

104 年公務人員普通考試試題

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 依憲法第 111 條規定，有關中央與地方剩餘權之爭議，由何機關解決之？
(A)行政院 (B)立法院 (C)司法院 (D)監察院
- 2 地方制度法第 2 條第 5 款規定：「下級政府或機關間就其得全權處理之業務，依法完成法定效力後，陳報上級政府或主管機關知悉」，係指下列何者？
(A)核定 (B)委任 (C)備查 (D)委辦
- 3 下列何者屬於中央對於地方自治之事前監督？
(A)核定 (B)撤銷 (C)備查 (D)函告無效
- 4 依憲法規定，下列關於考試院之敘述，何者錯誤？
(A)考試院為國家最高考試機關
(B)考試委員須超出黨派以外，依據法律獨立行使職權
(C)考試委員在院內所為之言論及表決，對院外不負責任
(D)考試院關於所掌事項，得向立法院提出法律案
- 5 下列何者為監察院之職權？
(A)彈劾正副總統 (B)彈劾監察院人員 (C)糾舉立法委員 (D)糾正考試委員
- 6 關於司法權之敘述，下列何者正確？
(A)本於司法官身分獨立保障，我國大法官係屬終身職
(B)憲法法庭所得處理之事項，包括正副總統之彈劾與政黨違憲之解散事項
(C)大法官違憲審查之標的，不包含判例
(D)司法院所提之年度司法概算，係直接送立法院進行審議
- 7 依憲法本文及增修條文之規定，下列何項職位不須經立法院同意？
(A)監察院副院長 (B)司法院大法官 (C)行政院副院長 (D)審計長
- 8 依憲法本文之規定，行政院會議之主席，原則上為下列何者？
(A)行政院秘書長 (B)總統
(C)每次開會時，由出席人員互推一人 (D)行政院院長
- 9 下列人員，何者得依法罷免之？
(A)臺北市副市長 (B)不分區立法委員 (C)地方法院法官 (D)縣市首長
- 10 下列何者，非公民投票法所規定公民投票之類型？
(A)法律之創制 (B)法律之複決 (C)重大政策之創制 (D)重大政策之複決
- 11 刑法第 235 條規定禁止散布、播送、販賣、公然陳列猥褻之資訊或物品。依據司法院釋字第 617 號解釋，下列敘述何者正確？
(A)性言論之表現與性資訊之流通，不受憲法對言論自由之保障
(B)國家應對少數性文化族群依其性道德感情與對社會風化之認知而形諸為性言論表現或性資訊流通者，予以保障
(C)刑法第 235 條規定對於性言論之表現為過度之限制
(D)刑法第 235 條規定中之「猥褻」概念，違反法律明確性原則
- 12 依司法院釋字第 535 號解釋意旨，警察實施臨檢勤務時，須遵守何項憲法原則？
(A)比例原則 (B)信賴保護原則 (C)誠實信用原則 (D)禁止不當聯結原則
- 13 職業駕駛人若涉及特定犯罪，將吊銷其駕照，並限制其於一定期間內不得再行請領駕照。其中有關一定期間內不得請領駕照之限制，主要涉及下列何種基本權利？
(A)財產權 (B)職業自由 (C)結社自由 (D)生存權
- 14 依司法院大法官解釋，有關土地徵收的要件，下列敘述何者正確？
(A)徵收人民土地的各项要件，應授權由行政機關以行政命令詳加規定
(B)為了公益，得徵收非公共設施用地的私有土地，不須變更都市計畫
(C)土地被徵收是因社會公益而特別犧牲，對所有權人應給予相當補償
(D)土地徵收補償費之發給，得考量國家財政收入實際狀況而延遲發給
- 15 下列何者與現行憲法增修條文第 10 條規定之意旨不符？
(A)國家應重視醫療保健、福利服務等社會福利工作
(B)社會救助和國民就業等救濟性支出應優先編列
(C)教育科學文化經費中，國民教育之經費應優先編列
(D)中央政府教育科學文化之經費不得少於預算總額百分之十五

- 16 行政程序法第 2 條「本法所稱行政機關，係指代表國家、地方自治團體或其他行政主體表示意思，從事公共事務，具有單獨法定地位之組織」，此種情形在法律解釋上稱為：
- (A)司法解釋 (B)立法解釋 (C)行政解釋 (D)擬制
- 17 依據司法院釋字第 364 號解釋，人民得請求接近使用媒體，係屬於憲法保障之下列何種權利？
- (A)言論自由權 (B)隱私權 (C)人格權 (D)工作權
- 18 下列何種情形，人民不得主張信賴保護原則？
- (A)甲提供正確資料申請農地農用證明書，後因不可抗力無法繼續耕種而遭廢止證明書
(B)乙明知不符合醫師考試應考資格之規定，而報名參加考試，及格後被發覺而被撤銷考試及格資格
(C)軍人丙因相信行政機關「轉任公務員併計算年資」函釋，經參加轉任考試及格錄取後，行政機關廢止該函釋
(D)遊民丁交代其財產所得，主管機關不察發給救助金，稍後發現，丁拒絕退還救助
- 19 下列何者是定著物？
- (A)還長在土地裡的地瓜 (B)固定在土地上的高鐵軌道
(C)挖掘的池塘 (D)廟前臨時搭架的歌仔戲臺
- 20 下列何者違反物權法定主義？
- (A)甲設定不移轉質物占有的質權於乙
(B)甲設定不移轉抵押物占有的抵押權於乙
(C)甲為擔保將來發生的債權，設定最高限額抵押權於乙
(D)甲在自己土地上方空間，設定地上權於乙
- 21 關於承攬之瑕疵擔保，下列敘述何者錯誤？
- (A)承攬工作物有瑕疵時，承攬人絕對不能拒絕修補
(B)修補費過鉅時，承攬人得拒絕修補
(C)定作人定期限要求承攬人修補，而承攬人不於期限內修補，且修補費用並非過鉅時，定作人得自行修補
(D)工作之瑕疵，如係因定作人指示不當而引起時，原則上定作人無瑕疵擔保請求權
- 22 於法定財產制，下列在婚姻關係存續中所取得之財產，何者為剩餘財產分配之標的？
- (A)慰撫金 (B)受贈之古董
(C)繼承所得之房屋 (D)婚前投資之股票於婚後所生之股利
- 23 無人承認之繼承，應由何人以遺產負責清償繼承債務？
- (A)遺囑見證人 (B)遺囑保管人 (C)遺囑執行人 (D)遺產管理人
- 24 下列何者不屬於沒收的範圍？
- (A)第三人合法所有、犯罪行為人違禁持有之違禁物 (B)犯罪行為人所有，供犯罪所用之物
(C)犯罪行為人所有，因犯罪所得之物 (D)犯罪行為人所有，因犯罪所生之物
- 25 下列何者不屬於從刑？
- (A)褫奪公權 (B)沒收 (C)追徵 (D)保安處分
- 26 下列關於消費者保護法所定調解之敘述，何者錯誤？
- (A)消費者與企業經營者均得申請調解
(B)限於消費爭議案件始得申請調解
(C)申請調解之案件，須業經申訴，而未獲妥適之處理者
(D)申請調解，應向直轄市或縣（市）消費爭議調解委員會申請
- 27 甲創作樂曲一首，乙以樂器彈奏表演該樂曲。下列敘述何者錯誤？
- (A)乙於表演前，應得甲之同意 (B)乙之表演應以獨立著作保護
(C)丙以錄音設備錄製乙之表演，僅須得乙之同意 (D)丁以錄音設備播放丙之錄音，無須得乙之同意
- 28 依勞動基準法第 11 條之規定，有關雇主須預告始得終止勞動契約情形，下列何者錯誤？
- (A)歇業或轉讓時 (B)不可抗力暫停工作在一個月以上時
(C)勞工對於所擔任之工作確不能勝任時 (D)勞工違反勞動契約或工作規則，情節重大者
- 29 事業單位違反勞工法令規定時，下列敘述何者錯誤？
- (A)勞工得向雇主、主管機關或檢查機構申訴
(B)勞工得向雇主、主管機關或檢查機構申訴，但向檢察機關申訴者以工會為限
(C)雇主不得因勞工為申訴而予解僱、調職或其他不利之處分
(D)雇主因勞工為申訴而予解僱、調職或其他不利之處分，主管機關得予處罰
- 30 勞工甲因雇主乙將其調動職務，使其須於較不健康之環境內工作，甲因而告知雇主其懷孕之情形，並拒絕更不適宜妊娠勞工之職務，乙於得知甲拒絕後隔日，即以人事精簡為由，終止與甲之勞動契約，下列敘述何者正確？
- (A)乙因人事精簡得隨意終止與甲之勞動契約
(B)乙將甲調職時，並不知她已懷孕，如甲拒絕，乙自得終止勞動契約
(C)妊娠勞工均不得加以調職
(D)甲得知乙懷孕後，應先調整其至較適合妊娠勞工之工作，而非終止勞動契約

- 31 The landlord asked for an NT\$10,000 _____ on the apartment to let, and it will be returned to the tenant eventually.
(A) savings (B) budget (C) allowance (D) deposit
- 32 John is not a brilliant student who can only make _____ progress at school.
(A) holistic (B) graphic (C) gradual (D) abrupt
- 33 Monica's ambition is to become a doctor one day; _____, she is determined to pass the exam so that she can study in a medical school.
(A) however (B) moreover (C) besides (D) therefore
- 34 _____ these employees can get their pay raised, they will still go on strikes.
(A) Whereas (B) As if (C) Unless (D) Once
- 35 The book features the extraordinary _____ of how a 12-year-old girl saves her village.
(A) anecdote (B) eclipse (C) infant (D) offspring
- 36 Alice is such a passionate person that she is always _____ advice, even when you don't want it.
(A) throwing away (B) dishing out (C) breaking down (D) counting on

請依下文回答第 37 題至第 40 題：

Just as the roles and responsibilities of men and women are changing in society, so are the shopping habits of the two genders. The electronics industry (computers, cellphones, digital cameras, etc.) is one place where gender _____ 37 _____ in purchasing are rapidly changing.

_____ 38 _____, the electronics market consisted mostly of men. Today, however, women are some of the biggest consumers of cellphones and other electronic products. With more and more women working and in control of their own and their family's money, women now want to have a say in the type of electronics that they have in their homes. Some experts report that women are actually buying more electronics than men. A recent study also reports another interesting development. It states that almost a third of the new and more _____ 39 _____ electronics are sold to women. So, not only are women becoming more interested in electronics purchases in general, but they are also increasingly willing to try the _____ 40 _____ products.

- 37 (A) agreements (B) differences (C) interactions (D) relationships
- 38 (A) At this moment (B) From time to time (C) In the past few days (D) Until very recently
- 39 (A) decorative (B) excessive (C) innovative (D) productive
- 40 (A) broadest (B) latest (C) farthest (D) remotest

請依下文回答第 41 題至第 45 題：

Seasonal affective disorder is a depression experienced by people particularly during the winter. This kind of depression occurs more frequently on people who live in those parts of world where there is less or little _____ 41 _____ to sunlight. People who have this kind of depression will experience a change in their mood when the seasons change. This experience of mood change is most apparent when the winter _____ 42 _____ with less daylight. When contracting this disease, people will have such symptoms as sleeping too much, having little energy, and feeling depressed. But these symptoms can be resolved _____ 43 _____ people receive treatment. One such a treatment includes a light therapy which enables people to receive daylight or sunlight _____ 44 _____ modern technology. For instance, people can sit before a light box and get as much light as they need for curing their disease. Nowadays scientists have made great efforts to discover different ways of reducing the discomfort this depression may cause to people. Although this kind of disease may be hard to be avoided to some people, it can be _____ 45 _____ and even cured to allow patients to have a normal life.

- 41 (A) display (B) tendency (C) exposure (D) objection
- 42 (A) approaches (B) liberates (C) qualifies (D) bounces
- 43 (A) in order that (B) so that (C) as long as (D) as though
- 44 (A) with regard to (B) in comparison to (C) by means of (D) in spite of
- 45 (A) raged (B) eased (C) gazed (D) scared

請依下文回答第 46 題至第 50 題：

In 1962, Shintaro Tsuji, founder of Sanrio Company, began selling rubber sandals with flowers painted on them. He noted the profits gained by adding a cute design to the sandals and hired cartoonists to design cute characters for his merchandise. The company produced a line of character merchandise around gift-giving occasions. Hello Kitty, designed by Yuko Shimizu, was added to the lineup of early Sanrio characters in 1974, and had her first appearance on a vinyl coin purse. Since then, she has become a global phenomenon.

One part of Hello Kitty's design has sparked some controversy surrounding it. That is, she is not given a mouth. A spokesperson for Sanrio says that Hello Kitty is not normally given a mouth because "without the mouth, it is easier for the person looking at Hello Kitty to project their feelings onto the character" and that "the person can be happy or sad together with Hello Kitty." Some people were particularly concerned about this. They felt that this showed Hello Kitty as being meek and unspeaking. They thought young girls could be made to feel as if they had no voice. Other people, however, believe that leaving a blank facial expression stimulates imagination in young girls. They believe that leaving the mouth off will allow young girls to imagine what the kitty is going through and imagine that she understands what the girls are telling her.

In May 2008, Japan named Hello Kitty the ambassador of Japanese tourism in both China and Hong Kong, which are two places where the character is exceptionally popular among children and young women. This marked the first time Japan's tourism ministry had appointed a fictional character to the role.

- 46 What is the first paragraph mainly about?
- (A) What Hello Kitty might symbolize. (B) Why and how Hello Kitty was invented.
(C) When and how Hello Kitty got her name. (D) How popular Hello Kitty has been.
- 47 According to the passage, which of the following is true about Hello Kitty?
- (A) She is Yuko Shimizu's brainchild. (B) She first appeared on women's shoes.
(C) She was created and designed by Tsuji. (D) She smiles with a big mouth.
- 48 Which of the following is a reason for people to believe that Hello Kitty should be given a mouth?
- (A) To help display her posture more vividly. (B) To create the image of being a good listener.
(C) To send out the message that she is a real cat. (D) To reveal that she can speak out what she thinks.
- 49 What is the writer's purpose in writing this passage?
- (A) To express disapproval towards Hello Kitty characters.
(B) To show appreciation to Hello Kitty fans.
(C) To introduce Hello Kitty and her design.
(D) To predict the future sale of Hello Kitty products.
- 50 Which of the following is true about the last paragraph?
- (A) Hello Kitty is perceived mainly as a kids' brand in Asia.
(B) Hello Kitty is the first tourism ambassador in Japanese history.
(C) Hello Kitty has been better received in Hong Kong than in China.
(D) Hello Kitty was appointed tourism ambassador for her popularity.