110年公務、關務人員升官等考試、110年交通事業公路、港務人員升資考試試題

等　　級：薦任、員級晉高員級
類科(別)：各類科－公務、各類別－公路、港務
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：㈠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。
㈡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。
㈢禁止使用電子計算器。

1 依據司法院釋字第 499 號解釋，民意代表之權限，應直接源自國民之授權，任期屆滿，除有不能改選之正當理由外，應即改選，乃約定之首要者。此乃下列何種原則之意涵？
(A)正當性原則　(B)天賦人權原則　(C)國民主權原則　(D)共和國原則

2 有關憲法第 140 條規定「現役軍人不得兼任文官」，下列敘述何者錯誤？
(A)軍職是服公職權的一種　(B)對於武職人員的兼職限制
(C)為軍政軍令一元化的體現　(D)現役軍人停職可轉任文官

3 菸害防制法第 9 條規定：「促銷菸品或為菸品廣告，不得以下列方式為之：……八、以茶會、餐會、說明會、品嚐會、演唱會、演講會、體育或公益等活動，或其他類似方式為宣傳。」依司法院大法官解釋意旨，下列敘述何者正確？
(A)該規定對於商業性言論造成限制，目的與手段之間須具有合理關聯性
(B)該規定目的在防制菸害及促進國民健康，並非重要公共利益，違憲
(C)該規定係為避免菸商假贊助之名，而達廣告或促銷菸品之實，手段並非最小侵害，違憲
(D)立法未對於酒商為相同限制，係考量菸害會對吸菸者以外之他人造成健康影響，屬於合憲之差別待遇

4 關於憲法對宗教信仰自由之保障，下列敘述何者錯誤？
(A)我國憲法於解釋上，僅在保障個人之信仰自由，而無政教分離或宗教中立原則之內涵
(B)宗教平等原則禁止國家對特定宗教給予獎勵或不利益
(C)內在信仰之自由涉及宗教信仰自由之核心，原則上受憲法絕對之保障
(D)信仰宗教自由兼具個人自由權與團體自由權之功能

5 違憲政黨之解散，應由何機關審理？
(A)憲法法庭　(B)行政法院　(C)內政部　(D)特別委員會

6 關於憲法第 7 條之平等權保障，依據司法院大法官解釋，下列何者同時涉及人性尊嚴之維護？
(A)跨國與境內婚姻媒合得否收受報酬之不同
(B)立法者分配國家資源，決定各項社會給付之優先順序、受益人範圍等
(C)菸品業者與酒類業者表意自由之不同
(D)原籍陸籍人民與原籍外籍人民服公職權利之不同

7 依所得稅法規定，納稅義務人就受長期照護者所支付之醫藥費，一律以付與公立醫院、全民健康保險特約醫療院、所，或經財政部認定其會計紀錄完備正確之醫院者為限，始得列舉扣除。對於身心失能無力自理生活而需長期照護者，將影響其何種基本權受憲法平等保障之意旨？
(A)生存權　(B)工作權　(C)財產權　(D)自由權

8 憲法規定人民有納稅之義務，其有關之原則，不包括下列何者？
(A)稅捐公平原則　(B)租稅法律主義　(C)量能課稅原則　(D)租稅優惠禁止原則

9 依據司法院大法官解釋，關於性行為自由，下列敘述何者正確？
(A)受婚姻與家庭制度之相對制約　(B)屬於人格自主發展，不受任何制約
(C)為一般行為自由，與個人私密領域無關　(D)通姦罪違憲失效，任何性行為均屬合法

10 依據憲法或憲法增修條文規定，有關總統職權，下列敘述何者錯誤？
(A)總統依法公布法律，毋須經行政院院長之副署
(B)總統發布依憲法經立法院同意任命人員之任免命令，毋須經行政院院長之副署
(C)總統發布解散立法院之命令，毋須經行政院院長之副署
(D)總統發布緊急命令，須經行政院院長之副署

11 依大法官解釋意旨，關於行政權，下列敘述何者錯誤？
(A)總統為憲法上之行政機關，且於憲法所賦予之行政權範圍內，亦為最高行政首長
(B)所有國家行政事務，原則上均納入以行政院為金字塔頂端之層級式行政體制掌理
(C)行政首長享有行政特權，而得不公開足以影響或干預行政部門有效運作之資訊
(D)為避免損及獨立機關之獨立性與自主性，行政院院長對獨立機關之重要人事，應無決定權

12 對於立法權之敘述，下列何者錯誤？
(A)立法機關之民主正當性，較諸司法機關更能反映當代社會多元價值
(B)涉及國家整體資源配置運用與經濟結構等政策性問題，立法應有較廣泛的形成空間
(C)我國憲政體制係採取代議民主，但亦保障人民有公民投票的權利
(D)立法院為國家最高立法機關，人民與代議士之間的關係，本於契約授權之概念，應限於命令委任制

13 關於考試院之職權，下列敘述何者錯誤？
㈠公務人員之保障　㈡公務人員之懲戒
㈢公務人員之考試　㈣專門職業及技術人員執業資格之銓定

14 有關懲戒法院，下列敘述何者正確？
㈠懲戒法院審理懲戒案件，採一級一審制
㈡懲戒法院審理懲戒案件，採一級一審為原則，二級二審為例外
㈢懲戒法院審理懲戒案件，採二級二審制
㈣懲戒法院審理懲戒案件，一律由五名法官組成合議庭

15 地方自治團體在既有法規範體系下之定位為何？
㈠行政法人　㈡公法人　㈢行政機關　㈣獨立機關

16 以下有關法律及命令的敘述，何者錯誤？
㈠廣義的法律，可以包含憲法、法律和命令，都是屬於直接法源的一種
㈡憲法第 170 條所規定的法律，係指經立法院三讀通過，由總統公布之法律
㈢中央法規標準法所規定之命令，僅限於行政機關依據法律授權所訂定的法規，並不包括依法定職權所訂定者
㈣行政程序法所規定之行政命令，包含行政機關基於法律授權所訂定之法規命令，以及依其權限或職權所訂定之行政規則

17 甲任職於乙公司已滿 8 個月並育有 6 個月大之嬰兒，該公司之受雇員工有 35 人。依性別工作平等法之規定，下列敘述何者正確？
㈠甲為照顧其嬰兒，得向乙公司請求調整工作時間
㈡甲因任職未滿 1 年，故不得申請育嬰留職停薪
㈢甲平日若係親自哺育母乳，則除規定之休息時間外，乙公司應每日另外提供甲集乳時間 60 分鐘。集乳時間不得視為工作時間
㈣甲為照顧其嬰兒，向乙公司請求每天減少工作時間 1 小時，減少之工作時間亦得請求報酬

18 臺北市政府環保局為確保空氣品質，希望訂定自治法規，以臨停怠速超過 5 分鐘的大型車輛為對象，處罰新臺幣 10 萬元以下罰鍰。依地方制度法規定，臺北市政府環保局應如何作為？
㈠由臺北市議會決議通過自治條例後，並由臺北市政府環保局公布後施行
㈡由臺北市政府環保局自行擬定後，送交內政部核定後發布施行
㈢由臺北市議會決議通過自治條例後，分別報經行政院與中央主管機關核定後發布施行
㈣提請臺北市議會與行政院環境保護署共同商議內容，再由立法院內政委員會決議後公布施行

19 法令定有施行期限者，下列敘述何者錯誤？
㈠法律定有期限者，主管機關認為需要延長者，應於期限屆滿一個月前送立法院審議
㈡法律定有期限者，其期限在立法院休會期限內屆滿者，應於立法院休會一個月前送立法院
㈢命令定有期限者，主管機關認為需要延長者，應於期限屆滿一個月前，由原發布機關之上級機關發布之
㈣授予人民經濟利益之法規預先訂有施行期間者，在該期間內即應予較高程度之信賴保護，非有極為重要之公益，不得加以限制

20 司法院釋字第 792 號解釋「現行毒品條例前身……即採區分『販賣……』、『販賣……未遂』、『意圖販賣而持有……』及『持有……』四類不同之罪名，並由重至輕訂定相應法定刑度之立法模式……。……足見……立法者……自始至終，均無意將單純『購入』毒品之行為，以『販賣毒品既遂』論處。」是屬於下列何種法律解釋方法？
㈠文義解釋　㈡歷史解釋　㈢目的解釋　㈣體系解釋

21 依司法院釋字第 613 號解釋，國家通訊傳播委員會組織法中關於委員任滿提名及出缺提名之規定，實質上幾近完全剝奪行政院之人事決定權，因此違反下列何種原則而與憲法意旨不符？
㈠法律保留原則　㈡政治問題不審查原則　㈢國會自律原則　㈣權力分立原則

22 立法機關有鑑於近年因濫用笑氣而導致死亡案例頻傳，從而制定法律重罰未經核可而持有笑氣者，並且明定於該法公布施行前所查獲濫用笑氣者，亦得依該法裁處。此舉恐違反下列何種原則？
㈠法律不溯及既往原則　㈡法律明確性原則　㈢權力分立原則　㈣不當聯結禁止原則

23 司法院釋字第 485 號解釋：「有關社會政策之立法，……關於給付方式與額度之規定，亦應力求與受益人之基本生活需求相當，不得超過達成目的所需必要限度而給予明顯過度之照顧。」上述解釋內容係以下列那一憲法原則審查？
㈠平等原則　㈡比例原則　㈢信賴保護原則　㈣誠實信用原則

24 下列有關婚姻效力之敘述，何者正確？
㈠夫妻之住所地為夫妻履行同居義務的唯一處所
㈡針對未成年學生就讀安親班所積欠的費用，安親班負責人不能僅向學生之父或母其中一方請求給付，必須向父母雙方同時請求學費之給付
㈢訂立夫妻財產制契約，以口頭約定即合法有效
㈣甲、乙為夫妻，由甲每日上市場買菜，月底攤商結帳請求付款時，可向乙請求給付當月菜錢

25 數人負同一債務，明示對於債權人各負全部給付之責任者，為連帶債務。關於連帶債務，下列敘述何者錯誤？
(A)數人負同一債務，而其給付可分者，除法律另有規定或契約另有訂定外，準用關於連帶債務之規定
(B)連帶債務之成立，除當事人明示成立外，僅限於法律規定
(C)連帶債務之債權人，得先對債務人中之一人，請求全部之給付
(D)因連帶債務人中之一人為清償而債務消滅者，他債務人亦同免其責任

26 依民法之規定，下列有關撤銷權之敘述，何者錯誤？
(A)撤銷權為形成權　(B)撤銷權之行使應由本人為之，不得代理
(C)撤銷權之行使為單獨行為　(D)撤銷權行使期間為除斥期間

27 有關刑法第 135 條妨害公務罪，下列敘述何者正確？
(A)妨害公務罪之保護法益在於公務員之身分，因此，只要是公務員，即便是休假著便服外出，路見不平排解民眾的紛爭，於此過程中受到民眾的強暴脅迫行為，即成立妨害公務罪
(B)公務員所執行者縱非其於法令內所應為之職務，對之施以強暴脅迫，仍以妨害公務罪論
(C)於公務員依法執行職務時，雖未有積極加以對抗、反制或攻擊之行為，但以消極不作為不予配合，已符合該條第 1 項所規定「強暴」或「脅迫」之概念
(D)公務員依法執行公務，如依循法令、未逾越法令之授權範圍與職務範圍，對公務員之行為不得主張正當防衛

28 有關著作權的敘述，下列何者正確？
(A)在社群媒體上發表文章時，於文章開頭註明作者為甲，依著作權法規定得推定該文章之著作人為甲
(B)中央機關之公務員於職務上完成之著作，若無特別契約約定，應以該中央機關為著作人
(C)思想與概念是個人精神表達的核心，因此著作權除保護著作之表達外，也會保護所表達之思想與概念
(D)侵害著作人格權者，僅須對所造成之財產上損害，負損害賠償責任，至於非財產上之損害，不負損害賠償責任

29 依勞動基準法第 16 條第 3 項之規定，雇主終止勞動契約若未給予法定之預告期間，應給付預告期間工資。下列敘述何者正確？
(A)因為雇主已經預告勞工要離職，勞工也同意工作到預告期屆滿當日，雇主無需給付底薪，但是應該持續給付相關津貼、獎金等項目，只要有超過基本工資即可
(B)由於勞動契約已經被預告終止，在預告期間內勞工僅是在準備離職之程序，雇主已無需給付任何工資
(C)因為勞動契約於預告期屆滿之前仍有效，即便勞工可以請謀職假，雇主應給付之原領工資範圍，仍包括底薪、工作獎金、全勤獎金、特定職務加給……等等一般情形下可以獲得之給付
(D)因為雇主已經預告勞工要離職，勞工也可以請謀職假，雇主應該只需要給付基本工資，無需給付定期會獲得之津貼、獎金等項目

30 下列關於法律分類之說明，何者錯誤？
(A)區分公法與私法的目的，係決定紛爭應該到何種審判機關進行訴訟
(B)普通法是適用所有人，特別法則僅適用於某部分人，故普通法優先於特別法適用
(C)強行法為絕對適用的法律，違反者行為無效或被課予處罰。任意法則由當事人決定是否適用
(D)程序法是關於訴訟或非訟過程的規範，實體法則關於各種權利義務關係之規範

31 Insurance companies have a new method of planning which involves both artificial intelligence and _____ human experts.
(A) analyzed　(B) realized　(C) specialized　(D) verbalized

32 In many cultures, an amulet is used to _____ evil spirits and bring good luck or protection to its owner.
(A) drop out　(B) stand for　(C) ward off　(D) wind up

33 Most museums have completed _____ of their artworks to make it easy for the public to browse them online.
(A) digitalization　(B) decoration　(C) assimilation　(D) elimination

34 The company's _____ this quarter exceeded its income. The boss decided to cut down the allowance for the expenses next quarter.
(A) expenditure　(B) fabrication　(C) hardliner　(D) incentive

35 The CMP in cocoa butter may _____ the growth of tumors and greatly reduce the threat of cancer.
(A) contribute　(B) advocate　(C) fortify　(D) inhibit

36 The conservatives believe that English words have fixed and _____ meanings while the liberals feel that words can change their meanings according to circumstances.
(A) invariable　(B) plausible　(C) transformative　(D) understandable

37 An independent consultant has been brought in to _____ between the two sides involved in the conflict.
(A) authorize　(B) humiliate　(C) conciliate　(D) mesmerize

38 The famous researcher was accused of intentionally falsifying data, so all the research grants paid by the institute were _____.
(A) recalled　(B) reclaimed　(C) reconciled　(D) refunded

39 Alex has great communication skills; he can _____ his thoughts and feelings easily and comfortably.
(A) cauterize　(B) jeopardize　(C) stigmatize　(D) verbalize

40 When an insect flies into the cobweb, the _____ of the thread tells the spider that food is waiting for him.
(A) jerking (B) jingling (C) tinkling (D) texting

請依下文回答第41題至第45題：

In 1913, Voeltzkow's chameleon disappeared from the wild, never to be seen in its native Madagascar again. But now, more than a century later, scientists have surprisingly rediscovered it. The reptile's __41__ is the result of a push from the Global Wildlife Conservation's Search for Lost Species program. Researchers began combing Madagascar for the chameleon in March 2018; __42__ , they came up empty until the expedition was nearly over. With just days left in the journey, a professional guide __43__ one of the chameleons, and ultimately eighteen were rediscovered. So how has an entire species managed to go without __44__ for so long? Scientists suspect the chameleons may only live for several months after hatching. The __45__ short life might partly explain why this splendid species got "lost" for so many decades. Much of Voeltzkow's chameleons' life remains mysterious and researchers are trying to learn more about the species.

41 (A) relocation (B) repetition (C) replication (D) reemergence
42 (A) in fact (B) however (C) fortunately (D) consequently
43 (A) spotted (B) detached (C) contained (D) obliged
44 (A) proving it (B) being noticed (C) paying attention (D) getting involved
45 (A) assumed (B) disastrous (C) superficial (D) intended

請依下文回答第46題至第50題：

Harriett Tubman is one of the most recognized icons in American history and her legacy has inspired countless people from every race and background. She was a woman of African descent who was born in slavery on a Maryland plantation in 1820. When she was only seven years old, she tried to run away from the plantation, but she was captured and severely beaten for trying to run away. In 1849, she escaped to Pennsylvania. Soon after her escape, she became a conductor on the Underground Railroad, which was not a real railroad. It was an informal network of people in the United States and Canada who believed slavery was wrong. They helped runaway slaves by giving them shelter on their journey out of the South. The members of the Underground Railroad helped hide the runaway or fugitive slaves, and then they "conducted" them to the next safe home or "station." After her escape from Maryland, Harriet Tubman returned to the South nineteen times to help other slaves escape north. Between 1850 and 1860, she helped more than 300 slaves escape to freedom in the North, including her own parents. She conducted many of these slaves along the Underground Railroad all the way to Canada.

In 1861, the American Civil War between the North and the South broke out, and Harriet went to help the army of the North, or, as it was also called, the Union Army. She worked as a nurse and helped to take care of thousands of recently freed slaves. Harriet served as a nurse for the North, but she also served as a spy and a commando. In 1863, she and a Union officer led a band of 150 black soldiers on a raid against the army of the South, or, as it was called, the Confederate Army. Harriett and the soldiers destroyed a lot of army supplies and then led nearly 800 slaves out of the area to freedom.

With the end of the war, Harriett returned to Auburn, NY and married a Civil War veteran named Nelson Davis. Although her service in the Union Army was much publicized, she had great difficulty in getting a pension from the government, but was eventually awarded a nurse's pension in the 1880s. Harriett also established the Harriet Tubman Home for the Aged on a property adjacent to her own. However, as Harriett aged, the head injuries sustained early in her life became more painful and disruptive. She underwent brain surgery at Boston's Massachusetts General Hospital to alleviate the pains and "buzzing" she experienced regularly. At the age of 93, Harriett died of pneumonia on March 10, 1913, surrounded by friends and family. She was buried with military honors at Fort Hill Cemetery in Auburn. All in all, Harriet Tubman did not have an easy life, but a very remarkable life. She was a small woman in stature, but she was a giant in the story of the fight against slavery in the United States and, indeed, in the world.

46 What happened when young Harriet was sent back to the plantation after she ran away?
(A) She was severely beaten. (B) She saved her brother's life.
(C) She served as nurse for the army. (D) She set 300 slaves free.

47 How many times did Harriet return to the South between 1850 and 1860 to lead slaves to the North?
(A) 8 (B) 12 (C) 19 (D) 150

48 According to the passage, which of the following statements is NOT true about Harriet?
(A) She helped her parents escape to freedom
(B) She lived until 1913, and died at the age of 93
(C) She became a conductor on the Underground Railroad
(D) She went to help the army of the South, the Confederate Army

49 In what year did Harriet and a small band of soldiers carry out a raid against the Confederates?
(A) 1861 (B) 1863 (C) 1865 (D) 1913

50 Which of the following best describes the tone of this passage?
(A) Cynical (B) Accusing (C) Admiring (D) Humorous