

102年公務人員升官等考試、102年關務人員升官等考試
102年交通事業郵政、港務、公路人員升資考試試題

等別(級)：佐級晉員級

類科(別)：各類別-郵政、港務、公路

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 依憲法本文之前言，有關我國憲法本文之敘述，下列何者正確？
(A)憲法之依據為蔣中正先生就任我國第一屆總統之訓示
(B)憲法係由中國國民黨之付託而制定
(C)憲法為政治黨派妥協而制定，故由各黨派主席共同頒行全國
(D)制定憲法目的之一在於增進人民福利
- 2 依憲法第 154 條之規定，勞資雙方應本協調合作原則，發展生產事業。勞資糾紛之調解與仲裁，以何種規範層級定之？
(A)行政指導 (B)自治條例 (C)命令 (D)法律
- 3 依憲法第 141 條規定，中華民國之外交，應本於何種精神？
(A)兩岸合作 (B)國際協調 (C)自由貿易 (D)獨立自主
- 4 下列何者為憲法增修條文第 3 條對於覆議案的規定？
(A)係立法院不同意行政院所提法律案時，立法院得進行的憲法程序
(B)係行政院認為立法院決議的法律案窒礙難行時，行政院移請立法院再次審議的程序
(C)係總統公布立法院移送法律案後，命令立法院再次審議的程序
(D)係司法院大法官進行法律違憲審查時，宣告法律違憲失效的程序
- 5 有關電動玩具業不得容許未滿 18 歲之兒童及少年進入其營業場所之規定，係限制業者之何種基本權利？
(A)人身自由及財產權 (B)工作權及財產權 (C)言論自由及財產權 (D)教育權與工作權
- 6 我國憲法第 23 條包含那些原則？
(A)法律保留原則及比例原則 (B)比例原則及信賴保護原則
(C)明確性原則及罪刑法定原則 (D)公益原則及平等原則
- 7 下列何者為提起撤銷違法行政處分之訴訟前的先程序？
(A)請願 (B)訴願 (C)陳情 (D)遊說
- 8 司法院釋字第 373 號解釋認為，禁止教育事業之技工、工友組織工會，是限制何種基本權？
(A)集會權 (B)結社權 (C)人格權 (D)隱私權
- 9 人民之生命權依司法院解釋，係由下列何種基本權利所保障？
(A)工作權 (B)生存權 (C)財產權 (D)人身自由
- 10 下列何者非屬我國憲法明文規定的人民應盡義務？
(A)服勞役 (B)納稅 (C)服兵役 (D)受國民教育
- 11 下列何者並非總統之職權？
(A)外交權 (B)公布法令權 (C)統一解釋法令權 (D)院際爭議處理權
- 12 依憲法增修條文之規定，立法院對於總統、副總統之彈劾案，須經全體立法委員多少比例以上之提議？
(A)五分之一 (B)四分之一 (C)三分之一 (D)二分之一
- 13 依憲法增修條文規定，有關行政機關組織之依據，下列何者正確？
(A)可以法律為準則性規定 (B)可以命令直接設立
(C)須憲法規定始可設立 (D)不須法律規定，行政機關享有絕對的裁量權
- 14 以下何者非屬大法官職權？
(A)審理政黨違憲解散案件 (B)統一解釋法律命令
(C)修改法律 (D)解釋憲法
- 15 依憲法增修條文規定，政黨違憲之解散事項由下列何者審理之？
(A)最高行政法院 (B)政黨審議委員會 (C)最高檢察署 (D)憲法法庭
- 16 法律與命令的區分，下列何者正確？
(A)法律規範涉及人民之權利義務，命令則不涉及
(B)法律的制定由立法院為之，命令的發布由司法院為之
(C)法律的規範對象為全國人民，命令的規範對象為下級行政機關
(D)法律的制定及修改由立法院為之，命令的發布及修改由各機關本於職權為之

- 17 下列何者不是中央法規標準法第 2 條所稱之法律？
(A)貪污治罪條例 (B)民法總則施行法
(C)促進民間參與公共建設法施行細則 (D)農田水利會組織通則
- 18 符合憲法第 23 條之條件時，得以法律限制人民權利。一個事項應以法律直接規範，或得委由命令予以規定，以下何者不是應該考慮的因素？
(A)規範對象 (B)規範內容
(C)機關內部作業流程 (D)法益本身及其所受限制之輕重
- 19 下列關於契約解除之敘述，何者錯誤？
(A)解除權之行使，應向他方當事人以意思表示為之
(B)解除權之一方當事人有數人者，因有解除權之一人向他方當事人為意思表示即生效力
(C)契約一經解除，雙方當事人互負回復原狀之義務
(D)契約解除權僅適用於債權契約
- 20 高雄地方法院法官張三於審理案件時，對於應適用之法律，依其合理之確信，認為有牴觸憲法之疑義，試問於現行法制下應如何解決？
(A)憲法第 171 條第 1 項規定，法律牴觸憲法無效，故張三應宣告該法律因違憲而無效
(B)法官有優先遵守憲法之義務，故張三應直接在判決理由中，指明法律違憲之理由而不予適用
(C)張三應以裁定停止審判，並以法律的合憲性做為裁判的先決問題，聲請司法院大法官解釋
(D)憲法第 80 條規定，法官須依法審判，且根據司法院大法官審理案件法第 5 條第 2 項之規定，只有最高法院才能聲請釋憲，故張三仍須受該法律之拘束而為裁判
- 21 依司法院解釋，下列何者違反法律保留原則？
(A)專門職業及技術人員考試法施行細則規定應試科目有一科成績為零分者，不予及格
(B)全民健康保險法施行細則規定，無一定雇主或自營作業而參加職業工會者，按投保金額分級表第六級起申報
(C)最高行政法院庭長法官聯席會議以決議縮減法律所定得為遺產總額之扣除額
(D)大學以學則自訂碩士班研究生退學標準
- 22 甲僱用年僅 15 歲之乙為店員，並授予代理權，乙之法定代理人丙拒絕承認，則下列敘述何者正確？
(A)甲、乙間之僱傭契約不生效力 (B)乙代理甲與客戶所訂之契約無效
(C)甲授予乙代理權之行爲無效 (D)乙代理甲與客戶所訂之契約效力未定
- 23 甲乙丙共同毆傷丁，致丁支出醫療費 30 萬元。嗣後，丁有感於甲家貧，乃免除甲之債務。則甲乙丙對丁所負之連帶債務，下列敘述何者正確？
(A)丁僅免除甲之債務，故乙丙仍負 30 萬元連帶債務
(B)丁向甲免除債務，其免除效力當然亦及於乙丙，故甲乙丙不再負債
(C)丁欲免除債務，應向全體債務人甲乙丙為之始生效力，故甲乙丙仍負 30 萬元連帶債務
(D)丁免除甲之債務，甲即不再負債，故在免除甲應分擔之部分 10 萬元後，乙丙僅負 20 萬元連帶債務
- 24 下列那一種刑罰不是刑法上的從刑？
(A)抵償 (B)禁戒 (C)沒收 (D)褫奪公權
- 25 依我國刑法第 16 條之規定，行為人若有正當理由而無法避免其不知法律，則應：
(A)免除刑事責任 (B)阻卻構成要件故意之成立
(C)阻卻違法性 (D)減免其刑
- 26 公司法規定公司有 4 種，但家數最多的則為股份有限公司與有限公司。下列關於此 2 種公司之敘述，何者錯誤？
(A)股份有限公司與有限公司之董事均可由非股東擔任
(B)股份有限公司之股份原則上可自由轉讓，但有限公司之股東轉讓其出資額，必須得到其他全體股東或過半數的同意
(C)股份有限公司之合併須經股東會特別決議後始得為之，有限公司之合併則應得全體股東之同意
(D)股份有限公司之董事最少 3 人，章程規定較高者從其規定，有限公司最多僅得設置董事 3 人
- 27 性別工作平等法中，有關性騷擾防治之規定，下列敘述何者正確？
(A)僱用員工 30 人以上之雇主，得自由決定是否訂定性騷擾防治措施
(B)雇主知悉性騷擾之情事時，即應採取立即有效之糾正及補救措施
(C)受僱者因性騷擾之行爲受有損害者，雇主應單獨負損害賠償責任
(D)受僱者發現雇主未設置性騷擾防治措施時，應直接向行政院勞工委員會申訴
- 28 下列關於著作權之敘述，何者正確？
(A)著作人於著作完成時享有著作權
(B)著作係指具有新穎性之創作
(C)受雇人於職務上完成之著作，除另有約定外，由雇用人為著作人
(D)著作權保護僅及於該著作之思想、概念，以促進文化發展

- 29 勞工投保勞工保險，領取保險給付之請求權，消滅時效的時間多久？
(A) 2 年 (B) 3 年 (C) 5 年 (D) 15 年
- 30 以下有關性別工作平等法之適用，何者正確？
(A) 不適用於任職未滿 1 年之員工 (B) 不適用於公務人員、軍職人員
(C) 僅適用於 30 人以上之公司行號 (D) 雇主與受僱者之約定優於本法者，從其約定
- 31 As we all know, the _____ in Canada is much lower than that in Mexico.
(A) tempest (B) pressure (C) moisture (D) temperature
- 32 During election time, one of the hot _____ is whether or not taxes should be raised.
(A) issues (B) councils (C) voters (D) legislators
- 33 In most countries, disabled people are usually given _____ in transportation or entrance fee.
(A) benefits (B) privileges (C) options (D) disadvantages
- 34 The pop singer is going on a tour around the island to _____ his new album.
(A) protect (B) support (C) promote (D) ensure
- 35 The stunt man was _____ from the neck down because of an accident in his performance.
(A) analyzed (B) paralyzed (C) paralleled (D) prohibited
- 36 Christmas is coming, and the Lins start to _____ their Christmas tree.
(A) separate (B) decorate (C) operate (D) moderate

請依下文回答第 37 題至第 41 題

If a woman decides to take a job outside the home, there are many important questions which are raised. Can she get any job she is 37 of and cut out for? Or are some jobs closed to her because she is a woman? If she gets a job and some of her fellow workers are men doing the same work, will she be paid 38 they are? This issue is considered important in the United States. The government has passed some laws to help women get any job 39 they are qualified, and to help them get the same pay as a man for doing the same work. The government has also passed a law to 40 businesses that get money from the government to be fair to women and minority groups. This is called the Affirmative Action law. It says that 41 a company is not fair to women and other minority groups, the government will not do business with that company. This boosts businesses to provide equal opportunity for women.

- 37 (A) independent (B) innocent (C) capable (D) representative
38 (A) as much as (B) other than (C) along with (D) as far as
39 (A) when (B) what (C) with which (D) for which
40 (A) encourage (B) forbid (C) cancel (D) permit
41 (A) unless (B) if (C) until (D) although

請依下文回答第 42 題至第 45 題

With the increasing water shortages and growing water conflicts, some people start to ask: why don't we get our drinking water from the ocean? The problem is that the desalination of water requires a lot of energy. Salt dissolves very easily in water, forming strong chemical bonds, and those bonds are difficult to break. Energy and the technology to desalinate water are both expensive.

There are environmental costs of desalination as well. Sea life can get sucked into desalination plants, killing small ocean creatures, and upsetting the food chain. Also, there's the problem of what to do with the separated salt. Pumping this super-salty water back into the ocean can harm local aquatic life. Reducing these impacts is possible, but it adds to the costs.

Despite the economic and environmental hurdles, desalination is becoming increasingly attractive as we run out of water from other sources. We are over-pumping groundwater, we have already built more dams than we can afford economically and environmentally, and we have tapped nearly all of the accessible rivers.

Far more must be done to use our existing water more efficiently, but with the world's population escalating and the water supply dwindling, the economic tide may soon turn in favor of desalination.

- 42 Which of the following is NOT mentioned in the passage as a reason why we don't desalinate water from the ocean?
- (A) Marine ecology might be disrupted.
(B) Desalinating seawater is rather costly.
(C) Land for desalination plants can't be easily acquired.
(D) The chemical bonds in saltwater are difficult to break.
- 43 What does the word "hurdles" mean in the passage?
- (A) Difficulties (B) Burdens (C) Shelters (D) Protections
- 44 Which of the following is NOT mentioned as a traditional source of water?
- (A) Dams (B) Snow (C) Rivers (D) Groundwater
- 45 What's the author's attitude toward desalination?
- (A) It should not be supported. (B) It is unlikely to become a reality.
(C) It might weaken world economy. (D) It might become a trend in the future.

請依下文回答第 46 題至第 50 題

Drinking coffee has become a crucial part of the daily routine of 110 million Americans. Over the past 20 years, over 19,000 studies have been conducted to examine the impact of coffee on one's health. There appears to be both benefits and potential hazards associated with this drink. Some studies have shown that coffee may reduce the risk of diabetes. After analyzing data on 120,000 people over an 18-year period, researchers at Harvard have concluded that drinking 1 to 3 cups of coffee each day can reduce diabetes risk by several percentage points, compared with not drinking coffee at all. Caffeinated and decaffeinated coffees provide similar results, which suggests that a coffee component other than caffeine may have beneficial effects on blood sugar levels. Researchers also find that coffee can lower the risks of Parkinson's disease, colon cancer, and gallstones. On the other hand, some researchers have found that coffee is not for everyone. In excessive amounts—meaning more than whatever one's body can tolerate—coffee can decrease the flow of blood to the heart, increase blood pressure, and cause rapid heartbeat. In addition, pregnant women should limit their caffeine intake because fetuses are sensitive to caffeine.

- 46 What is the purpose of this passage?
- (A) To encourage readers to drink more coffee.
(B) To reveal the results of the author's study on coffee's effects.
(C) To point out the good and bad effects of coffee.
(D) To explain the potential danger of coffee.
- 47 According to the passage, which is NOT one of the diseases that coffee drinkers can avoid?
- (A) Diabetes (B) Parkinson's disease (C) Insomnia (D) Colon cancer
- 48 What may happen if one drinks too much coffee?
- (A) Heartbeat may slow down. (B) Blood flow to the heart may decrease.
(C) Blood pressure may decrease. (D) Body weight may drop quickly.
- 49 Which statement about the Harvard research is true?
- (A) The research included 12 thousand subjects.
(B) The research lasted over 18 decades.
(C) The research finds that it is caffeine that can control blood sugar level.
(D) The research suggests that moderate amount of coffee is good for health.
- 50 What does the word "fetuses" mean?
- (A) Eye muscles (B) Unborn children (C) Heartbeats (D) Brain vessels