

# 104 年公務人員高等考試三級考試試題

類 科：各類科（除公職土木工程技師、公職醫事檢驗師、公職藥師、公職護理師、公職諮商心理師、公職營養師、公職食品技師外）

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 有關監察院及考試院的組織，憲法有何規定？  
(A)以法規命令定之 (B)以法律定之 (C)以行政規則定之 (D)由憲法本身加以規定
- 2 下列何者隸屬於考試院？  
(A)公務員懲戒委員會 (B)公務人員保障暨培訓委員會  
(C)法官學院 (D)公務人力發展中心
- 3 立法程序中，除發現議案內容有互相牴觸，或與憲法、其他法律相牴觸者外，祇得為文字之修正，並應將議案全案交付表決者，此為立法院議案審議何種程序？  
(A)委員會審查 (B)第一讀會 (C)第二讀會 (D)第三讀會
- 4 依總統副總統選舉罷免法之規定，下列何者在選舉公告發布後，非屬為候選人站台限制之列？  
(A)行政院院長 (B)中央選舉委員會之委員 (C)外國人民 (D)大陸地區人民
- 5 依公職人員選舉罷免法之規定，中央選舉委員會隸屬於下列何機關？  
(A)總統府 (B)行政院 (C)考試院 (D)監察院
- 6 有關公民投票審議委員會，下列何者錯誤？  
(A)公民投票審議委員會設於總統府之下，置委員二十一人  
(B)委員任期三年  
(C)委員由主管機關提請總統任命之  
(D)委員具有同一黨籍者，不得超過委員總額二分之一
- 7 有關憲法第 23 條所規定人民自由權利之法律限制，司法院解釋係採何種見解？  
(A)全面保留 (B)干預保留 (C)憲法保留 (D)層級性法律保留
- 8 法律若規定，佛、道寺廟之不動產及法物，非經所屬教會之決議並呈請該管官署許可，不得處分或變更，依司法院解釋，下列敘述何者正確？  
(A)該規定有害及寺廟信仰之傳布存續，對宗教活動自由之限制尚未逾越必要之程度  
(B)該規定與憲法第 7 條之宗教平等原則仍屬相符  
(C)寺廟之財產不受憲法有關財產權規定之保障  
(D)該規定未顧及寺廟之組織自主性，對其組織自主權及財產處分權加以限制，妨礙宗教活動自由，已逾越必要之程度
- 9 依司法院解釋，有關人民工作權、財產權保障，下列敘述何者錯誤？  
(A)基於憲法上工作權之保障，人民得自由選擇從事一定之營業為其職業，而有開業、停業與否及從事營業之時間、地點、對象及方式之自由  
(B)對於航空人員之技能、體格或性行，應為定期檢查，且得為臨時檢查，經檢查不合標準時，應限制、暫停或終止其執業，無牴觸憲法保障人民工作權之規定  
(C)公務員服務法規定，公務員於其離職後三年內，不得擔任與其離職前五年內之職務直接相關之營利事業董事、監察人、經理、執行業務之股東或顧問，違背憲法保障人民工作權之意旨  
(D)道路交通管理處罰條例規定，曾犯故意殺人、搶劫、搶奪、強盜、恐嚇取財、擄人勒贖或妨害性自主之罪，經判決罪刑確定者，不准辦理營業小客車駕駛人執業登記，無牴觸憲法保障人民工作權之規定
- 10 下列何種考試，不屬憲法第 18 條應考試權之範圍？  
(A)公務人員高等考試 (B)外交領事人員考試 (C)專技人員律師考試 (D)保姆證照考試
- 11 有關直轄市長辭職、去職或死亡時，所遺任期補選之敘述，下列何者正確？  
(A)所遺任期不足二年者，不再補選，由代理人代理至該屆任期屆滿為止  
(B)所遺任期不足三年者，不再補選，由代理人代理至該屆任期屆滿為止  
(C)不管所遺任期多久均須再補選  
(D)不管所遺任期多久均不再補選
- 12 有關省政府之敘述，下列何者錯誤？  
(A)省政府接受行政院指揮監督，執行省政府行政事務  
(B)省政府置委員九人，組成省政府委員會議，連同主席及各委員均為無給職  
(C)省政府之預算，由行政院納入中央政府總預算  
(D)省政府為行政院派出機關
- 13 關於「遷徙自由」之限制，下列敘述何者正確？  
(A)警方得依據法律或法律授權將本國國民遞解出境  
(B)中華民國人民每年僅得出國觀光兩次  
(C)依刑事訴訟法規定，得對被告限制住居  
(D)國民出境兩個月以上者，戶政機關依職權為遷出登記

- 14 依司法院解釋意旨，法律規定農業用地在依法作農業使用時，移轉與自行耕作之農民繼續耕作者，免徵土地增值稅。此規定與非自行耕作者取得農地須徵土地增值稅，在租稅上有不同之處理，涉及下列何種原則？  
(A)法律保留原則 (B)平等原則 (C)誠信原則 (D)法律優位原則
- 15 依憲法第 173 條規定，憲法之解釋，由下列何者為之？  
(A)司法院 (B)最高法院 (C)最高行政法院 (D)立法院
- 16 關於法律之制定及效力之敘述，下列何者正確？  
(A)法律經立法院三讀通過後，即生效力 (B)比較沒有爭議的法律案可以直接進入三讀程序  
(C)立法院之第三讀會應將議案全案付表決 (D)所有法律案皆須經過立法院有關委員會之審查
- 17 司法院大法官審理案件法第 13 條第 1 項規定：「大法官解釋案件，應參考制憲、修憲及立法資料。」是屬於何種法律解釋方法？  
(A)目的解釋 (B)體系解釋 (C)歷史解釋 (D)文義解釋
- 18 依憲法第 171 條第 1 項規定，「法律與憲法牴觸者無效」，關於本條的敘述，下列何者錯誤？  
(A)本條規定闡述憲法優位原則 (B)各級法院法官得認為法律牴觸憲法無效而拒絕適用  
(C)司法院大法官得宣告法律無效 (D)大法官職司憲法解釋，其解釋拘束全國各機關
- 19 下列關於限制人民權利之敘述，何者錯誤？  
(A)未得法律授權，行政機關仍得以行政命令限制人民權利  
(B)限制人民權利之法律不得牴觸憲法關於基本權之保障  
(C)法律規定限制人民權利，必須符合比例原則  
(D)依據限制人民權利之程度不同，法律保留之密度不同
- 20 下列何者不是法人？  
(A)某某股份有限公司 (B)馬偕醫院 (C)北港朝天宮 (D)合會
- 21 下列何者不是擔保物權？  
(A)不動產役權 (B)質權 (C)留置權 (D)抵押權
- 22 依中央法規標準法第 2 條規定，就法律的名稱，除了「法」、「律」之外，尚可定名為何？  
(A)條例、準則 (B)條例、通則 (C)規則、通則 (D)辦法、準則
- 23 甲因故意或過失不法侵害他人之權利，於下列何種情形，乙與甲依法無須連帶負損害賠償責任？  
(A)甲為承攬人，乙為定作人，甲執行承攬事項，乙於定作及指示均無過失  
(B)甲為受僱人，乙為僱用人，甲執行職務，乙於選任有過失  
(C)甲為有識別能力之無行為能力人，乙為其法定代理人  
(D)甲為乙法人之董事，甲執行職務加損害於他人
- 24 甲將其受贈之腳踏車，轉贈給乙作為生日禮物，乙立即騎出去兜風，因無法煞車而跌倒受傷，但甲贈與時不知該車無法煞車。下列敘述何者正確？  
(A)乙得向甲主張權利瑕疵擔保責任 (B)乙得向甲請求不完全給付之損害賠償  
(C)乙為無償取得，故不得請求甲負物之瑕疵擔保責任 (D)乙得向甲請求侵權行為之損害賠償
- 25 下列何項婚姻為得撤銷？  
(A)甲男與乙女結婚前，已與丙女合法結婚  
(B)甲男與乙女在結婚證書上之證人簽名為偽造  
(C)乙女與甲男結婚前，曾與甲男之叔叔結婚，其叔叔死亡後再嫁給甲男  
(D)甲男與未成年之乙女結婚前，乙女因其父母去世，而由甲男擔任監護人，且結婚未逾一年
- 26 民法有關拋棄繼承，下列敘述何者錯誤？  
(A)繼承之拋棄，溯及於繼承開始時發生效力  
(B)拋棄繼承之方式，須以書面向法院為之，不必公證  
(C)拋棄繼承之法定期間為自知悉其得繼承時起三個月內  
(D)拋棄繼承為代位繼承之原因
- 27 中止未遂之法律效果如何？  
(A)得減輕 (B)必減輕 (C)減輕或免除其刑 (D)不罰
- 28 下列何項行為侵害著作權？  
(A)以臺北 101 大樓為背景，拍攝照片，供人欣賞  
(B)將合法購得之美術作品提供給美術館展出  
(C)於餐廳中播送自己購買之音樂 DVD，供用餐客人欣賞  
(D)為報導正在進行之音樂大賽，而隨機播報幾位參賽者極小部分之表演內容
- 29 下列有關著作權侵害之敘述，何者錯誤？  
(A)著作權人得請求排除侵害  
(B)對於故意或過失不法侵害其著作財產權者，權利人得請求損害賠償  
(C)對於侵害著作權者，尚有刑事處罰  
(D)侵害著作人格權者，縱無故意或過失，亦負損害賠償責任
- 30 依勞工保險條例第 30 條之規定，領取保險給付之請求權，自得請領之日起，因多少年間不行使而消滅？  
(A)2 年 (B)5 年 (C)15 年 (D)1 年

- 31 We chose an \_\_\_\_\_ day to open our business, which was a success, at least for the last five years.  
(A) ominous (B) elastic (C) eccentric (D) auspicious
- 32 It can be hard for people to resist doing what others demand, but sometimes we must be strong \_\_\_\_\_ pressure.  
(A) in face of (B) in light of (C) with a view to (D) despite of
- 33 This new approach to second language learning claims that it can successfully \_\_\_\_\_ the experience of learning your mother tongue: rapid, easy, natural.  
(A) reprimand (B) redeem (C) replenish (D) replicate
- 34 Research found that those who slept either too much or too little and \_\_\_\_\_ from brain-stimulating activities like reading were at increased risk of developing cognitive impairment.  
(A) abstained (B) entertained (C) maintained (D) sustained
- 35 The life of Abraham Lincoln coincided with dramatic societal \_\_\_\_\_ that shaped the future of the United States.  
(A) elimination (B) evaluations (C) reservation (D) transformations
- 36 We are doubtful about the \_\_\_\_\_ of your proposed project.  
(A) determination (B) alleviation (C) alienation (D) feasibility

請依下文回答第 37 題至第 40 題

An airplane maker, an airline and a biofuel company are working together to make fuel \_\_\_\_\_ 37 \_\_\_\_\_ tobacco plant seed oil. The companies are Boeing, South African Airways and SkyNRG. They are using a new tobacco plant \_\_\_\_\_ 38 \_\_\_\_\_ "Solaris." The Dutch biofuel company SkyNRG developed the plant. It contains less of the drug nicotine than traditional tobacco.

Julie Felgar works on environmental issues for Boeing. She said the plant also has many more seeds than traditional tobacco plants \_\_\_\_\_ 39 \_\_\_\_\_. She said only the oil from the seeds will \_\_\_\_\_ 40 \_\_\_\_\_ to make biofuel now. But researchers are trying to develop ways to use the entire plant to make fuel.

Ian Cruickshank is an environmental issues specialist for South African Airways Group. He said the special tobacco permits growth of a marketable biofuel crop without supporting smoking.

- 37 (A) to (B) by (C) for (D) from
- 38 (A) knew as (B) knew for (C) known as (D) known for
- 39 (A) do (B) having (C) take (D) glow
- 40 (A) be using (B) be used (C) use (D) have used

請依下文回答第 41 題至第 45 題

Many are the journalists who dream about reporting on the world's deadliest scenes of strife. Few are the ones who actually do it. Even fewer are those who do it well. Camille Lepage, a young photographer from France who was educated in the U.K. but \_\_\_\_\_ 41 \_\_\_\_\_ work took her far from Europe, was among the latter.

Last fall, Lepage ventured into the Central Africa Republic, where a coup staged by mainly Muslim rebels had crumpled the state and prompted largely Christian militias to retaliate with fury. She spent her time \_\_\_\_\_ 42 \_\_\_\_\_ the fighters and also those most affected by the turmoil, while learning all she could about its roots. William Daniels, a photographer who worked with her here, \_\_\_\_\_ 43 \_\_\_\_\_ that locals respected her commitment and professionalism. "She was very active, very patient, very passionate about this work," he says. "Very brave."

On May 13 the office of French President Francois Hollande issued a statement \_\_\_\_\_ 44 \_\_\_\_\_ Lepage's death, at the age of 26, which it described as murder. French peacekeeping troops had discovered her body after they stopped a car driven by *antibalaka* militiamen. On a recent trip to New York City, Lepage admitted to fears about the conflict she was covering but said that she did not seek out scenes of violence on purpose. \_\_\_\_\_ 45 \_\_\_\_\_, she wanted, in a way typical of her, to find the humanity in that bleak situation. The pictures she made in her brief life will define how she will be remembered, but the pictures she was going to take will help form her legacy.

- 41 (A) what (B) which (C) whose (D) that
- 42 (A) photograph (B) photographed (C) to photograph (D) photographing
- 43 (A) postpones (B) refutes (C) specializes (D) recalls
- 44 (A) approving (B) confirming (C) recovering (D) supporting
- 45 (A) Instead (B) As (C) Otherwise (D) Accordingly

請依下文回答第 46 題至第 50 題

Las Vegas is a good restaurant town. It offers respectable culinary and ethnic diversity, served dependably. Hotel dining in Las Vegas is relatively homogeneous in style and cuisine, while proprietary restaurants try hard to be different. The restaurant business in Las Vegas is as much a psychological as a culinary art. In Las Vegas you can have the same meal in an astounding variety of environments for an unbelievable range of prices.

Left to its own devices, Las Vegas would be a meat and potatoes town. Owing to the expectations of its many visitors, however, Las Vegas restaurants make things extra special. There are dozens of designer restaurants, gourmet rooms as they are known locally, where the pampered and the curious can pretend they are dining in an exclusive French or Continental restaurant while enjoying the food they like most: meat and potatoes.

There are two kinds of restaurants in Las Vegas: restaurants which are an integral part of a hotel/casino operation, and restaurants which must make it entirely on the merits of their food. Gourmet rooms in the hotels are usually associated with the casinos. Their mission is to pamper customers who are giving the house a lot of gambling action. At any given time, most of the folks in a hotel gourmet room are dining as guests of the casino. If you are paying customers in the same restaurant, the astronomical prices you are charged help subsidize the feeding of all these complimentary guests. Every time you buy a meal in a gourmet room, you are helping to pay the tab of the strangers sitting at the next table. This is not to say the gourmet rooms do not serve excellent food. On the contrary, some of the best chefs in the country cook for hotel/casino gourmet rooms. The bottom line, however, if you are a paying guest, is that you are taking up space intended for high rollers, and the house is going to charge you a lot of rent.

Restaurants independent of casinos work at a considerable disadvantage. First, they do not have a captive audience of gamblers. Second, their operation is not subsidized by gaming, and third, they are not located where you will just stumble upon them. Finally, they not only compete with the casino gourmet rooms, but also go head-to-head with the numerous buffets and bulk-loading meal deals which casinos offer as loss-leaders to attract the less affluent gambler.

46 According to the passage, which of the following describes a gourmet room restaurant in Las Vegas ?

- (A) They are not part of a casino.
- (B) They serve only meat and potatoes.
- (C) They are creative and individual.
- (D) They are crowded and scattered all over town.

47 According to the passage, why do casino restaurants have an advantage over independent restaurants ?

- (A) Without rent, they are able to charge lower prices.
- (B) Their operations are subsidized by gambling revenues.
- (C) They offer room deals which include food at a considerable discount.
- (D) They are usually located in remote areas.

48 According to the passage, how can food in Las Vegas be generally described ?

- (A) Traditional American
- (B) Very inexpensive
- (C) Expensive and unpleasant
- (D) Attractive and competitive

49 According to the passage, what is true about the gourmet rooms ?

- (A) They serve French and Continental cuisine only.
- (B) They are pricy, but reasonable.
- (C) They serve food to high rollers only.
- (D) They are staffed by some of the best chefs.

50 Which of the following is closest in meaning to 'pampered' ?

- (A) seduced
- (B) approved
- (C) indulged
- (D) complimented