

104年公務人員升官等考試、104年關務人員升官等考試  
104年交通事業公路、港務人員升資考試試題

等 級：薦任、員級晉高員級

類科(別)：各類科—公務、各類別—公路、港務

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 有關監察院與監察委員之敘述，下列何者正確？  
(A)監察院得按行政院及其各部會之工作分設委員會  
(B)監察院院長出缺時，由副院長代理至任期屆滿為止  
(C)監察院設監察委員 29 人，並由委員互選其中 1 人為院長，1 人為副院長  
(D)監察委員任期 8 年，不得連任
- 2 依地方制度法第 30 條規定，有關地方自治法規之位階，下列敘述何者正確？  
(A)法律與自治條例牴觸者，法律無效  
(B)自治條例與基於法律授權之法規牴觸者無效  
(C)基於法律授權之法規命令與自治規則牴觸者無效  
(D)自治條例與自治規則牴觸者無效
- 3 依公職人員選舉罷免法之規定，下列關於罷免案的敘述，何者正確？  
(A)罷免案之投票，應於罷免案宣告成立後 30 日內為之  
(B)罷免案之投票得與各類選舉之投票同時舉行  
(C)罷免案投票人數不足原選舉區選舉人總數三分之一或同意罷免票數未超過有效票數三分之二者，均為否決  
(D)罷免案否決者，在該被罷免人之任期內，得對之再為罷免案之提議
- 4 我國憲法對於人民的權利與義務之規定，是採何種方式？  
(A)僅有列舉規定  
(B)只有概括規定  
(C)例示規定  
(D)僅為方針規定
- 5 下列關於職業自由之敘述，何者錯誤？  
(A)我國並無保障職業自由之明文規定  
(B)職業執行之自由，得為追求一般公共利益而加以限制  
(C)對於從業人員之數量限制，屬於職業之客觀許可條件  
(D)為追求公共利益，得對於特定職業設定客觀許可條件
- 6 依司法院解釋，法規規定公法人、未滿 16 歲或年逾 70 歲之自然人、專任農耕以外之職業者及在學之學生，皆不得申請自耕能力證明書，影響憲法保障人民之何種基本權利？  
(A)財產權  
(B)訴訟權  
(C)生存權  
(D)隱私權
- 7 依司法院釋字第 559 號解釋之見解，基於法治國家之基本原則，凡涉及人身自由之限制事項，應如何定之？  
(A)以契約定之  
(B)以條約定之  
(C)以法律定之  
(D)以命令定之
- 8 依司法院解釋，下列有關宗教自由之敘述，何者錯誤？  
(A)指人民有信仰與不信仰任何宗教之自由  
(B)有參與或不參與宗教活動之自由  
(C)國家不得對特定之宗教加以獎勵或禁制  
(D)國家得從事特定之宗教教育
- 9 罷免權屬下列人民之何種權利？  
(A)參政權  
(B)結社權  
(C)行政權  
(D)創制權
- 10 依總統副總統選舉罷免法之規定，總統、副總統選舉罷免訴訟之管轄機關為：  
(A)中央政府所在地之高等行政法院  
(B)司法院大法官  
(C)中央選舉委員會  
(D)中央政府所在地之高等法院
- 11 立法院對行政院院長提出不信任案，如未獲通過，多久時間內不得對同一行政院院長再提不信任案？  
(A)無時間限制  
(B)10 個月內  
(C)3 個月內  
(D)1 年內
- 12 全國不分區及僑居國外國民共 34 位立法委員依政黨名單投票選舉之，各政黨當選名單中，婦女不得低於多少？  
(A)二分之一  
(B)三分之一  
(C)四分之一  
(D)五分之一
- 13 有關立法院法制局職掌之敘述，下列何者錯誤？  
(A)關於立法政策之研究  
(B)關於法律案之評估  
(C)關於議案條文之整理  
(D)關於外國立法制度之研究
- 14 司法院設人事審議委員會，其中之法官代表如何產生？  
(A)由司法院院長指派  
(B)由各級法院院長指派  
(C)由各級法院法官互選之  
(D)由各級法院法官輪流擔任

- 15 依憲法增修條文之規定，下列關於司法院院長、副院長之敘述，何者錯誤？  
(A)司法院設院長、副院長各一人  
(B)司法院院長、副院長均並為司法院大法官  
(C)司法院院長、副院長受任期之保障  
(D)司法院院長、副院長，由總統提名，經立法院同意任命之
- 16 依性別工作平等法之規定，下列何者雇主可因性別而有差別待遇？  
(A)雇主為受僱者舉辦或提供教育、訓練  
(B)雇主為受僱者舉辦或提供各項福利措施  
(C)雇主對求職者之招募，但工作性質僅適合特定性別者  
(D)雇主對受僱者之退休、資遣、離職及解僱
- 17 禁止錯誤是指行為人沒有正確認知何者而言？  
(A)構成要件該當事實 (B)行為的違法性  
(C)客觀處罰條件的相關事實 (D)行為的可罰性
- 18 下列有關公司名稱之敘述，何者正確？  
(A)公司設立登記後取得名稱專用權，他公司不得使用相同名稱，但若公司已為解散登記，自解散登記之日起，逾 10 年未清算完結者，其公司名稱得為他人申請核准使用  
(B)公司名稱被法院判決確定不得使用，公司於判決確定後 6 個月內未辦妥名稱變更登記者，主管機關應即命令公司解散  
(C)公司名稱不得使用易於使人誤認其與政府機關有關之名稱，除非獲得該政府機關同意，則可不受限制  
(D)兩公司之特取名稱雖相同，但只要公司名稱中有標明不同公司種類，則視為不相同
- 19 企業經營者向消費者保證商品或服務之品質時，應出具書面保證書。下列有關書面保證書之敘述，何者錯誤？  
(A)商品如有製造號碼或批號者，保證書應一併記載製造號碼或批號  
(B)出具保證書屬法定要式行為，若未出具保證書，則應認為該保證行為無效  
(C)縱使企業經營者未出具書面保證書，仍應就其保證之品質負責  
(D)如透過經銷商出售商品時，於保證書中應一併記載製造商及經銷商資料
- 20 有關非拘束人身自由保安處分的法律規定，於行為後、裁判前有變更時，應依何種原則處理？  
(A)從輕原則 (B)從新原則 (C)從舊原則 (D)從舊從輕原則
- 21 甲在乙銀行存錢，其存摺不慎遺失，為丙拾得。丙偽刻甲之印章，蓋在取款條上，並持甲之真正存摺，向乙銀行提款。下列敘述，何者正確？  
(A)乙銀行只要盡善良管理人之注意義務，縱使無法以肉眼辨識，可對抗甲  
(B)甲不慎遺失其存摺，致丙得以冒領甲之存款，甲是被害人，僅得向丙求償  
(C)丙並非債權準占有人，故乙銀行向丙付款，不生清償效力  
(D)因丙持甲之真正存摺，故乙銀行向丙付款，其效果等同於向甲付款
- 22 50 歲之甲將其筆電贈與 15 歲之乙。該贈與契約效力為何？  
(A)有效 (B)無效 (C)效力未定 (D)乙的法定代理人得撤銷之
- 23 關於預算案之敘述，下列何者錯誤？  
(A)立法院不得為增加支出之提議 (B)行政院不得刪減司法院所提出之概算  
(C)立法院得刪減行政院所提之預算 (D)考試院得逕行向立法院提出預算案
- 24 立法院各委員會得邀請政府人員到會備詢。下列何者並無出席備詢之義務？  
(A)經濟部次長 (B)考試委員  
(C)司法院秘書長 (D)行政院大陸委員會主任委員
- 25 下列何者，不得向立法院提出法律案？  
(A)司法院 (B)監察院 (C)考試院 (D)總統府
- 26 法律適用方式中，有關擬制與推定之敘述，下列何者正確？  
(A)推定適用於事實，不可以反證推翻 (B)擬制適用於法律效果，可以反證推翻  
(C)推定的事實得不符合經驗法則 (D)法律條文中擬制規定多使用「視為」用語
- 27 有關「罪刑法定主義」，下列敘述何者正確？  
(A)刑罰之構成要件得類推適用 (B)刑罰不得溯及既往  
(C)刑法之處罰規定得依習慣法為之 (D)刑罰之阻卻違法事由不得類推適用
- 28 下列有關權利之論述，何者正確？  
(A)反射利益與權利同受一樣保障 (B)法律所承認之權利被侵害，應有救濟權  
(C)權利不包含無體財產權 (D)財產權為絕對權，具有對世效力

- 29 關於法律之效力與適用，下列何者錯誤？  
 (A)行為後法律或自治條例有變更者，適用行政機關最初裁處時之法律或自治條例。但裁處前之法律或自治條例有利於受處罰者，適用最有利於受處罰者之規定  
 (B)違反行政法上義務之處罰，以行為時之法律或自治條例有明文規定者為限  
 (C)在中華民國領域內違反行政法上義務應受處罰者，適用行政罰法  
 (D)在中華民國領域外之中華民國船艦違反行政法上義務者，不適用行政罰法
- 30 下列關於自治規則之敘述，何者正確？  
 (A)剝奪地方自治團體居民權利者，皆應以自治規則定之  
 (B)由地方立法機關通過，性質如同地方自治團體之法律  
 (C)無自治條例之授權，地方機關不得自行發布自治規則  
 (D)自治規則不得牴觸憲法、法律、法規命令及自治條例
- 31 Mark moved from one city to another every year to work for different companies. He didn't have a \_\_\_\_\_ job.  
 (A)permanent (B)competent (C)concurrent (D)negligent
- 32 When Lynn's parents visited her for the very first time in Taipei, they got \_\_\_\_\_ about all different Taipei Metro routes and so many exits at each Metro station.  
 (A)activated (B)befuddled (C)enlightened (D)visualized
- 33 He enlivens his lecture by introducing amusing anecdotes \_\_\_\_\_ to the subject.  
 (A)forgetful (B)plausible (C)germane (D)guilty
- 34 The wreckage of the houses manifests the \_\_\_\_\_ of the typhoon which hit the small village last week.  
 (A)ferocity (B)latitude (C)origin (D)admonition
- 35 The instant gratification of a photo posted to the Web that can get immediate approval from your followers has a downside.  
 (A)If the number of your followers goes down after you post an instant photo onto the Web, you will immediately know that you are not popular.  
 (B)Even if you are pleased with the approval you get from your followers, there is still a negative aspect.  
 (C)The disadvantage of posting your photo to the Web is that you become so happy that you forget to express your gratitude to your followers who like your photo.  
 (D)If you do not get instant approval from your followers about the photo you posted to the Web, you will tell right away that the number of your followers decline.

請依下文回答第 36 題至第 40 題

As Neil Armstrong became the first man to walk on the moon, a global audience of 500 million people were watching and listening. "That's one small step for man, one giant leap for mankind," they heard him say as he dropped from the ladder of his spacecraft to make the first human footprint on the lunar surface. It was the perfect quote for such a 36 occasion. But from the moment he said it, people have argued about whether the NASA astronaut got his lines wrong. In the tense six hours and forty minutes between landing on the moon and stepping out of the capsule, Armstrong wrote what he knew would become some of the most 37 words in history. He has always insisted that he wrote "one small step for a man, one giant leap for mankind," which would have been a more meaningful and 38 correct sentence. Without the missing "a," the intended meaning of the sentence is lost. In effect, the line means, "That is one small step for mankind (i.e., humanity), one giant leap for mankind." But did he really say the sentence incorrectly? Until now Armstrong himself had never been sure if he actually said what he wrote. In his biography *First Man* he told the author James Hansen, "I must admit that it doesn't sound like the word 'a' is there. On the other hand, certainly the 'a' was intended, because that's the only way it makes sense." But now, after almost four decades, the space explorer has been 39. Using high-tech sound analysis techniques, Peter Shann Ford, an Australian computer expert, has discovered that the "a" was spoken by Armstrong, but he said it so quickly that it was 40 on the recording that was broadcast to the world.

- 36 (A)spontaneous (B)technical (C)momentous (D)recording  
 37 (A)merciful (B)memorable (C)unwanted (D)unforgiving  
 38 (A)grammatically (B)clumsily (C)phonetically (D)spaciously  
 39 (A)improved (B)evacuated (C)resolved (D)vindicated  
 40 (A)accountable (B)audacious (C)inaudible (D)inevitable

請依下文回答第 41 題至第 45 題

One of the hidden glories of Victorian engineering is proper drains. Isolating a city's effluent and shipping it away in underground sewers has probably saved more lives than any medical procedure except vaccination. But out of sight is out of mind. And that, together with the inherent yuckiness of the subject, means that many old sewers have been neglected and are in dire need of repair. If that repair does not come in time, the result is noxious and potentially hazardous. All this neglect, though, makes it hard to know where best to apply the sticking-plasters. So Mark Hernandez of the University of Colorado, Boulder, and his team have been looking for an easily measurable signal that something is about to go wrong.

A candidate, Dr. Hernandez suspected, is hydrogen sulphide. This is one of the gases that make sewage stink. Though not itself damaging to a pipe's fabric, it can be converted by certain species of bacteria into sulphuric acid. Pretty well all sewage smells of hydrogen sulphide, though, so for it to be a useful telltale you need to know just how much is a sign of trouble. Dr. Hernandez and his colleagues therefore collected samples from 36 sewers in various states of decay and started looking.

One of their interests was in the mixture of bacteria found in pipes in different states of repair. Rather than culturing these, a process to which not all species are amenable, they ran them through a mass DNA screening that shows up everything in a sample. They also measured the acidity of the sewage soaked into the pipe wall near where the sample was collected and recorded the concentrations in the air there of hydrogen sulphide, methane and carbon dioxide.

- 41 According to this article, what is damaging to the sewer pipe's fabric?  
 (A)hydrogen sulphide            (B)bacteria            (C)sulphuric acid            (D)sticking plasters
- 42 Which of the following statements is true?  
 (A)The underground sewers have saved more lives than any medical procedure.  
 (B)Many old sewers have been neglected and are in dire need of repair.  
 (C)Dr. Hernandez and his colleagues made cultures from the mixture of bacteria found in sewer pipes.  
 (D)The DNA screening of the samples was focused on bacteria only.
- 43 What did Dr. Hernandez and his team look for to detect signs of trouble in sewers ?  
 (A)hydrogen            (B)hydrogen sulphide            (C)carbon dioxide            (D)hydrogen dioxide
- 44 Which of the following statements about bacteria in sewer pipes is true?  
 (A)They are of one species.  
 (B)They could all be cultured.  
 (C)They have undergone mass DNA screening in Dr. Hernandez' experiment.  
 (D)They helped reduce sulphuric acid in sewer pipes.
- 45 Which of the following statements about sewer pipes is true?  
 (A)They are a product of the 20th century.  
 (B)The acidity of the sewage does no damage to the pipes.  
 (C)They are underground.  
 (D)Their repair always comes in time.

請依下文回答第 46 題至第 50 題

Research into behavioral economics has shown that our assessment of what something is worth to us can be directly, and predictably, influenced. This is the illusion of the free lunch, something humans are known 46 even when economic theory would clearly suggest we select a more valuable option at a small cost. Researchers also found how we sometimes operate on social norms, while other times we fall into market norms. The difference is in whether there is a price attached to something. If a friend invites you over for dinner, she will probably appreciate it if you bring a nice bottle of wine along (social norms). However, if instead you throw \$20 (the price of a nice bottle of wine) in cash on the table and say "thanks for a lovely dinner," she would most likely 47 (market norms). Mixing social norms and market norms inappropriately often leads to irrational behavior and, possibly, even to conflict or 48. Our irrational behavior is not just random though. The scientific experiments are 49. Each time we are faced with a similar situation, we tend to behave in a similarly irrational way. So, next to the bad news that we are not nearly as rational as we might have thought (or hoped), there is also good news in that we can understand and 50 our irrational behavior, at least to some extent. This, in turn, can help us improve our decision-making and change our behavior for the better.

- |    |                     |                 |                     |                  |
|----|---------------------|-----------------|---------------------|------------------|
| 46 | (A)to be called     | (B)to fall down | (C)to fall for      | (D)to call out   |
| 47 | (A)be welcomed      | (B)be ready     | (C)be congratulated | (D)be offended   |
| 48 | (A)misunderstanding | (B)discussion   | (C)conversations    | (D)understanding |
| 49 | (A)receivable       | (B)repeatable   | (C)returnable       | (D)remarkable    |
| 50 | (A)predict          | (B)procure      | (C)pretend          | (D)provide       |