

111年警察人員升官等考試、111年 交通事業郵政、公路人員升資考試試題

等 級：警正、員級晉高員級

類科(別)：各類科-警察、各類別-郵政、公路

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答案。

(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 關於秘密通訊自由，下列敘述何者錯誤？
(A)屬憲法所明文列舉保障之基本權利
(B)於一定條件下，國家得以法律為合理必要之限制
(C)通訊監察屬對秘密通訊自由之重大限制
(D)主管機關應優先採行長期監聽手段，以充分掌握犯罪證據、預防犯罪
- 2 依憲法增修條文之規定，下列何者於政治參與上無特別保障規定？
(A)澎湖地區人民 (B)僑居國外國民 (C)馬祖地區人民 (D)蘭嶼地區人民
- 3 依據司法院大法官解釋意旨，下列何者應受到嚴格審查？
(A)菸品成分的強制標示 (B)猥褻出版品的處罰
(C)化妝品廣告的事前審查 (D)菸品業者顯名贊助的禁止
- 4 國家法律如限制勞工組織工會，係干預下列何項基本權利？
(A)生存權 (B)財產權 (C)集會自由 (D)結社自由
- 5 監督寺廟條例第8條之規範對象，僅適用於佛、道等部分宗教，依司法院大法官之解釋意旨，系爭規定遭宣告違憲的主要理由是違反下列何種原則？
(A)政教分離原則 (B)平等原則 (C)比例原則 (D)法律明確性原則
- 6 若選舉制度之設計，使某些地區之當選票數明顯低於其他地區，此種情況最容易違反下列何種選舉基本原則？
(A)普通原則 (B)直接原則 (C)平等原則 (D)秘密原則
- 7 憲法及增修條文中關於「軍人」及「服兵役」之規定，下列敘述何者錯誤？
(A)服兵役為人民之義務 (B)軍人亦屬監察院彈劾之對象
(C)人民除現役軍人外，不受軍事審判 (D)軍人應效忠領袖，愛護人民
- 8 未成年人甲之父親為中華民國國民，母親為外國人，因疫情而不被許可入境，致甲與母親相隔兩地，甲之下列何者權利最不可能受到上述隔絕措施之侵害？
(A)人格發展自由 (B)人身自由 (C)平等權 (D)家庭團聚權
- 9 道路交通管理處罰條例規定：汽車駕駛人拒絕酒測者，吊銷其駕照、禁其三年內考領駕照，並吊銷所持各級車類駕照。甲持有職業大貨車駕照，因休息時駕駛重型機車外出拒絕酒測被吊銷各級駕照，而無法繼續工作。依據大法官解釋之意旨，下列關於前述規定之合憲性，何者最為正確？
(A)系爭規定未涉及人民之工作權，因我國採抽象審查，甲的工作權受限制為個案事實
(B)吊銷駕照之手段，可促使駕駛人接受酒測，但拒絕酒測不等於酒駕，手段非屬於達成交通安全目的之最小侵害手段
(C)職業駕駛人應有比一般人高的駕駛品德，故司法審查就吊銷駕照規定應採取嚴格審查標準
(D)立法者宜給予執法者權限，使執法者能夠審酌甲是否有酒測紀錄、拒酒測時所駕駛的車輛種類，而為妥適處理
- 10 依司法院大法官解釋意旨，關於預算，下列敘述何者錯誤？
(A)法定預算之形式雖與法律案相當，因其內容、規範對象及審議方式與法律案不同，又稱為措施性法律
(B)歲入法定預算之執行須依據各種稅法、公共債務法等相關規定，始有實現之可能
(C)歲出法定預算係對預算執行機關歲入及未來承諾之授權規範，故其得基於執行預算之彈性而自行選擇執行項目或停止執行
(D)立法院於審議中央政府總預算案時刪除司法院大法官支領司法人員專業加給預算之情形，與憲法第81條規定意旨不符
- 11 關於考試委員及監察委員之任期，下列何者正確？
(A)兩者都是4年 (B)兩者都是6年
(C)考試委員是4年，監察委員是6年 (D)考試委員是6年，監察委員是4年
- 12 依現行規定，有關法官地位之保障，下列敘述何者錯誤？
(A)法官非受刑事或懲戒處分、禁治產之宣告，不得免職
(B)法官非依法律，不得停職、轉任或減俸
(C)法官身分保障之對象，亦及於其所兼任之庭長職務
(D)非由實任法官轉任之司法院大法官，不適用法官終身職待遇及優遇制度之規定

- 13 下列何者，必須經大法官組成憲法法庭審理？
(A)政黨違憲解散案 (B)總統罷免案
(C)副總統繼任總統職位之確認 (D)總統宣布戒嚴案
- 14 有關地方自治團體的敘述，下列敘述何者正確？
(A)中央依據法律使地方分擔保險費之補助，未涉及到地方財政自主權之事項
(B)地方自治團體所屬公務員應到立法院備詢
(C)地方自治團體享有自主組織權以及對自治事項制定法規並執行之權限
(D)中央與地方權限分配，如有未列舉事項發生而產生爭議時，由司法院處理之
- 15 依憲法本文規定，我國最高行政機關為何？
(A)行政院 (B)國家安全會議 (C)總統及行政院 (D)總統
- 16 下列何者非屬行政機關？
(A)行政院人事行政總處 (B)公平交易委員會
(C)總統府第一局 (D)臺北市府衛生局
- 17 下列何種行政救濟制度現已不存在？
(A)復查 (B)訴願 (C)再訴願 (D)行政訴訟
- 18 下列有關故意與過失的說法，何者錯誤？
(A)刑法上之故意包含事前故意及事後故意
(B)無認識過失係指行為人雖非故意，但按其情節應注意，並能注意，而不注意
(C)未必故意係指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
(D)行為非出於故意或過失，不罰
- 19 依民法有關物之規定，下列敘述何者錯誤？
(A)物分為不動產與動產 (B)從物乃主物之成分
(C)不動產分為土地與定著物 (D)物為人力所得支配之有體物
- 20 權利人長期間不行使權利，使義務人依其狀況而認權利人放棄權利之行使，則該權利雖未消滅，亦不得再行使。此係源自於何種行政法一般法律原則？
(A)平等原則 (B)誠實信用原則 (C)比例原則 (D)法律明確性原則
- 21 關於行政機關為行政行為時應注意遵循之行政法原則，下列敘述何者錯誤？
(A)法律賦予行政機關裁量權，行政機關於此範圍即得自由為之，不受任何限制
(B)行政行為如有正當理由，仍得為差別待遇
(C)行政機關為行政行為應遵循誠信原則
(D)行政機關為行政行為時，對當事人有利及不利的情形均應注意
- 22 刑法第 126 條規定「有管收、解送或拘禁人犯職務之公務員，對於人犯施以凌虐者，處 1 年以上 7 年以下有期徒刑。」下列公務員何者不會成為本罪之行為主體？
(A)法警 (B)看守所人員 (C)法官 (D)司法警察
- 23 有關刑法第 135 條及第 136 條妨害公務罪之敘述，下列何者錯誤？
(A)在抗議現場靜坐或任由抬離，不構成刑法第 135 條妨害公務罪
(B)威脅公務員將向其上級長官檢舉其行為，不構成刑法第 135 條妨害公務罪
(C)公然聚眾而犯妨害公務罪者，其在場助勢之人亦成立刑法第 136 條第 1 項之罪
(D)聚眾妨害公務罪之首謀，若構成妨害公務罪之共同正犯，應優先論以刑法第 135 條妨害公務罪之共同正犯
- 24 依據我國公司法，股份有限公司合併時，下列那一個步驟並非法定必要程序？
(A)董事會應作成合併契約，提出於股東會
(B)股東會應有代表已發行股份總數 3 分之 2 以上股東出席，以出席股東表決權過半數同意之
(C)應載明於股東會召集事由
(D)公司為合併之決議前，應向各債權人分別通知及公告
- 25 甲應聘於雇主 A 時，雇主特別強調，該公司採取責任制，因此工時無上限，也無加班費，自己把工作做完再下班，甲迫於無奈，但為了生活也只能繼續上班。關於該公司加班費的設定方式，下列敘述何者正確？
(A)加班費規定合法，雇主應有權利規定其勞工之工作內容以及類型，採用無加班費的責任制
(B)加班費規定違法，勞動基準法第 24 條之加班費屬於強制規定，雇主即便單方面設定無加班費的責任制規定，也不因此免除加班費的給付義務
(C)加班費規定違法，但設定責任制工時無上限合法，只要依法定利率給付加班費即可
(D)加班費規定合法，因為勞工甲在知悉沒有加班費之規定後，依然持續上班，已經默示同意
- 26 依性別工作平等法之規定，受僱者任職至少滿多久才有資格申請育嬰留職停薪？
(A) 3 個月 (B) 6 個月 (C) 9 個月 (D) 1 年
- 27 關於地方自治團體之自治法規，下列敘述何者錯誤？
(A)自治條例係經地方立法機關通過 (B)自治規則係由地方行政機關訂定
(C)自治條例須報內政部核定，始生效力 (D)自治條例得規定處以罰鍰或其他種類行政罰

- 28 買賣雙方約定種類之債買賣，買受人應於出賣人通知時至出賣人之住所處取貨，買受人於取貨時付款。嗣後出賣人業已通知買受人前來取貨，但買受人遲遲未至出賣人之住所處取貨，就在買受人取貨前，因不明火災，出賣人欲交付於買受人之物品燒毀。下列敘述何者正確？
(A)買賣標的物已特定，買受人仍必須繳款，價金危險由買受人承擔
(B)買受人無須繳款，價金危險應由出賣人承擔
(C)出賣人必須再發貨一次
(D)因不可歸責雙方當事人，以致給付不能，故買受人免價金對待給付
- 29 甲女與乙男結婚時，乙有一與已過世前妻丙生育的獨子丁，丁與戊女為夫妻。如甲未收養丁，下列就甲、戊間關係之敘述，何者正確？
(A)無親屬關係 (B)一親等旁系血親 (C)一親等旁系姻親 (D)二親等旁系姻親
- 30 關於物權行為，下列敘述何者錯誤？
(A)稱物權行為者，乃以物權變動為直接內容之法律行為
(B)不動產抵押權設定，乃物權行為
(C)遺囑為物權行為
(D)債權行為與物權行為是原因行為與履行行為之關係
- 31 To avoid diagnostic errors, breast imaging subspecialists and general radiologists who _____ breast images should adhere to the unique lexicon of the handbook.
(A) interpret (B) paralyze (C) excerpt (D) provoke
- 32 She has been _____ with making money because she grew up in poverty.
(A) converted (B) obsessed (C) oscillated (D) contrived
- 33 The judge offered the criminal the _____ of a fine of ten thousand dollars or three months in prison.
(A) altercation (B) alternative (C) appreciation (D) appeasement
- 34 It is fun for me to recruit new people, but letting workers go is the _____ enjoyable part of what I do.
(A) least (B) graphically (C) both (D) physically
- 35 Mountain-climbing is an opportunity to participate in a very individual _____ which pits the climber against nature.
(A) competition (B) finance (C) surveillance (D) punctuation
- 36 The company failed to meet its short-term _____ of expanding into Asia.
(A) commission (B) objective (C) liability (D) emigration
- 37 I was hoping my mother would say something first about my boyfriend. I had seen her expression when she opened the door and _____ him from head to toe, and I could anticipate what criticisms she would have.
(A) demonstrated (B) indulged (C) ignored (D) scrutinized
- 38 Joseph is always _____ by the amazing way those female supermodels move in high heels, swinging and turning their bodies so skillfully and gracefully, on the runway.
(A) contaminated (B) designated (C) fascinated (D) terminated
- 39 Professor Wu is good at _____ the spirits of the students in her Monday morning class with jokes and questions helping them chase away their Monday blues.
(A) arousing (B) exploring (C) invading (D) obtaining
- 40 While the Congress's investigation report did not conclude that the president had committed bribery, it did not _____ him crimes related to obstruction of justice.
(A) abdicate (B) exonerate (C) interrogate (D) obligate

請依下文回答第41題至第45題。

Hearst Castle is a National Historic Landmark and California Historical Landmark mansion located on the Central Coast of California in the U.S.A. It was designed by architect Julia Morgan, 41 between 1919 and 1947, as a residence for newspaper magnate William Randolph Hearst, who died in 1951. In 1954, it became a California State Park. The site was opened to visitors in 1958. Since then it has been operated as the Hearst San Simeon State Historical Monument, where the estate, along with its considerable collection of art and antiques, is open for public tours. 42 its location far from any urban center, the site attracts millions of travelers each year.

Invitations to Hearst Castle were highly coveted during its heyday in the 1920s and 1930s. The Hollywood and political elite often visited. While guests were expected to attend the formal dinners each evening, they were normally left to their own 43 during the day while Hearst directed his business affairs. Since the estate had so many facilities, including its own movie studio, guests were 44 at a loss for things to do.

Although the main estate is now a museum, the Hearst family continues to use an older Victorian house on the property as a retreat. To uphold the estate's non-profit image, 45 filming is not often at Hearst Castle and most requests are turned down. Since the property was donated to the state of California, only two projects have been granted permission, namely, Stanley Kubrick's film *Spartacus* and Lady Gaga's music video for "G.U.Y."!

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|-------------------|-----------------|-----------------|-------------------|
| 41 (A) built | (B) building | (C) to be built | (D) to have built |
| 42 (A) Besides | (B) Despite | (C) Instead of | (D) Along with |
| 43 (A) categories | (B) dwellings | (C) segments | (D) terminals |
| 44 (A) briefly | (B) nearly | (C) partly | (D) rarely |
| 45 (A) commercial | (B) preliminary | (C) reflective | (D) spontaneous |

請依下文回答第46題至第50題。

The Australian government has operated a policy since 2013, obstructing refugees from arriving in their country and seeking humanitarian aids. Those asylum-seekers and illegal migrants have been completely rejected and detained on distant Pacific islands like Manus and Nauru. This policy was formulated by Kevin Rudd, the prime minister of Australia by then. The main objective of this plan is to prevent refugees from staying in Australia and settle them instead in remote areas as part of the resettlement deal with Papua New Guinea. Thousands of those refugees were thus delivered there. Yet, after years of detention on those faraway Pacific islands, the demeaning conditions those refugees are in and their agony are heard worldwide as the United Nations Refugee Agency and international human rights groups have **condemned** the Australian government's implementation of this policy. But the Australian government still sticks to its principle and has done nothing to alter the plan.

As a remarkable way to "celebrate" the fifth anniversary of this policy's renewal, thousands of protestors marched across cities in Australia to ask for the termination of this offshore detention policy as they think that five years are too long for the detention. Besides Sydney, demonstrations across the streets took place jointly in Melbourne, Adelaide, Brisbane, Canberra and Perth as well. The devastating stories of refugees detained on camps on those islands were occasionally heard with a recent suicidal case of an Iranian refugee on Nauru whose body has reached Australia but would be buried in Nauru or repatriated back to Iran. One of the advocacy groups for human rights claimed that has been the fifth death on Nauru since Australia launched its offshore detention project in July 2013, whereas there were also seven others who have passed away on Manus during approximately the same phase. The Australian government has attempted to arrange those refugees to third countries such as the US, and over a hundred of them have been transported there, according to the Refugee Action Coalition. But there still remain around 1,600 refugees on Nauru and Manus.

- 46 What is most likely the author's purpose for writing this news report?
- (A) To urge people to respect the rights and interests of refugees.
(B) To reveal the prevalent problem of immigrants.
(C) To persuade people into helping solve the hygienic problem of illegal immigrants.
(D) To value the financial aids carried out by the human rights groups.
- 47 What does "condemned" mean in the first paragraph?
- (A) encouraged (B) condoned (C) criticized (D) enforced
- 48 According to the passage, which of the following statements is correct?
- (A) Those refugees have called for the help of international human rights groups.
(B) The news about the cases of death on those detention camps have been released to the world.
(C) The Australian government allows the refugees who are asylum-seekers to stay in Melbourne.
(D) None of the human rights groups supported the rescuing of those refugees in distress.
- 49 According to the passage, why did the demonstrators in Australia march across cities to protest against this detention policy?
- (A) They want to celebrate the implementation of the detention policy.
(B) They do not want Australia to become a disgraceful nation.
(C) They welcome the arrival of the refugees in their country.
(D) They think the detention has been too long and inappropriate.
- 50 What has the Australian government done to release the tension of the detention centers?
- (A) They have assisted the human rights groups in deporting refugees back to their own countries.
(B) They have attempted to terminate the offshore detention policy.
(C) They have sent a number of refugees to third countries as asylum-seekers.
(D) They have encouraged those detained refugees to stay in mainland Australia.