

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、移民行政人員

等 別：四等考試

類 科 組：各類科、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 關於憲法第 12 條之秘密通訊自由，下列敘述何者正確？
(A)法律禁止人民行駛道路時使用行動電話，構成對秘密通訊自由之限制
(B)秘密通訊自由之保障範圍不包括通訊時間、通訊方式之事項
(C)秘密通訊自由乃隱私權保障之具體樣態之一
(D)為保障秘密通訊自由，警察機關原則上必須取得檢察官核發之通訊監察書，始得採取通訊監察措施
- 2 關於選舉權行使與公民投票之基本原則，下列敘述何者正確？
(A)依現行法律規定，經褫奪公權者，喪失行使選舉、罷免、創制、複決之資格
(B)政黨比例代表席次及政黨門檻規定，因扼殺小黨參政，大法官解釋認為已違反選舉平等原則
(C)預算、租稅、投資、薪俸及人事事項，得作為公民投票之提案
(D)公民投票，係屬直接民主，僅能在憲法所決定之間接民主下，補充代議民主的漏洞
- 3 依司法院大法官解釋之意旨，關於限制外國人人身自由保障應踐行之正當法律程序，下列敘述何者錯誤？
(A)暫時收容處分屬於國家主權之行使，並不違反憲法第 8 條第 1 項保障人身自由之意旨
(B)內政部移民署得逕為暫時收容處分，無須向法院提出聲請裁定許可
(C)受收容人得對收容處分表示不服，或要求法院審查決定是否予以收容
(D)外國人受暫時收容已逾越期間，主管機關認為仍有繼續收容之必要時，得作成逕為繼續收容之處分
- 4 有關遷徙自由，下列敘述何者錯誤？
(A)外國人並未享有隨時入境自由進出我國國境之權利
(B)主管機關得強制未經許可入境之大陸地區人民出境
(C)主管機關不得強制在國內設有住所且有戶籍登記之國民出境
(D)在國內設有住所且有戶籍登記之國民，並未享有隨時入境返國之自由
- 5 關於人性尊嚴之敘述，下列何者錯誤？
(A)人性尊嚴不可侵犯，尊重及保護此種尊嚴為國家所有機關之義務
(B)國家不得用殘酷、不合乎人道的刑罰來制裁人民
(C)死刑規定為人性尊嚴之根本剝奪，大法官認屬違憲
(D)命加害人公開道歉之判決，若涉及自我羞辱之道歉，係損及人性尊嚴
- 6 依司法院大法官解釋意旨，下列何者非屬訴訟權保障之核心內容？
(A)人民於訴訟中有受公平審判之權
(B)訴訟程序應符合正當法律程序之要求
(C)所有案件均應給予上訴以尋求救濟之機會
(D)應確保人民獲得及時有效救濟之機會
- 7 依憲法規定，人民具有工作能力者，國家應予以適當之工作機會。下列何種措施與此規定之精神有關？
(A)實施就業輔導制度 (B)實施失業保險制度 (C)訂定最低工資制度 (D)訂定基本工時制度
- 8 下列何者非屬憲法增修條文所稱之社會保險？
(A)勞工保險 (B)全民健康保險 (C)農民保險 (D)存款保險
- 9 依憲法增修條文規定，對下列何種事項得以法律為準則性規定？
(A)擬定課徵稅捐事項 (B)侵害基本權利事項
(C)國家或人民遭遇緊急危難之處置事項 (D)國家機關之職權、設立程序及總員額
- 10 依司法院釋字第 627 號解釋，關於總統之國家機密特權，下列敘述何者錯誤？
(A)總統之國家機密特權乃屬行政權之固有權能
(B)總統依法享有得單獨核定國家機密且永久保密之權限
(C)總統基於國家機密特權，於刑事訴訟程序中對於國家機密事項享有拒絕證言之權
(D)偵查或審判機關於刑事訴訟程序中之訊問涉及國家機密事項時，總統應證明其有無妨害國家利益

- 11 關於行政院為國家最高行政機關的意義，下列敘述何者正確？
(A)行政院統轄中央政府與地方政府
(B)所謂「最高」係指上下隸屬與指揮監督之關係
(C)行政院院長由總統任命，故總統得指揮監督行政院
(D)中央研究院雖隸屬總統府，惟基於行政一體之原則，仍受行政院之監督
- 12 關於行政院會議，下列敘述何者正確？
(A)行政院會議之決議係由行政院院長與其他閣員共同決定
(B)行政院會議僅有向行政院院長提出諮詢之權
(C)行政院會議得議決各院共同關係之事項
(D)行政院會議雖屬合議制，但在爭議時，行政院院長有最後決定權
- 13 下列何者敘述與司法獨立無關？
(A)法官須超出黨派以外，依據法律獨立審判
(B)法官不受任何形式的干涉，僅受法律拘束
(C)最高司法機關基於司法自主性，得就審理事項發布規則
(D)司法機關公布案件件數統計資料
- 14 司法院釋字第 709 號解釋係以下列何種國際公約，作為其解釋都市更新條例，以闡明人民享有安全、和平與尊嚴之適足居住環境？
(A)消除一切形式種族歧視國際公約
(B)經濟社會文化權利國際公約
(C)公民與政治權利國際公約
(D)禁止酷刑和其他殘忍不人道或有辱人格待遇或處罰公約
- 15 上級政府對於下級政府所陳報之事項，加以審查，並作成決定，以完成該事項之法定效力。依地方制度法之規定，此種情形屬於：
(A)備查 (B)通知 (C)核定 (D)查照
- 16 下列何者是法律行為？
(A)社員總會決議 (B)催告 (C)拾得遺失物 (D)無主物先占
- 17 依性別工作平等法第 13 條第 1 項之規定，僱用受僱者幾人以上之雇主應訂定性騷擾防治措施、申訴及懲戒辦法？
(A) 5 人 (B) 10 人 (C) 15 人 (D) 30 人
- 18 有關我國勞動基準法對於工資之敘述，下列何者錯誤？
(A)工資之給付，應以法定通用貨幣為之
(B)工資由勞雇雙方議定之，得低於基本工資
(C)工資應全額直接給付勞工
(D)雇主不按期給付工資者，主管機關得限期令其給付
- 19 下列有關消費者與企業經營者間定型化契約之敘述，何者錯誤？
(A)定型化契約之內容，如有疑義時，應為平等互惠之解釋
(B)定型化契約條款中，如違反誠信原則，對消費者顯失公平者，無效
(C)消費者應有 30 日以內之合理審閱期
(D)定型化契約條款牴觸個別磋商條款者，其牴觸部分無效
- 20 關於刑法第 122 條第 1 項之違背職務受賄罪，下列何者錯誤？
(A)本法對於行賄之人亦有處罰規定 (B)行賄之給付包含賄賂與不正利益
(C)本罪適用之行為主體包含仲裁人 (D)本罪之成立繫諸於是否果然有違背職務行為而定
- 21 甲為環保局稽查員，發現某工廠違規排放污水，乃向工廠負責人乙索討新臺幣一萬元封口費，乙為避免停工損失而交付款項，下列敘述何者錯誤？
(A)甲若仍依法予以告發，則甲不成立違背職務受賄罪
(B)乙係被動付款，仍可成立行賄罪
(C)甲成立違背職務受賄罪
(D)乙若未付款，甲仍能成立要求賄賂罪
- 22 下列何種財產為法定財產制所無之財產？
(A)婚前財產 (B)婚後財產 (C)特有財產 (D)自由處分金
- 23 甲為擔保其對乙所負之債務，將其土地一宗移轉所有權於乙。下列敘述何者正確？
(A)甲與乙之行為是讓與擔保，在法律上是有效的
(B)甲與乙之行為是通謀虛偽意思表示，其法律效果為無效
(C)甲不依約清償債務時，乙亦不得為受清償而變賣該土地
(D)甲使乙取得該土地之所有權，已經超過擔保目的之範圍

- 24 憲法第 20 條規定：「人民有依法律服兵役之義務。」若於法律解釋時，將此之「人民」解釋為限於「男子」，此為何種解釋方法之應用？
(A)當然解釋 (B)目的解釋 (C)文義解釋 (D)限縮解釋
- 25 下列何者並非監察委員之職權？
(A)彈劾法官 (B)糾舉衛生福利部所屬公務員
(C)彈劾立法委員 (D)糾正國家發展委員會之施政措施
- 26 依司法院大法官之解釋，信賴保護原則之適用，必須符合三要件，下列何者屬於所謂之信賴基礎？
(A)行政機關訂定之法規命令 (B)人民提出之證據
(C)行政機關訂定之人員管理規定 (D)人民提出之申請
- 27 在立法院內，不適用屆期不連續原則者，為下列何種議案？
(A)法律案 (B)條約案 (C)人民請願案 (D)總統之彈劾案
- 28 依憲法增修條文第 4 條規定，第七屆立法委員之選舉，全國不分區及僑居國外國民之立法委員依政黨名單投票選舉之，各政黨間名額如何分配？
(A)依各政黨所獲政黨選舉票之得票比率平均分配
(B)依各政黨得票比率加上各選區當選委員總人數平均計算
(C)由獲得百分之三以上政黨選舉票之政黨依得票比率選出之
(D)由獲得百分之五以上政黨選舉票之政黨依得票比率選出之
- 29 依地方制度法之規定，下列敘述何者錯誤？
(A)自治法規經地方立法機關通過，並由各該行政機關公布者，稱自治條例
(B)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。但法律另有規定者，不在此限
(C)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，但最高以新臺幣二十萬元為限
(D)自治條例經各該地方立法機關議決後，如規定有罰則時，應分別報經行政院、中央各該主管機關核定後發布
- 30 下列有關法源之敘述，何者錯誤？
(A)我國憲法明文規定條約之生效要件
(B)地方自治法規不得牴觸憲法
(C)行政規則與法規命令不同
(D)緊急命令之效力通常等同於法律，甚至得變更或停止法律適用
- 31 John was infected with Ebola virus, and has been _____ to the ward of intensive care.
(A) assaulted (B) confined (C) hedged (D) entrusted
- 32 Most people have trouble breathing at such a high _____.
(A) altitude (B) degree (C) frequency (D) price
- 33 Many parents can relate to Robin Williams' character in "Mrs. Doubtfire," which helped families _____ the topic of divorce.
(A) attempt (B) impose (C) tackle (D) notify
- 34 Taiwan has strongly _____ Chinese obstruction at an academic conference in Portugal and said it has hurt cross-Taiwan Strait relations.
(A) astonished (B) bleached (C) condemned (D) embraced
- 35 Souvenir-buying is an _____ part of any trip, an activity we all take part in. Yet almost none of us are any good at it.
(A) essential (B) elegant (C) initial (D) organic
- 36 Although we had told them not to keep us waiting, they made no _____ to speed up deliveries.
(A) trial (B) attempt (C) concern (D) progress

請依下文回答第 37 題至第 40 題：

Smart, successful, funny, and handsome, Robin Williams 37 to have it all. And yet, today he is dead. Apparently, by his own choice. But why? What went wrong? The joy, spontaneity, and humor of Robin Williams likely 38 the daily torment he endured in his on-again-off-again struggle with depression. He made us laugh out here, but he was in pain in there. Unfortunately, I know that pain. In his death, we have lost one of the most talented and creative spirits on the planet. Still, his death by suicide should be a wake-up call for us all. It is to remind us that many of us are walking a 39 line—smiling on the outside while slowly dying on the inside. I didn't know Robin personally, so I am unable to speak with any certainty as to why he chose to end his life. But I have 40 that kind of torment and pain. For years, I, too, struggled with depression. And many days, I still do.

- 37 (A) agreed (B) entered (C) returned (D) seemed
 38 (A) decorated (B) masked (C) poisoned (D) rejected
 39 (A) clear (B) grey (C) fine (D) sharp
 40 (A) experienced (B) avoided (C) proposed (D) operated
 41 Aesop's fables are so familiar to many students that they tend to treat them _____ as "kids' stuff."
 (A) auspiciously (B) condescendingly (C) equivocally (D) omnisciently
 42 In the _____ age, technology isn't killing courtship. But for many young couples, it's redefining what romance looks like.
 (A) archaic (B) digital (C) medieval (D) pre-natal

請依下文回答第 43 題至第 46 題：

People think turkeys are very dumb because they don't know enough to come in out of the rain. In fact, they've been known to hold their mouths open during rainstorms and drown! But that's 43 true of the domesticated turkey. The wild turkey is one of nature's most cunning creatures. Wild turkeys are very wary, 44 mothers with chicks. They are rarely seen by humans. They hide in the bushes where their natural coloring makes them just about 45 their natural enemies. Unlike the domesticated turkey, the wild bird is a powerful flyer. When it is frightened, the wild turkey spreads its five-to six-foot wings and flies away at up to 50 miles per hour. Even on the ground the bird is 46 and can run as fast as 25 miles per hour.

- 43 (A) completely (B) partly (C) hardly (D) only
 44 (A) especially (B) despite (C) except (D) even
 45 (A) scared of (B) attractive to (C) invisible from (D) confused with
 46 (A) noisy (B) speedy (C) clumsy (D) handy

請依下文回答第 47 題至第 50 題：

Britain's second-largest city, Birmingham, has a new skyline — only it belongs to its Alabama namesake. Birmingham City Council distributed 720,000 leaflets that praised residents for exceeding recycling targets, carrying a message that read: "Thank You Birmingham." The message appeared stamped across a photograph of the city's skyline. But the photo was not of Birmingham, England, but of Birmingham, Alabama.

It's the second time British officials have mistakenly used images of Birmingham, Alabama. Three lawmakers who represent Birmingham at the European Parliament accidentally used a picture of the U.S. city on their Internet site in January.

"I would have thought the council would take more care," said Birmingham resident Jon Cooper. "I can't believe no one at the town hall noticed."

Britain's Birmingham is famed for its modernist Bullring shopping mall, with its distinctive metallic curved exterior, and an extensive network of canals, churches, and historical buildings. The Alabama city's skyline includes the Wachovia Tower, University of Alabama buildings, and skyscrapers.

Officials said the wrong image was selected from an Internet photo archive. "It's human error," said Birmingham City Council spokesman, Kris Kowalewski. "We accept that the wrong photo was used, but the text and detail contained in the leaflet is wholly correct."

In Alabama, the Birmingham Regional Chamber of Commerce didn't immediately respond to calls for comment.

- 47 Which of the following is the best title?
 (A) Two Cities with Different Skylines (B) A Successful Recycling Program for Birmingham
 (C) Birmingham City Council (D) Leaflets Showing the Wrong Birmingham
 48 Which of the following buildings probably appeared in Britain's Birmingham leaflet?
 (A) Bullring shopping mall (B) City Council (C) Parliament Building (D) Wachovia Tower
 49 Which of the following statements is true?
 (A) Birmingham is the largest city in Britain.
 (B) The Birmingham photo came from an Internet archive.
 (C) This was the first time images of Birmingham, Alabama, were mistakenly used.
 (D) The British Birmingham has many new buildings recently and thus a new skyline.
 50 Which of the following about the spokesman of Birmingham City Council in Britain is true?
 (A) He did not respond to the report.
 (B) He wasn't informed that a mistake was made.
 (C) He represented Birmingham at the European Parliament.
 (D) He said that the text in the leaflet was completely correct.