

105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 依司法院釋字第 499 號解釋之見解，有關修憲代表之敘述，下列何者正確？
(A)修憲代表應定期改選，絕無例外
(B)修憲代表之任期，由修憲代表以修憲方式自我延長，法理上並無不妥之處
(C)修憲代表行使職權之正當性在於遵守與選民之約定
(D)修憲代表不得由政黨比例代表產生
- 2 依憲法第 143 條第 1 項之規定，人民依法取得之土地所有權，應受下列何種規範之保障與限制？
(A)行政規則 (B)法規命令 (C)法律 (D)自治條例
- 3 依憲法第 137 條第 2 項規定，國防組織應以下列何種名稱定之？
(A)指令 (B)法律 (C)命令 (D)規則
- 4 下列有關「宗教自由」保障之敘述，何者錯誤？
(A)人民有不信仰宗教之自由 (B)人民有同時信仰二個以上宗教之自由
(C)為促進宗教自由，國家應設立國教 (D)基於宗教自由，國家應嚴守中立原則
- 5 依司法院大法官解釋，下列何者非屬平等原則之意涵？
(A)等者等之，不等者不等之
(B)因性別而為之差別規定，即已帶有针对性之歧視，絕對係憲法所不許
(C)平等原則強調的是實質平等
(D)對於大陸地區人民之應考試、服公職予以一定之限制，尚難謂違反實質平等之保障
- 6 依司法院大法官有關言論自由之解釋意旨，下列敘述何者錯誤？
(A)言論自由包括保障意見之自由流通，使人民有取得充分資訊之機會
(B)言論自由所保障之言論，包括政治、學術、宗教及商業言論等，依不同性質而有不同程度之保護
(C)言論自由所保障之言論，如與國民健康有重大關係者，基於公共利益之維護，應受較嚴格之限制
(D)商品標示僅為提供商品客觀資訊之方式，自始即不受言論自由之保障
- 7 依司法院釋字第 603 號解釋，隱私權係屬憲法何種權利？
(A)憲法第 8 條之人身自由 (B)憲法第 10 條之遷徙自由
(C)憲法第 15 條之生存權 (D)憲法第 22 條之權利
- 8 依司法院釋字第 380 號解釋意旨，學術自由係源自於憲法第 11 條之何種自由？
(A)言論自由 (B)講學自由 (C)著作自由 (D)出版自由
- 9 行政院應於會計年度結束後幾個月內，提出決算於監察院？
(A)1 個月 (B)2 個月 (C)3 個月 (D)4 個月
- 10 下列有關立法委員選舉制度之敘述，何者錯誤？
(A)原住民立法委員共有六人
(B)當選之立法委員名單中婦女不得低於二分之一
(C)僑居國外國民可透過全國不分區席次當選立法委員
(D)選舉人有二票，一票圈選候選人，一票圈選政黨
- 11 關於總統之職權，下列敘述何者錯誤？
(A)任命檢察總長，無須經行政院院長之副署 (B)解散立法院之命令，無須經行政院院長之副署
(C)總統依法公布法律，須經行政院院長之副署 (D)任命審計長，無須經行政院院長之副署
- 12 下列何項法規範，並非我國違憲審查制度之法規依據？
(A)憲法本文 (B)法院組織法
(C)憲法增修條文 (D)司法院大法官審理案件法
- 13 依據憲法規定，考試院之組織，以下列何者定之？
(A)法律 (B)職權命令 (C)法規命令 (D)行政規則

- 14 下列何項措施與司法獨立之維護無關？
(A)法官為終身職 (B)法官不得參與社團
(C)非依據法律不得將法官免職 (D)司法院所提出之年度司法概算，行政院不得刪減
- 15 在目前憲法體制上，下列何者非屬民意機關？
(A)臺北市議會 (B)立法院 (C)新竹縣議會 (D)監察院
- 16 甲法規與乙法規就某一事項均設有規定，其中甲法規為新法、普通法，乙法規為舊法、特別法。此一情形應適用何法規？
(A)甲法規
(B)乙法規
(C)優先適用甲法規，但乙法規有利於當事人者，適用乙法規
(D)優先適用乙法規，但甲法規有利於當事人者，適用甲法規
- 17 依地方制度法第 26 條規定，稱「直轄市法規」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
- 18 法律解釋應探求立法者本意及參酌立法原件，係屬下列何項法律解釋方法？
(A)歷史解釋 (B)文義解釋 (C)類推解釋 (D)目的解釋
- 19 依中央法規標準法規定，以下何者並非行政機關發布命令所應使用之名稱？
(A)辦法 (B)要點 (C)標準 (D)規則
- 20 行政機關之下列何種行為，違反比例原則？
(A)對初次違規之業者，不論違規情形之輕重，均處以最高罰鍰
(B)作成之行政處分，其裁量效果雖未違反內部規定，但違反行政慣行
(C)作成行政處分，僅列法律依據但不具理由，且於事後未予以補正
(D)對於人民具體申請之案件，雖經人民陳情，仍超過法定處理期間，未予處理
- 21 法律規定行政機關對於罰鍰享有裁量權時，該機關應如何行使裁量權？
(A)應為合義務之裁量 (B)得不行使裁量 (C)一律依最高額裁罰 (D)得便宜裁量
- 22 下列何者為行政處分之概念特徵？
(A)一種單方行政行為 (B)只有發生事實效果 (C)包括私法行政行為 (D)代替具體認知表示
- 23 下列何者不為抵押權效力所及？
(A)抵押物的從物 (B)抵押物滅失的殘餘物
(C)抵押物扣押前已分離之天然孳息 (D)抵押物的成分
- 24 在婚姻關係存續期間，甲夫向乙妻借新臺幣 100 萬元，雖然經過 15 年，但乙於雙方離婚後 1 年內，尚得請求甲返還借款，是因為下列何種制度？
(A)時效中斷 (B)時效不完成 (C)時效進行停止 (D)時效重行起算
- 25 下列何種事由的發生，普通保證人的責任不全部消滅？
(A)保證契約所擔保的主債務已因時效消滅
(B)債權人拋棄擔保物權時，保證人就債權人所拋棄之權利限度內免其責任
(C)定期保證者，債權人於該期間內對於保證人未為審判外之請求
(D)當主債務人死亡時
- 26 下列理論，何者與因果及歸責關聯的判斷無關？
(A)條件理論 (B)相當理論
(C)客觀歸屬（歸責）理論 (D)客觀未遂理論
- 27 關於累犯之敘述，下列何者錯誤？
(A)受徒刑之執行完畢，或一部之執行而赦免後，五年以內故意再犯有期徒刑以上之罪者，為累犯
(B)累犯加重本刑至二分之一
(C)緩刑期滿而緩刑之宣告未經撤銷者，嗣後縱然再犯，不發生累犯之問題
(D)於受強制工作之保安處分執行完畢後，五年以內故意再犯有期徒刑以上之罪者，並非累犯
- 28 關於緩刑宣告撤銷之敘述，下列何者錯誤？
(A)緩刑期內因故意犯他罪，而在緩刑期內受逾六月有期徒刑之宣告確定者，撤銷其宣告
(B)緩刑前因故意犯他罪，而在緩刑期內受逾六月有期徒刑之宣告確定者，撤銷其宣告
(C)緩刑宣告撤銷之聲請，於判決確定後一年內均得為之
(D)撤銷緩刑，須於緩刑期內為之

- 29 依性別工作平等法第 34 條第 1 項之規定，受僱者發現雇主違反性別工作平等法中有關禁止性別歧視之規定，向地方主管機關申訴後，雇主、受僱者或求職者對於地方主管機關之處分有異議時，得向下列何者提出審議之申請？
 (A) 10 日內向地方法院申請審議
 (B) 10 日內向目的事業主管機關申請審議
 (C) 10 日內向地方主管機關性別工作平等會申請審議
 (D) 10 日內向中央主管機關性別工作平等會申請審議
- 30 依勞動基準法之規定，勞工工作年資自何時起算？
 (A) 自受僱之當月一日起算
 (B) 自受僱之當月十五日起算
 (C) 自受僱之日起算
 (D) 自發薪之日起算
- 31 Don't ____ your voice when talking in the office.
 (A) exhume (B) raise (C) arise (D) arouse
- 32 There is a big cut on your hand. You need medical ____ immediately.
 (A) treatment (B) involvement (C) treasure (D) medium
- 33 Each country was requested to send a ____ to join the APEC convention.
 (A) designation (B) illustration (C) denotation (D) delegation
- 34 Parkinson's disease is a progressive disorder of the nervous system that ____ movement.
 (A) affects (B) effects (C) offends (D) defends
- 35 Hundreds of people are dead as the worst Ebola ____ outbreak in history sweeps through West Africa.
 (A) agent (B) code (C) formula (D) virus
- 36 Although the period in which he lived represents the sunset of the Renaissance, Bernini possessed a ____ comparable to that of Leonardo or Michelangelo.
 (A) chagrin (B) gusto (C) penchant (D) virtuosity

請依下文回答第 37 題至第 40 題

The loss of a child through “sudden infant death syndrome,” also known as SIDS or crib death—the sudden and 37 death of an apparently healthy, sleeping infant—is an especially 38 experience. Parents often develop feelings of guilt and 39, thinking that they somehow caused the child's death. To 40 such feelings, organizations have been established to help parents accept the fact that they did not cause the death.

- 37 (A) unexplainable (B) obvious (C) reasonable (D) persuasive
 38 (A) inevitable (B) suspicious (C) traumatic (D) artificial
 39 (A) observation (B) depression (C) compassion (D) appreciation
 40 (A) alleviate (B) accelerate (C) elaborate (D) substantiate

請依下文回答第 41 題至第 45 題

I like any game of chance, but I most enjoy taking part in a lottery. The lottery is 41 an unchanging religious ceremony, and it is perhaps this ritual quality of the lottery 42 people enjoy. Unlike other games of chance, a lottery does not require a great deal of paraphernalia. The only equipment 43 is a bowl filled with slips of paper. I enjoy the excitement of watching the official pick the winning number. The moment before the drawing is very serious. The judge gravely approaches the bowl and looks at the crowd soberly. The crowd is quiet 44 the low murmur of excitement. Suddenly the winner is selected. After the lottery is over, everyone but the winner throws away his or her piece of paper, and the 45 slips are soon blown away by the wind. People begin to disengage themselves from the crowd and the lottery is over.

- 41 (A) engaged in (B) used by (C) for (D) like
 42 (A) so (B) that (C) how (D) what
 43 (A) requiring (B) intended (C) needed (D) forming
 44 (A) dealing with (B) anxious about (C) in search of (D) except for
 45 (A) discarded (B) reflecting (C) transparent (D) useful

請依下文回答第 46 題至第 50 題

People feel safer behind some kind of physical barrier. Each social occasion involves us in encounters. If a social encounter is in any way threatening, then there is an immediate urge to set up such a barricade. The more formal the occasion and the more dominant or unfamiliar our social companions, the more worrying the moment of encounter becomes. Watching people under these conditions, we can observe the many small movements and postures in which they try to “hide behind their mothers’ bodies” as they did in their childhood. It is these that are the barrier signals of about life.

The most popular form of barrier signals is the body-cross. In this, one arm makes contact with the other across the front of the body. The action is performed unconsciously and, if asked about it immediately afterwards, the person will not be able to remember having made the gesture. The action is always disguised in some way, and the disguise **it** wears varies from person to person. For example, a male guest may lift his right hand, reach across his body and make a last-minute adjustment to his left cuff-link or the strap of his wristwatch when he walks toward his host. A female on a similar occasion may reach across her body with her right hand and slightly shift the position of her handbag or reposition a coat held over her left arm. In all case, at the peak moment of nervousness, there is a body-cross to construct a barrier between two people.

Interestingly, field observations reveal that in a social encounter it is most unlikely that both the greeter and the greeted will perform such action. Regardless of status, it is nearly always the new arrival who makes the body-cross movement, because it is he or she who is invading the home territory of the greeters. The greeters are there first and have at least temporary territorial “rights” over the place. This gives them a self-assured dominance at the moment of the greeting. Only if they are extremely subordinate to the new arrival will there be a likelihood of them taking the body-cross role.

- 46 What is the passage mainly about?
- (A) Different types of physical barrier. (B) Barrier signals on social occasions.
(C) Functions of the body-cross movement. (D) Dominant actions in a social encounter.
- 47 What is the second paragraph mainly about?
- (A) The need for body-cross language in a social setting.
(B) The unconscious performance of body-cross movements.
(C) A comparison of body-cross language of males and females.
(D) Different types of body-cross movements in a social setting .
- 48 What is the main idea of the third paragraph?
- (A) The invading greeter always performs the body-cross movement first in a social setting.
(B) The home-based greeter performs less body-cross movement in a social encounter.
(C) The greeter and the greeted rarely both perform the body-cross movement towards each other.
(D) The greeters perform the body-cross movement if they are subordinate to the greeted.
- 49 According to the passage, which of the following statements is true?
- (A) People feel an urge to perform body-crossing on a worrying social occasion.
(B) People use the body-cross to impress their greeters.
(C) Males often use clothing-adjustment consciously to disguise their anxiety.
(D) People perform less body-crossing in a formal social event than in other situations.
- 50 What does **it** in the second paragraph refer to?
- (A) occasion (B) action (C) barrier (D) companion