

104年特種考試地方政府公務人員考試試題

等 別：三等考試

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 下列何者不屬於中央與地方權限衝突時法制解決之可能途徑？
(A)聲請仲裁 (B)提起行政訴訟 (C)聲請解釋憲法 (D)提起訴願
- 2 依憲法規定，學齡兒童一律受：
(A)基本教育 (B)補習教育 (C)社會教育 (D)終身教育
- 3 依司法院釋字第 396 號解釋之見解，下列何者和正當法律程序無關？
(A)法官直接審理 (B)書面審理 (C)最後陳述意見之機會 (D)言詞辯論
- 4 依據憲法增修條文第 10 條第 6 項規定，國家應維護婦女之下列何項基本權利，保障婦女之人身安全，消除性別歧視，促進兩性地位之實質平等？
(A)工作權 (B)集會遊行 (C)言論自由 (D)人格尊嚴
- 5 憲法第 152 條規定：「人民具有工作能力者，國家應予以適當之工作機會。」本條規定之性質為下列何者？
(A)防禦權 (B)國家的政策方針 (C)程序保障 (D)救濟保障
- 6 下列何種行為，不符憲法保障宗教自由之意旨？
(A)宗教人士替特定政黨候選人助選 (B)國家立法以特定宗教人物之生日為國定休假日
(C)國家對宗教團體財產予以管理之措施 (D)國家未因宗教理由而設置服替代役之制度
- 7 下列何者不得聲請司法院大法官解釋法令違憲？
(A)臺灣電力公司 (B)臺中市政府 (C)立法院內政委員會 (D)政黨
- 8 下列有關請願之敘述，何者錯誤？
(A)請願乃人民對行政機關所為違法或不當之行政處分，認為侵害其權益時，所得行使之權利
(B)請願亦得就個人利益而為之
(C)人民對於依法應提起訴訟或訴願之事項，不得請願
(D)各機關處理請願事件，應將其結果通知請願人
- 9 關於國家賠償之敘述，下列何者正確？
(A)我國之國家賠償係採國家無責任論 (B)公務員之私經濟行為亦可能成立國家賠償責任
(C)公務員怠於執行職務，有可能成立國家賠償責任 (D)我國之國家賠償責任皆係採無過失責任
- 10 關於公職人員之罷免，下列敘述何者正確？
(A)公職人員罷免案之提出，得於任何時間為之
(B)公職人員選舉罷免法中有關罷免之規定，適用於全體公職人員
(C)罷免案一經通過，被罷免人自解除職務之日起，4 年內不得為同一公職人員選舉之候選人
(D)罷免案經否決者，1 年內不得對該被罷免人再提出罷免案
- 11 下列何者不屬於人民選舉權之要件？
(A)年滿 20 歲 (B)未受褫奪公權 (C)未受監護宣告 (D)完成國民義務教育
- 12 目前僑居國外之中華民國自由地區人民，如何選舉總統、副總統？
(A)可向內政部登記，以通訊方式投票 (B)須返國並依相關規定投票
(C)可至中華民國駐外使館行使選舉權 (D)無選舉權
- 13 依憲法增修條文規定，對行政院院長提出不信任案，若未獲通過，對同一行政院院長可否再提不信任案？
(A)隨時可提 (B)不得再提 (C)1 年內不得再提 (D)2 年內不得再提
- 14 依據憲法增修條文第 3 條規定，下列何者並非立法委員所應質詢之對象？
(A)中央研究院院長 (B)交通部部長
(C)行政院大陸委員會主任委員 (D)故宮博物院院長
- 15 依司法院釋字第 530 號解釋之意旨，何者應成為我國最高審判機關，方符制憲本旨？
(A)最高法院 (B)最高行政法院 (C)司法院大法官 (D)司法院

- 16 倘企業經營者與消費者訂立定型化契約前，未給予消費者 30 日以內之合理期間，審閱全部條款內容，其法律效力為何？
(A) 定型化契約條款不構成契約之內容，但消費者得主張該條款仍構成契約之內容
(B) 定型化契約條款構成契約之內容
(C) 契約無效
(D) 契約效力未定
- 17 育有一子（1 歲）之 A 女於員工 35 人之律師事務所擔任秘書之工作，任職已 3 年。近日因丈夫失業，婆婆又出重大車禍需要有人親自照顧而蠟燭兩頭燒，依性別工作平等法之規定，A 女可向其雇主提出下列何項請求？
(A) 請家庭照顧假
(B) 調整工作時間
(C) 育嬰留職停薪 1 年
(D) 每天減少工作時間 1 小時，減少之工作時間工資照給
- 18 有關我國勞動基準法對於勞動契約之敘述，下列何者錯誤？
(A) 雇主不得以強暴、脅迫、拘禁或其他非法之方法，強制勞工從事勞動
(B) 雇主對於勞工不履行勞動契約，不得請求損害賠償
(C) 任何人不得介入他人之勞動契約，抽取不法利益
(D) 雇主不得預扣勞工工資作為違約金或賠償費用
- 19 下列有關著作權之敘述，何者正確？
(A) 著作權應受有絕對保護，所謂「合理使用」應付費後始得主張
(B) 著作權之侵害屬於「告訴乃論」罪，一經告訴即無法和解
(C) 於網路上轉貼著作，使公眾得為瀏覽之行為，涉及「重製」及「公開傳輸」權
(D) 對於自己之著作自行公開發表後，因受他人邀請參加研究時再次全文引用，係構成著作權侵害之自我抄襲行為
- 20 公司於設立登記前，發起人就公司設立所生之法律關係，除公司法另有規定外，應屬於下列何種關係？
(A) 合夥 (B) 信託 (C) 寄託 (D) 委任
- 21 下列何者非屬包括一罪？
(A) 接續犯 (B) 職業犯 (C) 想像競合犯 (D) 集合犯
- 22 關於刑法第 129 條第 2 項抑留剋扣應發款物罪之敘述，下列何者錯誤？
(A) 本罪在主觀要件上以行為人明知為限 (B) 本罪之主體限於有發放職務之公務員
(C) 若已發一部分則不構成本罪之抑留剋扣 (D) 本罪以基於公法上應發給之義務為限
- 23 下列何者為「要約」？
(A) 價目表之寄送 (B) 刊登出售房屋之廣告 (C) 徵人啟事 (D) 貨物標定賣價陳列
- 24 甲以價金 2 百萬元出售清朝青花瓷花瓶一只於乙，然花瓶在交付前一日，因強震滅失。關於甲、乙間之法律關係，下列敘述何者正確？
(A) 乙得請求甲交付花瓶 (B) 乙得請求損害賠償
(C) 甲得請求乙補償損害 (D) 乙得拒絕支付價金 2 百萬元
- 25 甲男乙女已成年，請問下列何種行為僅須兩人之合意即生效力？
(A) 訂婚 (B) 結婚 (C) 離婚 (D) 出養兩人所生子女
- 26 權利失效原則為下列何種法律原則之下位概念？
(A) 比例原則 (B) 誠實信用原則 (C) 法律保留原則 (D) 明確性原則
- 27 有關信賴保護原則所應具備之要件，下列何者錯誤？
(A) 信賴基礎 (B) 信賴值得保護 (C) 信賴期待 (D) 信賴表現
- 28 依據下列何種方式所論斷之事實，如有反證，得據以推翻之？
(A) 擬制 (B) 推定 (C) 視為 (D) 視同
- 29 依中央法規標準法之規定，下列敘述何者錯誤？
(A) 法律應經立法院通過，總統公布
(B) 應以法律規定之事項，不得以命令定之
(C) 各機關依其法定職權或基於法律授權訂定之命令，應視其性質分別下達或發布，並即送行政院
(D) 法律不得牴觸憲法，命令不得牴觸憲法或法律，下級機關訂定之命令不得牴觸上級機關之命令
- 30 有關違反法律所生效果之敘述，下列何者錯誤？
(A) 刑事責任包括「刑罰」及「管收處分」等 (B) 民事責任包括「損害賠償」及「宣告解散」等
(C) 行政責任包括「懲處」及「罰鍰」等 (D) 沒入屬行政法之範圍，沒收屬刑法之範圍

- 31 Montreal International Jazz Festival, now in its 35th year, was originally an _____ to summer boredom.
(A) anecdote (B) antidote (C) antibiotic (D) antibody
- 32 Although the President has been frequently criticized for making politically incorrect remarks, one human quality upon which even his critics agree is his _____ of racism.
(A) indifference (B) irrelevance (C) reference (D) abhorrence
- 33 The Customs Officer is using an electronic instrument to _____ metal objects on passengers.
(A) achieve (B) consider (C) detect (D) deceive
- 34 Electronic-waste contains significant amounts of valuable _____, such as silver, gold, iron, and copper.
(A) steels (B) metals (C) targets (D) cooks
- 35 The witness _____ before a grand jury that the defendant ran out of the house after a gunshot.
(A) danced (B) manipulated (C) previewed (D) testified
- 36 Despite the popularity of English, the Maori language persisted in New Zealand until the Second World War when a large-scale urbanization began.
(A) After the Second World War, more natives started to use English.
(B) The Maori language maintained its post-war dominance despite the urge to use English.
(C) People stopped using the Maori language when they joined the Second World War.
(D) The Second World War failed to change the language structure of New Zealand.

第 37 題至第 41 題為題組

The digital lifestyle is far from being ____37____. Mobile computing, hand-held gadgets and wireless communications all add up to an active on-the-go approach to life, made more fun—and more productive—through technology.

A look at the digital lifestyle wouldn't be complete ____38____ considering NTT DoCoMo's latest endeavors. The i-mode service continues to reign ____39____ as the world's most popular mobile internet service, providing email and Internet access to more than 46 million ____40____. The company is focusing increasingly on transforming the mobile phone into a "lifestyle infrastructure." Its "Osaifu-Ketai" service, which gives mobile phones wallet-like functions, leverages the convenience of the handset with cashless ____41____ for everything from riding the train to shopping.

A few years ago, you wouldn't leave home without your plastic credit cards. In today's digital world, it is our mobile phones and other hand-held gadgets we won't leave home without.

- 37 (A) sedentary (B) seductive (C) accessible (D) adaptable
38 (A) with (B) without (C) where (D) why
39 (A) supreme (B) heightened (C) escalating (D) magnifying
40 (A) dollars (B) products (C) subscribers (D) cashes
41 (A) transitions (B) transactions (C) translations (D) transformations

第 42 題至第 46 題為題組

In earlier time periods, the absence of dramatic transition to adult life allowed a more intensive interaction among different age groups within the family and the community, thus providing a greater sense of continuity and interdependence among people at various stages of life. But, as greater differentiation in stages of life began to develop, social and economic functions became more closely related to age, and the ages of family members became more streamlined, a greater segregation between age groups emerged.

The major changes that have led to the isolation of older people in society today were rooted not so much in changes in family structure or residential arrangements, as has generally been argued, as in the transformation and redefinition of family functions and values. Under the impact of industrialization, the family surrendered many of the functions previously concentrated within the household to other social institutions. The retreat and growing privatism of the modern middle-class family led to the drawing of sharper boundaries between family and community and intensified the segregation of different age groups within the family, leading to the elimination of older people from visible family roles. The transfer of social-welfare functions, one concentrated in the family, to institutions in the larger society further contributed to the segregation of older people. The care of dependent, sick, delinquent, and elderly members of the community, which had been considered part of the family's obligation in the pre-industrial period, was gradually transferred to specialized institution such as asylums and reformatories. The family ceased to be the only available source of support for its dependent members, and the community ceased to rely on the family as the major agency of welfare and social control.

- 42 Why did people in the earlier period have a better familial interaction and a greater sense of interdependence than people in today's society?
(A) Because most family functions were not clearly segregated by age.
(B) Because there were more elderly people in the family.
(C) Because each family member had a clearly-defined role to play.
(D) Because there were greater differentiations among age groups.
- 43 Which of the following statement about the effects of the growing modern middle-class family is NOT true?
(A) It led to the drawing of clear boundaries between family and community.
(B) It resulted in greater segregation between age groups.
(C) It contributed to the independence of older people.
(D) It caused the disappearance of clear roles played by older people within the family.
- 44 Which of the following is NOT a real factor that contributes to the isolation of older people in modern society?
(A) The residential arrangements
(B) The rise of middle-class family
(C) The transfer of family obligation to social institution
(D) The segregation of different age groups within the family
- 45 According to the passage, which of the following is a possible way to reduce the sense of isolation of older people?
(A) To abolish the structure of the traditional family
(B) To integrate older people into mixed age family groups
(C) To transfer older people to specialized institutions
(D) To reduce the scope of social-welfare function
- 46 Which of the following word is closest in meaning to "segregation"?
(A) selection (B) seclusion (C) separation (D) seduction

第 47 題至第 50 題為題組

We crave chills. It's why we get a rush when we see Jason take his axe to some unsuspecting teen in "Friday the 13th" or why we can't seem to look away when Carrie, dripping with pig's blood, sets her high-school class on fire. The real question is: why do we pay for the pleasure of being scared? On this, there are various schools of thought. Some believe that fans of horror (be it movies or books) don't actually experience fear, but are excited instead, while others believe that people are willing to endure the terror because they know there is no real threat, that they are essentially safe. Still others feel that moviegoers are willing to be scared in order to feel a sense of relief at the end. Whatever the reason, movie studios like Seven Arts Pictures, a Los Angeles-based indie movie production company, are counting on customers who are willing to pay to be frightened, by releasing a horror movie like "Night of the Demons." In the movie, three friends attend a party held in a mansion where, years prior, six people disappeared and the owner hung herself. "We think that people have a fascination with the dark side," said Peter Hoffman, CEO of Seven Arts. "So even though a horror movie might be illogical on an intellectual level, people still like to be uncomfortable on an emotional level. It's about people facing their fears," he added. This explanation makes sense and explains why we keep creepy haunted houses busy at Halloween, why we tell ghost stories around the campfire and why we turn out for horror movies like they were giving away free popcorn. It's because we like it.

- 47 According to the passage, which of the followings is NOT a reason for horror movie's popularity?
(A) Fans of horror are emotionally excited.
(B) Fans of horror do not face real threat; they feel safe.
(C) Fans of horror enjoy being logical on an intellectual level.
(D) Fans of horror enjoy feeling a sense of relief at the end.
- 48 According to the passage, which of the following statements is NOT true?
(A) People like to be uncomfortable on an emotional level.
(B) People have a fascination with the dark side.
(C) People need to deal with their fears.
(D) People count on other customers who are willing to pay.
- 49 What does the statement "we turn out for horror movies like they were giving away free popcorn" imply?
(A) There is a large number of people who go to horror movies.
(B) People consume a large amount of popcorn at the theater.
(C) The level of uncomfortable feelings that the audience experience is amazingly high.
(D) The theater always gives away free food.
- 50 Which one of the following is a suitable title for this passage?
(A) Horror Movies are Bad for Your Emotional Health (B) Why We Pay to Be Scared
(C) How to Enjoy a Horror Movie (D) Why Horror Movies are Losing Audience