

108年公務人員高等考試三級考試試題

類 科：各類科（除公職醫事檢驗師、公職藥師、公職護理師、公職臨床心理師外）

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 關於我國現行修憲程序之敘述，下列何者正確？
(A)由行政院提出憲法修正案，送請立法院決議通過 (B)由人民提出憲法修正案，送請立法院複決通過
(C)由總統提出憲法修正案，經人民投票複決通過 (D)由立法院提出憲法修正案，經人民投票複決通過
- 2 依司法院大法官解釋意旨，關於徵收私人土地所應踐行之正當行政程序，下列敘述何者錯誤？
(A)不僅適用於徵收前及徵收時，亦應擴及於徵收後之階段
(B)徵收計畫確定前，應給予土地所有權人陳述意見之機會
(C)徵收核准時，應踐行徵收處分公告及書面通知土地所有權人之程序
(D)徵收完成後，應即時公告被徵收土地所有權移轉登記辦理完竣資訊
- 3 依司法院大法官解釋，下列有關訴訟權之敘述，何者正確？
(A)民事訴訟法對上訴第三審利益之數額限制，不違反訴訟權之保障
(B)對於律師懲戒覆審委員會所為之決議，仍得向最高行政法院請求救濟
(C)都市計畫因定期通盤檢討所為之變更，屬法規性質，人民不得爭訟
(D)有關審級制度之設計，完全屬立法形成之自由
- 4 依憲法規定，有關選舉及被選舉年齡之敘述，下列何者正確？
(A)中華民國國民年滿 21 歲者，有依法被選舉之權 (B)中華民國國民年滿 20 歲者，得依法選舉總統
(C)中華民國國民年滿 18 歲者，得依法選舉縣長 (D)中華民國國民年滿 35 歲者，得依法被選為總統
- 5 依司法院大法官解釋意旨，下列何者非憲法服公職權之保障主體？
(A)立法委員 (B)國立大學專任教授 (C)志願役預備士官 (D)退休公務人員
- 6 下列何者不屬於地方制度法所稱之地方自治團體？
(A)臺灣省 (B)高雄市 (C)花蓮縣 (D)嘉義市
- 7 有關憲法保障人民受教育之權利，下列敘述何者錯誤？
(A)受國民教育以外教育之權利，屬憲法第 22 條保障之範圍
(B)憲法第 21 條賦予人民得請求國家提供教育給付之權利，國家亦有提供給付之義務
(C)憲法第 159 條規定：「國民受教育之機會，一律平等。」旨在確保人民享有接受國民教育之公平機會
(D)大學為維持學校秩序，對學生所為之公權力措施，如侵害學生受教育權，應許權利受侵害之學生提起行政訴訟
- 8 憲法第七章所定之「司法」，其掌理之事項不包括下列何者？
(A)民事訴訟 (B)刑事偵查及訴訟 (C)行政訴訟 (D)公務員懲戒
- 9 依司法院大法官解釋意旨，關於法官聲請釋憲之要件，下列何者錯誤？
(A)限於最高法院或最高行政法院繫屬中之案件
(B)聲請解釋之標的，須為法官審理案件時應適用之法律
(C)聲請解釋之法官，須提出客觀上形成確信法律為違憲之具體理由
(D)聲請解釋之法官，得以之為先決問題裁定停止訴訟程序
- 10 依司法院大法官解釋意旨，有關言論及出版自由，下列敘述何者錯誤？
(A)憲法保障人民有積極表意之自由及消極不表意之自由
(B)言論自由保障之內容包括主觀之意見表達及客觀之事實陳述
(C)性言論之表現與性資訊之流通，不論是否出於營利目的，均受憲法對言論及出版自由之保障
(D)商業性意見表達亦屬言論自由保障之範圍，要求藥物廣告刊播前先送審，已違背事前檢查之禁止原則
- 11 依司法院大法官解釋，下列關於隱私權之敘述，何者錯誤？
(A)隱私權非屬憲法明文列舉之權利 (B)個人資料自主控制權亦屬於隱私權
(C)個人指紋受憲法隱私權之保障 (D)隱私權為憲法所保障財產權之一種
- 12 關於集會自由，下列何者正確？
(A)集會屬憲法保留的基本權利，不得以法律限制之 (B)國家不得劃定集會遊行之禁制區
(C)偶發性集會一律違法 (D)國家應提供適當集會場所，並保護集會、遊行之安全
- 13 依據憲法與總統副總統選舉罷免法，關於罷免總統之敘述，下列何者錯誤？
(A)罷免案經由立法院提議與同意後提出
(B)任何人不得宣傳罷免與阻止罷免之宣傳活動
(C)總統就職滿一年後，方得提出罷免案
(D)罷免案經投票否決後，在任期內得再次為罷免案之提議
- 14 依憲法增修條文之規定，關於行政院覆議權之敘述，下列何者正確？
(A)覆議案之範圍為法律案、預算案、條約案與重要政策變更
(B)行政院對窒礙難行之法律案決議，直接向立法院提出覆議
(C)立法院逾期未議決覆議案，原決議失效
(D)覆議時，如經全體立法委員二分之一以上決議維持原案，行政院院長應即接受或辭職
- 15 立法委員不可兼任下列何項職務？
(A)長榮海運總經理 (B)台新銀行董事長
(C)執政黨秘書長 (D)中華郵政股份有限公司董事長

- 16 所得稅法施行細則係依所得稅法第 121 條規定訂定，其性質為下列何者？
 (A)法規命令 (B)委辦規則 (C)特別法 (D)間接法
- 17 依據地方制度法規定，下列何者非屬應以自治條例規定之事項？
 (A)法律或自治條例規定應經地方立法機關議決者 (B)創設、剝奪或限制地方自治團體居民之權利義務者
 (C)關於地方自治團體及所經營事業機構之組織者 (D)關於地方自治團體其內部行政事務之分工者
- 18 甲依法向主管機關申請許可，在決定作成前，據以准許之法規有變更，但未廢除或禁止所申請之事項。依據中央法規標準法之規定，主管機關原則上應如何適用法規？
 (A)適用舊法規，但新法規有利於當事人者，適用新法規 (B)適用新法規，但舊法規有利於當事人者，適用舊法規
 (C)不論何者有利於當事人，一律適用新法規 (D)不論何者有利於當事人，一律適用舊法規
- 19 憲法第 7 條規定「中華民國人民，無分男女、宗教、種族、階級、黨派，在法律上一律平等」，通說上認為此處之法律，包括法律與行政命令，係採用何種法律解釋方法所獲得之結果？
 (A)擴張解釋 (B)反面解釋 (C)歷史解釋 (D)類推解釋
- 20 下列何者適用行政程序法之程序規定？
 (A)主管機關與公費生簽訂行政契約 (B)考選部關於國家考試之命題行為
 (C)外國人出入境事項 (D)行政機關對所屬公務人員為記過一次之懲處
- 21 基於法治國原則，以法律限制人民自由權利時，關於其構成要件所使用之概念，下列何者錯誤？
 (A)不得使用不確定法律概念或概括條款 (B)須非難以理解
 (C)須為受規範者所得預見 (D)須可經由司法審查加以確認
- 22 依民法之規定，下列就無償契約之敘述，何者正確？
 (A)無行為能力人為意思表示及受意思表示，應得法定代理人之允許與同意，但純獲法律上利益者不在此限
 (B)不當得利受領人，以其所受者，無償讓與第三人，第三人一律免負返還責任
 (C)受任人處理委任事物，未受有報酬者，應以善良管理人之注意為之
 (D)債務人所為之無償行為，有害及債權者，債權人得聲請法院撤銷之
- 23 下列選項中的 X 與 Y，何者結婚無效？
 (A)甲乙為夫妻，甲婚前育有子女 X，乙婚前育有子女 Y，X 與 Y 成年後結婚
 (B)甲乙為夫妻，甲之父 X 已喪偶，乙之母 Y 亦已喪偶，X 與 Y 結婚
 (C)甲乙為兄妹，甲婚後育有子女 X，乙婚後收養子女 Y，X 與 Y 成年後結婚
 (D)X 17 歲時生下甲，甲成年後與較其年長 12 歲的 Y 結婚，甲與 Y 離婚後，X 與 Y 結婚
- 24 依民法之規定，下列有關使用借貸契約之敘述，何者正確？
 (A)使用借貸契約為要物契約，貸與人須交付和移轉借用物之所有權予借用人
 (B)貸與未定期限，又不能依借貸之目的而定期限者，貸與人得隨時請求返還借用物
 (C)借用物為動物者，其飼養費由貸與人負擔
 (D)貸與人故意或重大過失不告知借用物之瑕疵，致借用人受損害者，負賠償責任
- 25 乙為擔保其向甲之借款，乃以其 A 屋及丙、丁所有之 B 地、C 地設定共同抵押。於甲之債權屆期未受清償時，下列敘述何者錯誤？
 (A)甲得自由選擇 A 屋、B 地、C 地任何其中之一，就其賣得價金，受償權全部或一部之清償
 (B)因 A 屋為債務人乙所有，故甲應優先選擇 A 屋，就其賣得價金，受償權全部或一部之清償
 (C)甲如選擇 B 地實行抵押權，獲得完全之清償，若 B 地超過其分擔額時，丙得請求丁償還 C 地應分擔之部分
 (D)甲如選擇 B 地實行抵押權，丙於 B 地清償之限度內，承受甲對乙之債權。但不得有害於甲之利益
- 26 關於感化教育處分相關規定，下列敘述何者錯誤？
 (A)因未滿 14 歲而不罰者，不得令入感化教育處所，施以感化教育
 (B)感化教育為限制人身自由之保安處分
 (C)執行感化教育之期間最長 3 年
 (D)執行已逾 6 月，認無繼續執行之必要者，法院得免其處分之執行
- 27 A 餐廳推出自助餐 599 元吃到飽專案，並貼出告示：「請酌量取用，勿浪費食物，否則每人一律罰款用餐價格 10 倍」。該告示是否有效？
 (A)有效，因為當事人可任意約定契約內容 (B)原則有效，除非顧客反對才會無效
 (C)無效，因為違反平等互惠原則 (D)如果餐廳曾告知顧客此規定，則有效，若無，則無效
- 28 關於非公開發行股份有限公司年度財務報表之規定，下列敘述，何者錯誤？
 (A)應由董事會編造，交監察人查核後，送股東會承認 (B)一定規模以上公司之財報，才需由會計師查核簽證
 (C)簽證會計師由監察人選任與解任 (D)債權人得請求公司提供財務報表
- 29 依全民健康保險法之規定，關於被保險人投保金額之敘述，下列何者錯誤？
 (A)受僱者，以其薪資所得為投保金額
 (B)雇主及自營業主，以其營利所得為投保金額
 (C)自營作業者，以其執行業務所得為投保金額
 (D)專門職業及技術人員自行執業者之投保金額，以第二類被保險人之平均投保金額計算之
- 30 依性別工作平等法第 27 條之規定，受僱者或求職者因受性騷擾而受有損害者，有關雇主之民事賠償責任，下列何者正確？
 (A)只要雇主能證明其已遵行本法所定之各種防治性騷擾之規定，則雇主不負賠償責任
 (B)縱使雇主已遵行該法所定之各種防治性騷擾之規定，但是損害仍然發生，雇主仍應與行為人負賠償責任
 (C)雇主如能證明其已遵行本法所定之各種防治性騷擾之規定，且對該事情之發生已盡力防止仍不免發生者，雇主不負賠償責任
 (D)雇主與行為人應負連帶賠償責任，惟事後得向行為人請求賠償

- 31 The only reasons for the old man to leave the house were to run important _____ or visit the doctor.
(A) errands (B) debris (C) utensils (D) summons
- 32 When you read this introductory chapter, list the points you have identified as especially _____ to your organization and keep them in mind.
(A) relevant (B) incompetent (C) naturalistic (D) arbitrary
- 33 We may easily _____ salespeople who approach us on the street, but we often surrender without knowing it to the ultimate salesman: mass media.
(A) rebound (B) reject (C) reduplicate (D) repeat
- 34 Trash is a problem that has _____ humans since they moved into cities. And dealing with it is messy and expensive.
(A) embarked (B) enacted (C) plagued (D) obliged
- 35 The _____ factor that contributes to having so many immigrants move into this country is mainly about economic reasons.
(A) risk (B) push (C) impact (D) gravity
- 36 Malaria was believed to be on the verge of _____ when people thought that the introduction of insecticides signaled the end of the malaria-carrying mosquito.
(A) persuasion (B) eradication (C) domination (D) contamination
- 37 Lured by false promises of a good job, a stable conflict-free environment or even a loving romantic relationship, victims of human _____ are then pushed into forced labor or sexual exploitation.
(A) trafficking (B) slavery (C) migration (D) distribution

第 38 題至第 41 題為篇章結構，各題請依文意從四個選項中選出最合適者，答案選用不能重複：

The suspected suicide of actor and comedian Robin Williams is being linked, in part, to depression. Many Americans suffer from the condition. But, many also are trying to help people with depression. They are finding ways to bring attention to depression and ways to treat it.

For example, thousands of people take part in what are called “Out of the Darkness Walks.” _____ 38 They also hope to raise money for suicide prevention efforts and research into depression.

Steve Iselin served in the Navy for 20 years. After his retirement, he began to look for another job. That is when he began feeling hopeless. He said, “I had a great sense of dread every day. Agony is another word that comes to mind. I didn’t want to do anything that I would normally like to do. I had no interest in seeing other people.” Steve Iselin did find a job. But he left after one week because he told himself he could not do the work. Everything he did seemed very difficult. Decisions were painful, even having to choose what he would wear that day or what to eat. Mr. Iselin was suffering from depression.

Bob Gebbia heads the American Foundation for Suicide Prevention. He says being depressed is very different from being sad or having a bad day. He says that about 20 million people are found to have clinical depression in the United States every year. _____ 39 He notes that some people are more likely than others to get depressed. “Let’s say you lose your job, divorce, or, you know, a loss of someone.”

After Robin Williams’ death, the American Foundation for the Prevention of Suicide released a statement. The foundation said Mr. Williams: “brought laughter into every life he touched; Robin also suffered from depression. _____ 40 Every 13 minutes someone dies from suicide, and it is among the top ten causes of death in the U.S.” The group said more needs to be done to prevent suicides. It called for greater attention to mental health issues, warning signs, and effective forms of intervention and treatment.

Steve Iselin was lucky. His wife recognized the signs of depression. She helped him get the expert care he needed. But he says that was not true of his brother’s son. Mr. Iselin says his nephew became depressed a few years later and killed himself. A year after his nephew’s death, Mr. Iselin visited his brother in San Francisco and heard about the “Out of the Darkness Walks.” The American Foundation for Suicide Prevention organized the event. Both men took part. _____ 41 Since then, Steve Iselin has volunteered with the American Foundation for Suicide Prevention, taking part in many community walks.

- 38 (A) Mr. Gebbia says the cause could be a combination of genetic influences, changes in brain chemistry or environmental reasons.
(B) Steve Iselin said that was the first day his brother understood that perhaps he was not to blame for his son’s death.
(C) The walkers remember loved ones they lost to suicide.
(D) It is our hope that we are able to have an open conversation that depression and addictions are real illnesses that can sometimes be fatal.
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請依下文回答第 42 題至第 45 題：

As people woke up at dawn on the farm, one person was already up. 42 An old man from Thailand claimed he has not slept for 33 years: “My insomnia started many years ago after I got a fever. 43 But nothing helps.” Amazingly, since then he has never once been ill. He spent the day farming and taking care of his pigs and at night he patrols the village. 44 Doctors said a chronic lack of sleep often causes anorexia, lethargy and irritability. 45 He was certainly one of them.

- 42 (A) Anyway, he went to bed in the morning. (B) Furthermore, he came back from nightshift.
(C) Indeed, he has always been asleep. (D) In fact, he hasn't even been to bed.
- 43 (A) All the people blamed me. (B) I did not have money to see the doctor.
(C) I have tried everything. (D) The fever was long gone.
- 44 (A) He always disrupted his neighbors' work during the day.
(B) He also helped to wake his neighbors up when there was a need.
(C) He got very grumpy and everybody was annoyed with him.
(D) He got very ill and could not work at all.
- 45 (A) But there were exceptions. (B) Cases can vary.
(C) It could be even worse. (D) No remedy can cure him.

請依下文回答第 46 題至第 50 題：

Those who doubt the power of human beings to change Earth's climate should look to the Arctic, and shiver. There is no need to pore over records of temperatures and atmospheric carbon-dioxide concentrations. The process is starkly visible in the shrinkage of the ice that covers the Arctic ocean. In the past 30 years, the minimum coverage of summer ice has fallen by half; its volume has fallen by three-quarters. On current trends, the Arctic ocean will be largely ice-free in summer by 2040.

Climate-change sceptics will shrug. Some may even celebrate: an ice-free Arctic ocean promises a shortcut for shipping between the Pacific coast of Asia and the Atlantic coasts of Europe and the Americas, and the possibility of prospecting for perhaps a fifth of the planet's undiscovered supplies of oil and natural gas. Such reactions are profoundly misguided. Never mind that the low price of oil and gas means searching for them in the Arctic is no longer worthwhile. Or that the much-vaunted sea passages are likely to carry only a trickle of trade. The right response is fear. The Arctic is not merely a bellwether of matters climatic, but an actor in them.

The current period of global warming that Earth is undergoing is caused by certain gases in the atmosphere, notably carbon dioxide. These admit heat, in the form of sunlight, but block its radiation back into space, in the form of longer-wave-length infra-red. That traps heat in the air, the water and the land. More carbon dioxide equals more warming--a simple equation. Except it is not simple. A number of feedback loops complicate matters. Some dampen warming down; some speed it up. Two in the Arctic may speed it up quite a lot.

One is that seawater is much darker than ice. It absorbs heat rather than reflecting it back into space. That melts more ice, which leaves more seawater exposed, which melts more ice. And so on. This helps explain why the Arctic is warming faster than the rest of the planet. The deal on climate change made in Paris in 2015 is meant to stop Earth's surface temperature rising by more than 2°C above pre-industrial levels. In the unlikely event that it is fully implemented, winter temperatures over the Arctic ocean will still warm by between 5°C and 9°C compared with their 1986-2005 average.

The second feedback loop concerns not the water but the land. In the Arctic much of this is permafrost. That frozen soil locks up a lot of organic material. If the permafrost melts its organic contents can escape as a result of fire or decay, in the form of carbon dioxide or methane (which is a more potent greenhouse gas than CO₂). This will speed up global warming directly--and the soot from the fires, when it settles on the ice, will darken it and thus speed its melting still more.

- 46 Which of the following is the main idea of the second paragraph?
(A) To raise doubts about the optimism that climate-change disbelievers express.
(B) To introduce potential commerce that an ice-free Arctic ocean may bring.
(C) To indicate incomplete knowledge people have of the Arctic's economy.
(D) To differentiate the views of those who fear climate-change from those who don't.
- 47 Which of the following best describes the function of the last two paragraphs?
(A) They narrow the scope of the topic introduced in the first two paragraphs.
(B) They explain the rationale for the Arctic ocean's increasing melting speed.
(C) They cite the most striking instances implemented after the 2015 Paris deal.
(D) They present the feedback loops that slow down the Arctic's warming process.
- 48 Which of the following phrases best corresponds to the words “much darker” in the beginning of paragraph four?
(A) more mysterious (B) less brilliant (C) more troublesome (D) less distinctive
- 49 Which of the following is the tone of the passage?
(A) pleading (B) sarcastic (C) conclusive (D) alarming
- 50 What is the main idea of the passage?
(A) The Arctic is not only an indicator of global warming but also a main cause of it.
(B) The Paris deal is the only solution to slowing down the Arctic's ice shrinkage rate.
(C) The organic contents released in the Arctic's melting process will benefit global economy.
(D) There is not enough study about the global warming that Earth is undergoing.