路人員考試、四等退除役軍人轉任考試

類 科 別：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 依憲法增修條文之規定，下列何者不屬於國家對於身心障礙者應特別予以保障者？
(A)就業輔導 (B)教育訓練 (C)政治參與 (D)生活維護
- 2 依司法院大法官之解釋，下列何者不屬於憲法第 22 條所保障之其他自由及權利？
(A)隱私權 (B)收養自由 (C)新聞自由 (D)一般行為自由
- 3 依司法院大法官之解釋，下列何者違反憲法第 8 條第 1 項人身自由之保障？
(A)外國人受驅逐前由內政部移民署為暫時收容之處分
(B)曾與法定傳染病人接觸或疑似被傳染者，由該管主管機關為強制隔離之處置
(C)監獄行刑法規定，執行期滿者，應於其刑期終了之次日午前釋放
(D)行政執行法規定，拘提、管收交由行政執行處派執行員執行
- 4 依司法院大法官解釋意旨，下列何者非屬宗教自由之保障範圍？
(A)人民有信仰多種宗教之自由 (B)人民有組成宗教性社團之自由
(C)人民有拒絕參與宗教儀式之自由 (D)人民得因宗教信仰而免除服兵役之義務
- 5 依司法院大法官解釋意旨，關於通訊傳播自由，下列敘述何者正確？
(A)以憲法第 22 條為其憲法之依據
(B)保障人民有採訪新聞及編輯新聞等行為之自由
(C)立法者有義務設置各種組織與程序以防止資訊壟斷
(D)人民使用無線電波須先經主管機關許可，有違通訊傳播自由之意旨
- 6 依司法院釋字第 649 號解釋，下列關於職業自由之敘述，何者錯誤？
(A)行業獨占制度係屬人民選擇從事特定職業之客觀條件限制
(B)人民選擇職業應具備之主觀條件，係指從事特定職業，非個人努力即可達成之條件
(C)從事職業之方法、時間、地點等事項，係屬職業執行自由之範疇
(D)從事特定職業，個人本身須具備專業能力或資格，係屬選擇職業應具備之主觀條件
- 7 依司法院大法官解釋意旨，關於人民受教育之權利，下列敘述何者錯誤？
(A)受國民教育以外教育之權利，係屬憲法第 22 條之保障範圍
(B)人民依據受國民教育以外教育之權利，得請求給予入學許可、提供特定教育給付
(C)人民依據受國民教育之權利，得請求國家提供以國民教育為內容之給付
(D)基於受國民教育之權利，國家有提供人民以國民教育為內容之給付義務
- 8 若法律規定，不識字者無投票權，則此一規定最可能違反下列何項選舉原則？
(A)普通選舉原則 (B)平等選舉原則 (C)直接選舉原則 (D)自由選舉原則
- 9 依公民投票法之規定，下列何者不能提出公民投票案？
(A)立法院 (B)行政院 (C)一定人數之公民 (D)總統
- 10 依憲法及憲法增修條文之規定，人民對於下列何者無罷免之提案權？
(A)縣長 (B)副總統 (C)縣議員 (D)立法委員
- 11 依憲法增修條文及法律之規定，國家安全會議隸屬於下列何機關？
(A)總統 (B)國防部 (C)行政院 (D)國家安全局
- 12 依據立法院職權行使法規定，每屆立法委員於任期屆滿時，對於尚未議決之議案，下屆不予審議。稱為：
(A)一事不再理原則 (B)不重複審議原則 (C)議會自律原則 (D)屆期不連續原則
- 13 依司法院釋字第 530 號解釋，為實現審判獨立，司法機關應有其自主性，其內容不包括下列何者？
(A)法律制定權 (B)法官獨立 (C)司法行政權 (D)規則制定權

- 14 依司法院大法官之解釋，下列何者非屬法官保留事項？
(A)羈押之強制處分 (B)行政執行之管收
(C)違反社會秩序維護法之拘留 (D)欠稅之限制出境
- 15 現行監察院院長如何產生？
(A)由國民直選 (B)由監察委員互選產生
(C)總統提名，經立法院同意任命 (D)行政院院長提名，經行政院院會通過任命
- 16 高先生於民國 92 年與陳小姐結婚宴客，但婚後從未至戶政事務所辦理結婚登記，民國 98 年另與蔡小姐相戀並辦理結婚登記，則高蔡二人婚姻效力如何？
(A)無效，後婚姻違反重婚禁止規定 (B)無效，後婚姻未具公開結婚儀式
(C)有效，民國 97 年中起結婚改採登記主義 (D)有效，前婚姻因未辦戶籍登記而無效
- 17 依地方制度法規定，直轄市法規、縣（市）規章就違反地方自治事項之行政業務者，得規定處以罰鍰或其他種類之行政罰。其罰鍰最高額度為何？
(A)新臺幣 5 萬元 (B)新臺幣 10 萬元 (C)新臺幣 20 萬元 (D)新臺幣 50 萬元
- 18 中央法規標準法第 6 條規定：「應以法律規定之事項，不得以命令定之。」本條所稱命令，不包括：
(A)緊急命令 (B)授權命令 (C)職權命令 (D)法規命令
- 19 行政機關基於法律授權而制定涉及限制人民權利之規定，其名稱為何？
(A)行政規則 (B)委辦規則 (C)執行命令 (D)法規命令
- 20 甲出售其汽車於乙，兩人合意讓與所有權時，同時訂立為期一週之租賃契約。下列敘述，何者正確？
(A)甲於租賃屆滿後交付汽車予乙，乙才取得汽車所有權
(B)甲和乙租賃契約成立時，乙即取得汽車所有權
(C)甲須交付行車執照予乙，乙才取得汽車所有權
(D)甲出售汽車於乙後，須先交付汽車予乙，才能再與乙訂立租賃契約
- 21 關於買賣契約，下列敘述何者錯誤？
(A)買賣標之物之交付與價金之支付原則上應同時為之
(B)出賣人於買賣契約中保留買回之權利者，原則上其買回之期限最長不得超過 3 年
(C)按照貨樣約定買賣者，視為出賣人擔保其交付之標之物，與貨樣具有相同之品質
(D)拍賣之應買人其應買之表示，於有出價較高之應買時，失其拘束力
- 22 下列何者發生時效中斷之效果？
(A)債權人請求債務人給付後，未於請求後 6 個月內起訴
(B)債務人承認債權人之債權後，債權人未於承認後 6 個月內起訴
(C)債權人對債務人起訴後，撤回其訴
(D)債權人對於債務人告知訴訟，訴訟終結後，未於 6 個月內起訴
- 23 下列何者不是形成權？
(A)解除契約 (B)承認無權代理 (C)給付標的之選擇 (D)請求賠償
- 24 下列何種行為是民法所規定之法定要式行為？
(A)和解契約 (B)消費借貸契約 (C)不動產買賣契約 (D)結婚契約
- 25 甲男乙女為夫妻，約定分別財產制，並有子女丙、丁二人，丙有子女戊、己、庚三人。丙先於甲死亡，甲死亡時留下新臺幣（下同）360 萬元時，庚之應繼分為：
(A)40 萬元 (B)45 萬元 (C)60 萬元 (D)72 萬元
- 26 有關未成年人之敘述，下列何者錯誤？
(A)未滿 7 歲之未成年人，無行為能力 (B)滿 7 歲以上之未成年人，有限制行為能力
(C)未成年人已結婚者，有行為能力 (D)未成年人兩願離婚者，無庸得法定代理人之同意
- 27 在夢遊過程中打破室友的玻璃杯，不成立器物毀損罪的理由是：
(A)阻卻違法性 (B)客觀構成要件不該當
(C)客觀處罰（可罰性）條件未成就 (D)欠缺刑法意義的行為
- 28 依據民法第 1 條明文規定，民事案件之審理，法律無規定者，依習慣，若無習慣，應依下列何者？
(A)判例 (B)條約 (C)學說 (D)法理

- 29 下列有關判例之敘述，何者正確？
(A)在我國，確定判決違反判例得為聲請司法院大法官解釋之事由
(B)我國是大陸法系國家，判例並非法源
(C)我國之判例為各級法院作成之判決先例
(D)我國之判例對各級法院有絕對拘束力
- 30 我國與其他國家簽定的條約，經立法院依憲法第 63 條議決通過後，該條約的位階及效力為何？
(A)與憲法相同 (B)與法律相同 (C)與法規命令相同 (D)與法理相同
- 31 The prosecutor started inquiring into the cause of the fire and _____ the crime for several weeks.
(A)investigated (B)confirmed (C)quested (D)rebuked
- 32 His family did not stay in one place; they moved _____.
(A)to some extent (B)out of reach (C)from place to place (D)up and down
- 33 Some developed countries are trying to _____ the serious problems resulting from the energy crisis.
(A)step up (B)cope with (C)cut off (D)end up
- 34 During the summer, a lot of _____ hotels are full in Paris, so it is best to make reservations in advance if you want to travel economically.
(A)budget (B)luxurious (C)romantic (D)stylish
- 35 I'm usually quite _____, but today's traffic was bad and I was twenty minutes late for work.
(A)contagious (B)gigantic (C)punctual (D)redundant
- 36 The urban planning has proceeded in a _____ manner without following an organized and coherent strategy.
(A)beneficial (B)formidable (C)haphazard (D)pedestrian
- 37 Hearing the fire alarm going off, the audiences got into a _____ and left the theater immediately.
(A)shame (B)panic (C)wonder (D)regret
- 38 _____ stimulate our appetite and make us feel hungry, the color red is the top choice for fast food logos.
(A)Thinking to (B)Thought to (C)It is thinking to (D)Having thinking to

請依下文回答第 39 題至第 43 題：

The Viking age lasted from AD 790 to 1100. The Vikings were mainly from Norway, Denmark, and Sweden, and were the best shipbuilders and seamen of their time. They were able to travel long distances in their longships and attack towns on the coasts of Britain and Ireland. They reached Greenland, Iceland, and even America.

The Vikings' boats were long, narrow, light, and flexible. They made them out of oak wood. The typical length of a longship was about 20 meters. The hulls of the ships were shallow so that they could dock on beaches and sail in shallow water.

A longship had a large, square, woolen sail, which the Vikings covered in horse fat to make it waterproof. The main power for the longship was from the oars, which were all along the ship. There were usually a crew of about 60 men who rowed the boat.

The sailors usually placed their shields along the side of the boat for protection. They also carved the fronts of their ships into the shape of a dragon's head in order to scare the enemies.

- 39 According to this passage, what was the typical length of the Vikings' boat?
(A)15 meters (B)20 meters (C)25 meters (D)30 meters
- 40 According to this passage, why did the Vikings cover their sail in horse fat?
(A)To make it flexible. (B)To make it light. (C)To make it shallow. (D)To make it stay dry.
- 41 According to this passage, which of the following statements is TRUE?
(A)The Vikings were mainly from Iceland.
(B)The Vikings sailed to India.
(C)The Vikings were unable to travel long distances in their boats.
(D)The Vikings' boats were designed to sail in shallow water.
- 42 According to this passage, where did the Vikings live?
(A)Eastern Europe (B)Southern Europe (C)Western Europe (D)Northern Europe

- 43 According to this passage, which of the following statements is NOT true?
- (A)The Vikings carved the fronts of their ships into the shape of a dragon's head to frighten enemies.
- (B)The Vikings invaded the coasts of Britain and Iceland.
- (C)The main power of the Vikings' longship was the wind.
- (D)The Vikings protected their boat by putting their shields along its side.

請依下文回答第 44 題至第 47 題：

With winter upon us, offices are seeing more people calling in sick. But there are still many more who 44 coming in, no matter how ill they are. Are they really doing any good when they drag themselves into work? It's referred to as "presenteeism," where sick workers perform well below their abilities, make more mistakes, and pass their illness on to their co-workers, 45 staying at home and getting over whatever is ailing them. A US study found that the phenomenon of coming in when you're sick 46 the economy up to \$150 billion US. So why do people feel compelled to sit at their desks coughing and sniffing rather than rest at home? Many workers feel their job is 47 to miss while half feel guilty about their co-workers having to pick up the slack. Some just prefer to be at work, while others can't afford not to be.

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|----|-------------------|-------------------|--------------------|----------------------|
| 44 | (A) argue against | (B) insist on | (C) cope with | (D) beware of |
| 45 | (A) instead of | (B) regardless of | (C) in spite of | (D) in terms of |
| 46 | (A) takes | (B) spends | (C) costs | (D) wastes |
| 47 | (A) so important | (B) too important | (C) very important | (D) important enough |

請依下文回答第 48 題至第 50 題：

Healthy people are increasingly turning to brain-enhancing drugs like Ritalin for treating narcolepsy to boost their performance in school or at work, researchers said. And while some expressed alarm over the trend, others embraced the idea, provided the drugs are proven safe. "In the United States, stimulant medications are widely abused," said Dr. Nora Volkow, director of the National Institute of Drug Abuse. "They are abused for a variety of reasons, including the fact that people want to get high, but there is the realization that they are being increasingly utilized to improve cognitive performance," she said. "This is not something that is going away," Volkow said, adding that researchers must study the long-term effects these drugs might have in healthy people.

Her concern follows a commentary in the journal *Nature* that argues for use of the drugs in healthy adults as a legitimate way of improving brain power, much like education, the Internet, or other helpful tools. "We should welcome new methods of improving our brain function," Henry Greely of Stanford Law School in California, Barbara Sahakian, a psychiatry professor from the University of Cambridge in Britain and others wrote. They cited a recent survey that found nearly 7 percent of students in U.S. universities have used prescription stimulants, and on some campuses, as many as a quarter of students have used the drugs for non-therapeutic purposes. The researchers called for doctors, educators, regulators, and others to evaluate the risks and develop policies governing the use of cognitive-enhancing drugs.

Volkow said she and other experts would discuss the issue at the meeting of American College of Neuropsychopharmacology in Nashville, Tennessee.

- 48 What is the passage mainly about?
- (A)The new trend of using brain-enhancing drugs.
- (B)The side effects of stimulant medications.
- (C)Reasons for drug abuse on campus.
- (D)Helpful tools to develop potentials.
- 49 According to the passage, which of the following is NOT the reason for people's abusing stimulants?
- (A)To get high.
- (B)To get medical treatment.
- (C)To improve brain function
- (D)To improve performance at school.
- 50 Which of the following is true about Dr. Nora Volkow?
- (A)She thinks that the problem of abusing Ritalin is temporary.
- (B)She believes that short-term effects of Ritalin should be studied.
- (C)She shows her concern after some researchers argue for the use of Ritalin.
- (D)She will write an article to warn people of the danger of Ritalin.