

102年特種考試地方政府公務人員考試試題

等 別：四等考試

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)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 依憲法增修條文之規定，有關公務人員考績之法制事項，是屬於下列何者之職權？
(A)行政院 (B)立法院 (C)考試院 (D)司法院
- 2 關於憲法之解釋，應由下列何者為之？
(A)行政院法規會 (B)立法院 (C)監察院 (D)司法院
- 3 有關國稅與地方稅之劃分敘述，下列何者正確？
(A)由中央立法並執行之 (B)由中央立法交由縣執行之
(C)由地方立法 (D)由地方立法並執行之
- 4 依憲法增修條文之規定，有關國民健康之基本國策，國家應推行：
(A)全民健康保險 (B)全民人壽保險
(C)建設全民免費運動中心 (D)醫療事業公有化
- 5 依司法院大法官解釋，下列何者屬於憲法中具有本質之重要性，如修改條文予以變更，則憲法整體規範秩序將形同破毀？
(A)總統之職權 (B)中央與地方分權之權限分配
(C)權力分立與制衡 (D)釋憲機關之職權
- 6 以下何者並非司法院大法官釋字第 580 號，對於「契約自由」之見解？
(A)係源於個人之人格發展自由，個人得自由決定其生活資源之使用、收益及處分
(B)契約自由包含締結契約與消極不締結契約之自由
(C)契約自由之限制，得由行政機關基於維護公益之必要，以行政處分為之
(D)屬於憲法第 22 條所保障之一般自由權利
- 7 憲法第 23 條所稱之「必要」，屬於下列何種原則？
(A)比例原則 (B)依法行政原則 (C)明確性原則 (D)裁量原則
- 8 除法律另有規定外，下列何者不屬於「法律保留」範圍？
(A)大學自治事項 (B)基本權利之限制
(C)國家機關之職權與總員額 (D)各級法院之組織
- 9 依據司法院大法官釋字第 443 號，役男出境處理辦法限制役男出境的相關規定，主要意旨為何？
(A)違憲，對人身自由之重大限制 (B)違憲，未得法律具體明確授權限制遷徙自由
(C)合憲，符合法律保留原則 (D)合憲，符合授權明確性原則
- 10 下列何者係屬人民之司法受益權？
(A)請願 (B)訴訟 (C)陳情 (D)訴願
- 11 依憲法第 132 條之規定，選舉應嚴禁下列那一種行為？
(A)威脅利誘 (B)脫黨 (C)政黨輔選 (D)公務員下班後助選
- 12 依憲法本文之規定，下列何者有依法公布法律，發布命令的權限？
(A)立法院院長 (B)行政院院長 (C)總統府秘書長 (D)總統
- 13 司法院大法官組成之憲法法庭，審理下列何者？
(A)統一解釋命令案 (B)總統、副總統之彈劾案
(C)統一解釋法律案 (D)非常上訴

- 14 司法院依據憲法規定，並未擁有下列何種權限？
(A)解釋憲法 (B)統一解釋法律 (C)統一解釋命令 (D)制定法律
- 15 下列考試中，何者不是考試院掌理的考試？
(A)普通考試 (B)高等考試
(C)專門職業及技術人員考試 (D)大學入學考試
- 16 依司法院大法官釋字第 472 號，國家為謀社會福利應實施社會保險制度；…惟對於無力繳納保費者，國家應給予適當之救助…。此點為以下何種基本權功能？
(A)人民的義務 (B)程序保障功能 (C)國家保護義務功能 (D)基本權的防禦功能
- 17 依司法院大法官解釋，下列何者違反比例原則？
(A)傳染病防治法規定曾與傳染病病人接觸者，得令遷入指定之處所檢查
(B)電信法規定未經核准擅自使用無線電頻率者，應予處罰及沒收電信器材
(C)社會秩序維護法規定無正當理由，跟追他人，經勸阻不聽者，處新臺幣 3 千元以下罰鍰或申誡
(D)所得稅法規定扣繳義務人不按實補報扣繳憑單者，一律按應扣未扣或短扣之稅額處 3 倍之罰鍰
- 18 下列關於我國婚姻與家庭制度之敘述，何者錯誤？
(A)婚姻自由為憲法所保障之自由權
(B)民法關於重婚無效之規定，不受憲法之保障
(C)婚姻與家庭為社會形成與發展之基礎，受憲法制度性保障
(D)性行為自由受憲法第 22 條之保障，並應受婚姻與家庭制度之制約
- 19 依司法院大法官釋字第 694 號，所得稅法規定扶養其他親屬或家屬須未滿 20 歲或年滿 60 歲始得減除免稅額，係違反下列何種原則？
(A)比例原則 (B)平等原則
(C)信賴保護原則 (D)裁量權正當行使原則
- 20 關於侵權責任，下列敘述何者錯誤？
(A)僱用人對受僱人執行職務所生的損害，必須負起疏於監督的侵權責任
(B)百貨公司對電梯瑕疵所引起顧客的損害，必須負起疏於維護的侵權責任
(C)定作人對於承攬人因施作勞務所生的損害，必須負起疏於監督的侵權責任
(D)父母對小孩打破別人窗戶，必須負起疏於監督的侵權責任
- 21 社團總會之召集程序或決議方法，違反法令或章程之法律效果為何？
(A)無效
(B)社員得以意思表示撤銷之
(C)出席社員當場表示異議者，得於決議後 3 個月內，請求法院撤銷其決議
(D)效力未定
- 22 甲未獲乙之授權，竟擅自以甲自己之名義，將乙之腳踏車所有權移轉於惡意之丙，其法律效果為何？
(A)甲之處分行為有效 (B)甲之處分行為無效
(C)乙得撤銷甲之處分行為 (D)乙承認，甲之處分行為始生效力
- 23 甲在汽車中放置炸彈，引爆炸彈後造成車內之乘客 A、B 兩人死亡，甲之行為應如何論罪？
(A)甲成立兩個殺人罪，且一罪一罰
(B)甲以一行為觸犯兩個殺人罪，成立想像競合
(C)甲以概括犯意，連續二行為觸犯殺人罪，為連續犯
(D)甲利用同一個機會觸犯兩個殺人罪，為集合犯
- 24 下列關於刑事責任之敘述，何者正確？
(A)故意行為之處罰，以有特別規定者，為限
(B)行為人對於構成犯罪之事實，預見其發生而其發生並不違背其本意者，以過失論
(C)行為人對於構成犯罪之事實，雖預見其能發生而確信其不發生者，以故意論
(D)除有正當理由而無法避免者外，不得因不知法律而免除刑事責任

- 25 甲出版社未經消費者乙要約逕自寄送雜誌，並載明：「若不欲訂閱，請寄回本社。」下列敘述，何者正確？
(A)消費者乙若不欲訂閱，應依企業經營者要求寄回商品
(B)消費者乙在寄送後逾 1 個月未表示承諾時，視為同意購買該商品
(C)寄送人經消費者乙定相當期限通知取回而逾期未取回或無法通知者，視為拋棄其寄投之商品
(D)消費者乙對於寄回商品所支出之費用，不得對甲請求
- 26 依行政組織之概念，衛生福利部中央健康保險署之性質為下列何者？
(A)行政機關 (B)國營事業 (C)行政法人 (D)醫療機構
- 27 依司法院大法官解釋，下列何者屬於應由法律直接規範之「國會保留」（絕對法律保留）的事項？
(A)役男入出境的管理 (B)消滅時效制度
(C)空氣污染防治費的徵收標準 (D)全民健康保險不給付的診療服務及藥品項目
- 28 下列關於共同著作之敘述，何者錯誤？
(A)共同著作係指 2 人以上共同完成之著作，其各人之創作不能分離利用
(B)共同著作之著作財產權存續至最後死亡之著作人死亡後 50 年
(C)共同著作之利用，須經全體著作財產權人之過半數同意
(D)共同著作之著作人，得於著作人中選定代表人行使著作人格權
- 29 若家庭暴力之被害人有受家庭暴力之急迫危險時，依家庭暴力防治法得經由聲請法院核發緊急保護令保護被害人，以避免法院核發通常保護令之審理期程過長而緩不濟急，請問緊急保護令之聲請，得由何者為之？
(A)被害人 (B)檢察官、警察機關或直轄市、縣（市）主管機關
(C)被害人、檢察官、警察機關 (D)被害人或直轄市、縣（市）主管機關
- 30 消費者債務清理條例與消費者債務清理條例施行細則的關係是：
(A)特別法與普通法 (B)母法與子法 (C)原則法與例外法 (D)強行法與任意法
- 31 Lucy has a _____ memory; she can remember many details for a long time.
(A) geographic (B) photographic (C) biological (D) biographic
- 32 My brother borrowed some clean shirts from me because he was too busy to do the _____.
(A) dishes (B) packing (C) grocery (D) laundry
- 33 The five-star _____ is so popular that it is difficult to make reservations in advance.
(A) report (B) resort (C) resource (D) result
- 34 Cindy _____ her fright at last and stepped onto the stage to deliver her speech.
(A) commuted (B) cherished (C) convinced (D) conquered
- 35 The guests are likely to come early, so we should _____ up and get everything ready before their arrival.
(A) check (B) dig (C) speed (D) pop
- 36 The hotel's goodnight gift, a chocolate bar _____ in gold paper, was placed on the pillow.
(A) heaped (B) wrapped (C) smashed (D) converted
- 37 Mary, your assignment is _____ the day after tomorrow, and so you should not waste any more time daydreaming.
(A) due (B) late (C) finished (D) punished
- 38 Janet is very _____. Everyone expects that she's bound to score high in the exam.
(A) doubtful (B) inferior (C) superficial (D) intelligent
- 39 The passengers _____ with relief when the plane landed safely.
(A) sighed (B) boarded (C) littered (D) labored
- 40 While we were waiting for the train, we _____ to help two tourists who seemed to lose their direction in the station.
(A) offered (B) cautioned (C) hesitated (D) introduced
- 41 The exam turned out to be a big _____ and hardly anybody in our class passed.
(A) victory (B) disaster (C) triumph (D) defect

42 Jack pursues his wealth and fame at the _____ of his health and family.

- (A) extension (B) expansion (C) expense (D) experience

For many, summer is the time to shed the extra pounds piled on all winter. But for some of those trying to lose weight, there's often this one spot on their body that just won't let go of that fat. It turns out there's a genetic reason for this and the information is proving helpful to researchers trying to learn who is at risk for diabetes.

Dr. Ronald Kahn, president of Boston's Joslin Diabetes Center, says the research stems from basic questions people ask of him. He explains, "People ask me as a diabetes and obesity expert, ... 'Doctor, why is it that when I gain weight it always goes to my belly?' Or, 'When I lose weight my face gets thin and my hips stay big?'"

Kahn and his team have identified genes that match up to where our bodies store fat. Kahn said fat location is an important risk factor in developing diabetes. He said, "When fat is inter-abdominal—that is, inside our bellies, the so-called beer belly type of obesity—this fat creates more insulin resistance. And remember that insulin is the major hormone that controls our blood sugar." He said doctors might one day be able to analyze someone's genes and warn those with the greatest disposition for large bellies.

閱讀上文，回答第 43 題至第 46 題

43 What is the main idea of this passage?

- (A) Diabetes comes from extra pounds. (B) Your weight can be genetically determined.
(C) The belly is where your fat is stored. (D) Prepare for the summer while you are in the winter.

44 According to this passage, who has the greatest chance of getting diabetes?

- (A) People with big hips.
(B) People with too much insulin in their bodies.
(C) People with beer bellies.
(D) People with too much hormone that controls the blood sugar.

45 What does "disposition" in the last sentence mean?

- (A) Tendency. (B) Defense. (C) Discrimination. (D) Inheritance.

46 According to this passage, what determines where a person stores his or her fat?

- (A) The kind of food this person consumes. (B) The amount of food one consumes.
(C) Whether one has an inclination for diabetes or not. (D) The genes inherited from one's family.

Most visitors land at Taiwan Taoyuan International Airport and drive to Taipei, where they spend a few days in the city's perpetual gray haze. But Taipei and the industrial west coast are only a small part of Taiwan. The rest of the island is 47 with remote, forested mountains, which are laced with hundreds of hiking trails.

Trekking in Taiwan is not for the fainthearted. The Central Mountain Range is steep and wild. Summer thunderstorms rise unseen, temperatures can drop below zero, and facilities are few and far between. But for those willing to carry their own gear, the treks are 48 the most beautiful in Asia. The top hikes in Taiwan—on Chilai Ridge and Yushan—require a reasonable level of 49 and the proper equipment, including a tent and a stove, food and water, a sleeping bag, good boots and warm clothes.

It sounds ideal—get out of Taipei, see the mountains, and spend a few days in the fresh air. However, there is one thing you have to attend to. The government requires hikers to have mountain 50, which in turn necessitates a group of three and a guide.

閱讀上文，回答第 47 題至第 50 題

- 47 (A) distributed (B) contributed (C) covered (D) recovered
48 (A) at (B) during (C) between (D) among
49 (A) height (B) fitness (C) appetite (D) hobby
50 (A) permits (B) traces (C) incentives (D) approvals