

105年公務人員特種考試司法人員、法務部 調查局調查人員、國家安全局國家安全情報 人員、海岸巡防人員及移民行政人員考試試題

考試別：司法人員、移民行政人員

等別：四等考試

類科組：各類科、移民行政

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。

- 有關監察院院長、副院長及監察委員之提名及任命程序，下列敘述何者正確？
(A)總統享有主動提名權 (B)總統享有消極不提名權
(C)立法院享有消極不行使之同意權 (D)立法院不得就提名之人選予以審查
- 經地方立法機關議決之自治條例定有罰則者，依地方制度法之規定，應踐行下列何種程序？
(A)發布後報經中央各該主管機關轉行政院備查 (B)發布後送立法院備查
(C)分別報經行政院、中央各該主管機關核定後發布 (D)報經立法院核准後發布
- 依據憲法增修條文規定，司法院大法官之選任方法為何？
(A)由總統提名，經立法院同意任命之 (B)由總統提名，經行政院同意任命之
(C)由總統提名，經監察院同意任命之 (D)由總統直接任命之
- 關於司法院掌理之事項，下列敘述何者錯誤？
(A)掌理民事訴訟、刑事訴訟、行政訴訟之審判 (B)掌理公務員之懲戒；解釋憲法、統一解釋法令
(C)審理正、副總統罷免案 (D)制定法院審理規則、司法行政監督
- 下列何者係立法委員不得兼任之職務？
(A)會計師 (B)大學之兼任教授 (C)中華電信公司董事 (D)我國駐外大使
- 關於不信任案之敘述，下列何者正確？
(A)不信任案之提出須以書面敘明憲法上理由
(B)立法委員應以不記名投票方式表決之
(C)不信任案通過後，總統經諮詢立法院院長後得宣告解散立法院
(D)立法院處理不信任案，程序上應經院會討論後逕行決議
- 有關立法院職權之行使，下列敘述何者錯誤？
(A)考試院有向立法院提出法律案之權限
(B)法律案必須經過立法院三讀通過總統公布始得正式成為法律
(C)第三讀會，除發現議案內容有互相牴觸，或與憲法其他法律牴觸者外，僅得為文字之修正
(D)所有議案皆須經過三讀會議決始得通過
- 依憲法增修條文及相關法律之規定，關於總統、副總統之敘述，下列何者正確？
(A)副總統缺位時，總統應於三個月內提名候選人，由全體人民補選之
(B)總統、副總統之彈劾案，由立法院提出後交由全體人民投票表決之
(C)總統、副總統就職未滿二年者，不得對之進行罷免
(D)總統、副總統之罷免案經通過者，被罷免人自解除職務之日起四年內不得為總統、副總統之候選人
- 依司法院大法官解釋，下列何者未限制人民之居住或遷徙自由？
(A)行政機關因實施都市更新，強制人民遷離其居住場所
(B)行政機關為保護集水區之潔淨與安全，強制居住於集水區之人民遷村
(C)警察進入人民投宿之旅館房間實施臨檢
(D)行政機關公告禁止人民於住宅前之騎樓擺設攤位
- 關於言論自由，下列敘述何者錯誤？
(A)公務員於下班後仍有發表言論之限制
(B)媒體對於報導事實須證明確屬真實，始能免責
(C)禁止對言論之事前審查乃保障言論自由之重要原則
(D)言論自由的保障包含利用廣播電視媒體表達意見

- 11 某國中生因經常逃學，結識犯罪組織成員，依法律規定令入少年感化教育機構施以感化教育，於該機構感化教育期間不得外出。下列敘述何者正確？
(A)該少年非刑事犯，令入感化教育機構並非拘禁，不得主張人身自由
(B)感化教育機構係提供少年居住之場所，與人格自由發展無關
(C)題示之感化教育制度妨害人身自由，應予全面廢除
(D)依司法院大法官解釋意旨，限制經常逃學虞犯少年人身自由，不符比例原則
- 12 依司法院大法官解釋意旨，關於憲法第 15 條財產權之保障，下列敘述何者正確？
(A)要求菸品業者於菸品容器上標示一定內容之警語，已逾越菸品財產權社會義務所應容忍之範圍
(B)成立公用地役關係之既成道路，係基於公益目的而限制土地所有權人之財產權，故無須給予補償
(C)於依法徵收都市計畫道路用地前在該地埋設地下設施物，若對於土地權利人權利行使構成特別犧牲者，應給予補償
(D)對於未依規定報明登記即攜帶逾法定數額外幣出入國境之人民，沒入其外幣，已違反比例原則
- 13 關於憲法上保障人民信仰宗教自由，依司法院釋字第 490 號解釋，下列敘述何者錯誤？
(A)包含人民參與宗教活動之自由
(B)包含人民有不信仰宗教之自由
(C)人民得因為信仰宗教而拒絕服兵役
(D)一般民間信仰亦包括在廣義信仰自由內
- 14 有關憲法保障之居住自由，下列敘述何者錯誤？
(A)居住自由旨在保障人民居住之住宅不受毀損或破壞
(B)居住自由之保障範圍，不限於密閉空間，亦包括設有圍牆之庭院
(C)受居住自由保障者，不限於所有權人，亦包括占有人
(D)居住自由旨在保障人民有選擇其居住處所，營私人生活不受干預之自由
- 15 我國實施全民健保制度。依司法院大法官之見解，下列敘述何者正確？
(A)全民健保為社會福利，應由國家給予人民保障，法律強制全民參加全民健保，與憲法意旨不符
(B)全民健保費具有分擔金性質，依投保薪資而非將來受領給付之多寡計算保費，符合量能負擔之公平性
(C)全民健保為社會保險，無論國民有無資力均應繳納保費，未繳納保費者拒絕給付，符合憲法意旨
(D)全民健保整合公、勞、農保之醫療給付，已依法參加各保險之被保險人亦須加入全民健保，違反信賴保護原則
- 16 債務人欠債權人十萬元借款債務，債權人接受鋼琴一架，以為清償。此稱為：
(A)新債清償
(B)更新
(C)混同
(D)代物清償
- 17 下列關於民事法院處理案件適用法律之敘述，何者錯誤？
(A)不告不理
(B)無法律規定時可拒絕審判
(C)適用自由心證
(D)一事不再理
- 18 甲、乙共有 A 土地，應有部分各二分之一。甲以其應有部分設定抵押權予丙，A 土地分割為 B、C 二筆土地，甲分得 B 土地，乙分得 C 土地。下列何種情形，丙之抵押權移存於分割後 B、C 土地？
(A)丙知悉分割之事實
(B)甲、乙所為分割為協議分割，而丙同意該分割
(C)土地分割為裁判分割，丙已參加共有物之分割訴訟
(D)土地分割為裁判分割，丙經法院職權告知訴訟而未參加
- 19 中華民國憲法之內容結構，最類似下列何部憲法？
(A)日本明治憲法
(B)美國聯邦憲法
(C)德國威瑪憲法
(D)英國大憲章
- 20 下列有關實體法與程序法之敘述，何者錯誤？
(A)實體法係規範實體權利義務之法律，程序法係規定實現實體法之法律
(B)實體法原則上從舊，程序法原則上從新
(C)實體法及程序法皆可類推解釋
(D)實體法中不可能含有程序之規定
- 21 下列何者為中央法規標準法第 2 條與第 4 條所指之「法律」？
(A)民事訴訟法
(B)教師請假規則
(C)國家圖書館規費收費標準
(D)汽車燃料使用費徵收及分配辦法
- 22 下列債權，何者可得讓與或可不經債務人同意逕行讓與？
(A)不作為債務之債權
(B)扶養請求權
(C)僱用人對受僱人之勞務請求權
(D)已經起訴之人格權被侵害之非財產上損害賠償請求權

- 23 依地方制度法第 26 條規定，稱「縣（市）規章」者，其性質係指：
(A)自治條例 (B)自治規則 (C)委辦規則 (D)自律規則
- 24 下列何者非屬於公法性質？
(A)國家賠償 (B)刑事補償 (C)消費者受害之賠償 (D)二二八事件受害者之賠償
- 25 依司法院釋字第 649 號解釋，下列有關人民選擇職業應具備之客觀條件之敘述，何者正確？
(A)從事特定職業之個人本身所應具備之資格，且該資格可經由訓練培養而獲得者，係屬客觀條件之限制
(B)對於從事特定職業所需具備之知識、學位、體能條件，屬於客觀條件之限制
(C)關於從事職業之方法、時間、地點等之限制，係屬客觀條件之限制
(D)從事特定職業之條件限制，非個人努力所可達成者，屬於客觀條件之限制
- 26 下列關於不確定法律概念與行政裁量之敘述，何者錯誤？
(A)不確定法律概念係指法律構成要件內容不明確，行政裁量係指行政機關受法律授權有作成法律效果裁決之空間
(B)若法律構成要件使用不確定法律概念，行政機關在具體個案涵攝時，具有判斷餘地，不受司法審查
(C)行政機關在具體個案為裁量時，必須遵守比例原則
(D)在法律規定之裁量範圍內，行政機關之裁量決定仍可能違法
- 27 下列何種請求權，無二年短期消滅時效規定之適用？
(A)交付買賣標之物之請求權 (B)承攬人之報酬請求權
(C)律師所收當事人物件之交還 (D)醫生之診費
- 28 有關教唆犯之敘述，下列何者錯誤？
(A)被教唆人實施犯罪既遂，教唆犯應論以教唆既遂
(B)被教唆人實施犯罪僅達未遂，完成教唆行為之教唆犯仍應論以既遂
(C)教唆行為完成，但被教唆人尚未著手於犯罪，教唆犯不處罰
(D)教唆行為未完成，被教唆人因此並未產生犯罪決意，教唆犯不處罰
- 29 依性別工作平等法第 15 條第 5 項之規定，受僱者於其配偶分娩時，雇主應給予陪產假多少日？
(A)1 日 (B)3 日 (C)5 日 (D)1 星期
- 30 繼承人在繼承開始前因何種事由，已從被繼承人受有財產之贈與者，應將該贈與價額加入繼承開始時被繼承人所有之財產中，作為應繼財產？
(A)結婚、生育、分居 (B)留學、分居、營業 (C)分居、營業、結婚 (D)營業、結婚、旅遊
- 31 My illness had left me _____ in one ear; that excluded me from entering any of the professions for which good hearing is required.
(A) blind (B) scared (C) deaf (D) tired
- 32 Like most foreigners, I ask a lot of questions, some of which are insultingly silly. But everyone I _____ has answered those questions with patience and honesty.
(A) come across (B) come by (C) come over (D) come into
- 33 Barking is a normal behavior for dogs; however, when they bark _____, they become a nuisance to their owners and the neighborhood.
(A) earnestly (B) explicitly (C) excessively (D) expressively
- 34 After he retired from office, Rogers _____ painting for a while, but soon lost interest.
(A) took up (B) saved up (C) kept up (D) drew up
- 35 Despite the economic downturn, the famous hot pot restaurant chain still _____ huge profits last year.
(A) caused (B) extended (C) yielded (D) invented
- 36 After college, Robert decided to go to Paris and _____ on the journey of becoming pastry chef.
(A) endure (B) inform (C) embark (D) involve

請依下文回答第 37 題至第 40 題

The word most often used to describe the region of Cappadocia is “otherworldly”. 37 in central Anatolia about 290 kilometers southeast of the Turkish capital of Ankara, Cappadocia attracts tourists by offering an interesting side trip from the usual tour of the Mediterranean coast.

In Cappadocia, you can find a rich diversity of sites from various periods, from the time of the Hittites (enemies to the ancient Egyptians) to 38 of the early Christians and to the 13th century Great Silk Road era. But most of what is unique here stems from 39 geological history.

Volcanic 40 over the last 10 million years covered the area in ashes, which became compacted to form a soft, porous rock called tuff.

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|-------------------|--------------|------------------|---------------|
| 37 (A) Placed | (B) Located | (C) Inhabited | (D) Resided |
| 38 (A) which | (B) that | (C) what | (D) where |
| 39 (A) her | (B) its | (C) their | (D) his |
| 40 (A) breakdowns | (B) outcomes | (C) explorations | (D) eruptions |

請依下文回答第 41 題至第 45 題

In early 2011, former police officer Lin Jsung-yi began thinking about how he would spend his free time after he retired in March that year. As he was pondering, he 41 to hear about a citizen farmers program launched by the city government that allowed local residents to grow produce on plots of land rent-free for six months. He quickly 42 for the program and by July 2011 began his life as an urban farmer.

"I thought I would just 43," Lin recalls. "But after I started, my interest in gardening grew. Seeing the plants get taller and larger each day gave me a great sense of achievement."

After Lin's rent-free farming ended in December 2011, he decided to rent a new 44 directly from the landowner and continue what had become his favorite activity. Now he spends one to two hours every morning and at least half a day every weekend working on his farm, doing whatever is necessary: plowing, planting, watering, 45, weeding, etc. For him, urban farming has not only filled his free time after retirement, but given him the spiritual rewards that he has never experienced before.

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|----------------------|----------------------|---------------|-----------------|
| 41 (A) preferred | (B) occurred | (C) happened | (D) tended |
| 42 (A) gave in | (B) worked out | (C) put down | (D) signed up |
| 43 (A) give it a try | (B) get it over with | (C) let it go | (D) put it away |
| 44 (A) asset | (B) cube | (C) plot | (D) block |
| 45 (A) approaching | (B) fertilizing | (C) colliding | (D) mourning |

請依下文回答第 46 題至第 50 題

Mickey Mouse, the official mascot of The Walt Disney Company, is one of the most recognizable cartoon characters in the world. Yet, few people know that it was created as a replacement for Oswald the Lucky Rabbit, an earlier cartoon character created by the Disney studio for Charles Mintz of Universal Studios. In the spring of 1928, with **the series** going strong, Disney asked Mintz for an increase in the budget. But Mintz instead demanded that Walt take a 20 percent budget cut, and as leverage, he reminded Disney that Universal owned the character, and revealed that he had already signed most of Disney's current employees to his new contract. Mintz owned Oswald and thought **he had Disney over a barrel**. Angrily, Disney refused the deal and returned to produce the final Oswald cartoons he contractually owed Mintz. Disney was dismayed at the betrayal by his staff, but determined to restart from scratch.

The new Disney Studio soon started. In the spring of 1928, Disney asked Ub Iwerks to start drawing up new character ideas. Iwerks tried sketches of various animals, such as dogs and cats, but none of these appealed to Disney. A female cow and male horse were also rejected. Then, Walt Disney thought of an old pet mouse he used to have on his farm. He asked Iwerks to draw a new mouse character for Disney. "Mortimer Mouse" had been Disney's original name for the character before his wife, Lillian, convinced him to change it, and ultimately Mickey Mouse came to be. Actor Mickey Rooney has claimed that, during his Mickey McGuire days, he met cartoonist Walt Disney at the Warner Brothers studio, and that Disney was inspired to name Mickey Mouse after him.

- 46 What does "**the series**" in the first paragraph refer to?
- | | |
|------------------------------|------------------------|
| (A) The Mickey Mouse series. | (B) The Oswald series. |
| (C) The Iwerks series. | (D) The Mintz series. |
- 47 Why did Walt Disney create the cartoon character Mickey Mouse?
- | |
|--|
| (A) He wanted to create an official mascot for the Walt Disney Company. |
| (B) Charles Mintz asked him to create a character in a new cartoon series. |
| (C) Universal Studios needed a new character to replace Oswald the Lucky Rabbit. |
| (D) He lost his right to an old popular cartoon character and had to create a new one. |
- 48 What does "**he had Disney over a barrel**" mean in the first paragraph?
- | | |
|--------------------------------------|-----------------------------------|
| (A) He had Disney under his control. | (B) He made Disney feel relieved. |
| (C) He had inspired Disney. | (D) He had irritated Disney. |
- 49 From whom did the mouse character get the name "Mickey Mouse"?
- | | | | |
|-----------------|---------------|--------------------|---------------------|
| (A) Walt Disney | (B) Ub Iwerks | (C) Lillian Disney | (D) Warner Brothers |
|-----------------|---------------|--------------------|---------------------|
- 50 Which of the following is true about the creation of Mickey Mouse as a cartoon character?
- | |
|---|
| (A) Disney's wife convinced him to replace other animals with a mouse character. |
| (B) The idea of a mouse character came from Disney's old pet mouse on his farm. |
| (C) Iwerks had drawn many other animals before a mouse character occurred to him. |
| (D) Disney was inspired by actor Mickey Rooney, who he met at the Warner Brothers Studio. |