

109年警察人員升官等考試、109年 交通事業鐵路人員升資考試試題

等 級：警正、員級晉高員級

類科(別)：各類科、各類別

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 就我國司法制度應否引進國民參審制或陪審制，關於其立法權及執行權之歸屬，下列敘述何者正確？
(A)由中央立法，交由地方執行之 (B)由中央立法並執行之
(C)由地方立法並執行之 (D)由中央立法並執行之，或交由地方執行之
- 2 依憲法規定，法律牴觸憲法發生疑義，應如何處理？
(A)由立法院解釋 (B)由法務部解釋 (C)由司法院解釋 (D)由總統解釋
- 3 依憲法本文之規定，監察院得向何機關提出糾正案？
(A)立法院 (B)司法院 (C)考試院及其部會 (D)行政院及其部會
- 4 下列何者為立法院之職權？
(A)審計權 (B)糾正權 (C)調查權 (D)糾舉權
- 5 關於立法院權力之行使，下列敘述何者正確？
(A)立法院不同意緊急命令時，該命令溯及失效 (B)立法院同意總統、副總統之罷免案後，即為通過
(C)立法院決議通過領土變更案後，應交公民複決 (D)立法院僅對於司法院正副院長有人事同意權
- 6 關於總統及行政院院長之憲法上職權，下列敘述何者錯誤？
(A)總統得經行政院會議之決議，發布緊急命令
(B)總統得向立法院提出施政方針及施政報告
(C)經總統核可，行政院院長得將窒礙難行之法律案移請立法院覆議
(D)行政院院長提請總統任命行政院副院長
- 7 下列何者不屬於基本權利限制應遵循之要件？
(A)基於法律規定 (B)比例原則 (C)得以職權命令限制 (D)法律明確性原則
- 8 下列有關偶發性集會之敘述，何者正確？
(A)基於國家安全與社會秩序之維護，室外集會遊行應經許可，禁止未經申請之偶發性集會尚不違憲
(B)室外偶發性集會須事先申請許可，其申請不受 6 日前申請期間之限制，已足以保障集會自由
(C)為兼顧集會自由保障與社會秩序維持，室外偶發性集會應採許可制，不得採報備制，立法者對此並無形成自由
(D)立法者得視事件性質，以法律明確規範偶發性集會，改採許可制以外相同能達成目的之其他侵害較小手段
- 9 依司法院大法官解釋，關於應考試權，下列敘述何者錯誤？
(A)應考試權為廣義之參政權
(B)對應考試權之差別待遇，大法官採取寬鬆之審查標準
(C)應考試權除保障人民參加考試取得公務人員任用資格之權利外，亦保障人民參加考試取得專門職業及技術人員執業資格之權利
(D)應考試權之限制，應符合法律保留原則
- 10 「票票等值」之要求，最可能與下列何種選舉方法有關？
(A)普通選舉 (B)平等選舉 (C)直接選舉 (D)秘密選舉
- 11 下列何者非司法院釋字第 445 號解釋，對集會自由之解釋內容？
(A)以法律限制集會、遊行之權利必須符合明確性原則
(B)集會遊行法對於不遵從解散及制止命令之首謀者科以刑責，並非立法自由形成範圍
(C)有關時間、地點及方式等限制，屬立法自由形成之範圍
(D)集會自由屬於表現自由之範疇

- 12 依司法院釋字第 708 號解釋，有關內政部移民署對受驅逐出國之外國人以行政處分暫予收容，下列敘述何者正確？
- (A)暫予收容屬剝奪人身自由之一種態樣，無論時間長短，均係嚴重干預人民身體自由，均應經法院審查決定
- (B)對外國人暫予收容，內政部移民署以行政處分為之即可，無須經由法院審查決定，亦無須賦予即時之司法救濟
- (C)暫予收容旨在防範外國人脫逃，俾能迅速遣送出國，未經法院審查決定，尚不違反人身自由，但應賦予即時之司法救濟
- (D)暫予收容期間短暫，非屬人身自由之長期剝奪，無須經由法院審查決定，亦無須賦予暫予收容人即時之司法救濟
- 13 憲法第 152 條明定：「人民具有工作能力者，國家應予以適當之工作機會。」下列敘述何者正確？
- (A)人民對於其所欲從事工作，得依據上述規定向國家請求提供該職缺
- (B)國家若未給予適當之工作機會，人民得提起救濟，以確保上述規範之落實
- (C)係為工作權之憲法基礎，並課予國家積極給付之義務
- (D)國家廣設就業服務站，依據求職者之能力、興趣、專長，提供就業媒合，應屬上述規範之具體落實
- 14 依憲法及增修條文規定，下列何者不屬於憲法對文化事務之規定？
- (A)國家應保護與歷史、文化、藝術相關之古蹟、古物
- (B)國家應維護發展原住民族語言及文化
- (C)私立文化機關於受國家補助時，方須依法律受國家監督
- (D)教育、科學、文化事務預算應優先編列
- 15 下列何者尚未經大法官解釋為憲法第 22 條所保障之權利？
- (A)名譽權 (B)更改姓名之權利 (C)隱私權 (D)養寵物之自由
- 16 為落實聯合國兒童權利公約之內容，而制定之兒童權利公約施行法屬下列何種法源？
- (A)條約 (B)法律 (C)憲法 (D)習慣
- 17 依地方制度法之規定，關於權限爭議之解決，下列何者錯誤？
- (A)中央與直轄市、縣（市）間，權限遇有爭議時，由行政院解決
- (B)直轄市與縣（市）間，事權發生爭議時，由行政院解決
- (C)直轄市間，事權發生爭議時，由行政院解決
- (D)縣（市）間，事權發生爭議時，由中央各該主管機關解決
- 18 臺中市政府為減少碳排放量並推動能源轉型，研擬要求用電量達一定度數以上之用戶裝設再生能源系統，向臺中市議會提案制定法規，本法規應屬下列何者？
- (A)職權命令 (B)自治條例 (C)自治規則 (D)委辦規則
- 19 法律定有施行期限，主管機關認為需要延長者，應遵循下列何種程序？
- (A)無法延長，僅能重新制訂新法 (B)應於期限屆滿一個月前送立法院審議
- (C)經行政院核定後報請總統公布延長 (D)由主管機關自行訂定職權命令延長
- 20 依據中央法規標準法第 21 條之規定，下列何者並非法規廢止之事由？
- (A)機關裁併，有關法規無保留之必要者
- (B)法規規定之事項已執行完畢，或因情勢變遷，無繼續施行之必要者
- (C)法規因有關法規之廢止或修正致失其依據，而無單獨施行之必要者
- (D)同一事項規定於二以上之法規，無分別存在之必要者
- 21 有判決參照民法第 1 條「相類似之案件，應為相同處理」之法理，是採用下列何種法律適用方式？
- (A)類推適用 (B)文義解釋 (C)目的性限縮 (D)目的性擴張
- 22 有關行政處分作成前之聽證，下列敘述何者正確？
- (A)主持人應經當事人雙方同意，始能終結聽證程序
- (B)行政機關作成行政處分前，遇有法規明文規定應舉行聽證時，始能舉行聽證
- (C)行政機關作成經聽證之行政處分時，應依聽證紀錄作成處分
- (D)不服經聽證作成之行政處分者，其行政救濟程序，免除訴願及其先行程序
- 23 依司法院大法官解釋意旨，有關藥害救濟法之立法，係為使正當使用合法藥物而受害者，獲得及時救濟。下列敘述何者錯誤？
- (A)藥害救濟法之制定，實屬憲法社會國原則之體現
- (B)對於社會政策立法，因涉及國家資源分配，司法應採取嚴格審查
- (C)藥害救濟法之規定，涉及憲法對於國人健康權保障之實踐
- (D)針對「常見且可預期」之排除規定，造成病患無法請求救濟，尚無違比例原則

- 24 甲、乙、丙、丁四人為親兄弟。甲是 22 歲，但受監護宣告；乙是 18 歲，已結婚；丙是 12 歲；丁是 6 歲。依民法之規定，下列敘述何者錯誤？
(A) 甲為無行為能力之成年人 (B) 乙為有行為能力之成年人
(C) 丙為限制行為能力之未成年人 (D) 丁為無行為能力人之未成年人
- 25 甲出租土地於乙，乙使用期間該土地被丙無權占有，乙可行使下列何種物上請求權？
(A) 所有物返還請求權 (B) 所有權之妨害除去請求權
(C) 所有權之妨害預防請求權 (D) 占有物返還請求權
- 26 商人甲未經女明星乙之同意，擅自以乙之肖像作為商業廣告而獲利。下列敘述何者錯誤？
(A) 乙得向甲主張除去侵害請求權 (B) 乙得向甲主張侵害防止請求權
(C) 乙得依債務不履行之規定請求甲損害賠償 (D) 乙得依不當得利之規定請求甲獲利返還
- 27 下列何種民事法制度不是原本法律的規定，而是經由法律續造而產生，甚至其後修法而成為法律的具體規定？
(A) 無因性理論 (B) 融資性租賃 (C) 最高限額抵押 (D) 讓與擔保
- 28 於地檢署服務的書記官張三知道解送至地檢署的犯罪嫌疑人李四涉犯強制性交且拒絕承認，一時氣憤不過，便趁檢察官訊問的空檔，予以痛打一頓。下列敘述何者正確？
(A) 張三犯刑法第 125 條的意圖取供而施強暴脅迫罪
(B) 張三犯刑法第 277 條第 1 項的普通傷害罪，並因第 134 條加重其刑二分之一
(C) 張三犯刑法第 279 條的義憤傷害罪
(D) 張三犯刑法第 126 條第 1 項凌虐人犯罪
- 29 某大學之甲學生(下稱甲生)與乙學生(下稱乙生)均自誇其對公司法研究透徹，下列乃該二學生對公司法規定之陳述，何者為錯誤？
(A) 甲生謂：公司非在中央主管機關登記後，不得成立
(B) 甲生謂：公司法所稱主管機關：在中央為財政部
(C) 乙生謂：股份有限公司，係指二人以上股東或政府、法人股東一人所組織，全部資本分為股份；股東就其所認股份，對公司負其責任之公司
(D) 乙生謂：公司法所稱分公司，為受本公司管轄之分支機構
- 30 依勞動基準法規定，雇主調動勞工工作時，除不得違反勞動契約之約定外，下列那一項規定非雇主應遵守之原則？
(A) 對勞工之工資及其他勞動條件，未作重大之不利益變更
(B) 調動後之工作為勞工體能及技術可勝任
(C) 調動工作地點不論遠近，雇主應予以必要之協助
(D) 應考量勞工及其家庭之生活利益
- 31 The earnings for registered nurses remain above average for college-educated women, though they have _____ in recent years.
(A) alienated (B) designated (C) illuminated (D) stagnated
- 32 The prosecutor's allegation against the suspect is invalid because it is largely based on _____ evidence.
(A) circular (B) circumstantial (C) authentic (D) environmental
- 33 With a firm light tread, his heavy boots _____ a pleasant smell of tar and fresh winter air.
(A) exhumed (B) emitted (C) exhausted (D) embossed
- 34 Mr. Johnson usually _____ his dirty clothes for a couple of days before sending them to the laundry-shop.
(A) acclaims (B) acclimates (C) accommodates (D) accumulates
- 35 The little boy _____ his mom's legs and cried out loud as she tried to leave for work.
(A) dug under (B) clung to (C) yielded to (D) grew under
- 36 The Spanish embrace is a _____ of greeting, often accompanied by verbal behavior.
(A) gesture (B) venture (C) creature (D) texture
- 37 When it continues raining heavily over time, plenty of water will _____ the soil.
(A) inhabitate (B) infiltrate (C) interpolate (D) ingratiate
- 38 Cardboard has recyclable and biodegradable properties, and it is also an _____ material that absorbs sound in a noisy environment.
(A) inclusive (B) isolated (C) immediate (D) insulating
- 39 Mutation, migration, genetic drift and natural selection are the basic _____ of evolutionary change.
(A) machines (B) machineries (C) mechanics (D) mechanisms
- 40 A recovered copy of Shakespeare's First Folio, one of the most _____ books in all of English literature, is headed to London's Globe Theater.
(A) coveted (B) diverted (C) entitled (D) dedicated

請依下文回答第 41 題至第 45 題

As a young girl, Yumna Al-Arashi would look with fascination upon the dots, lines and symbols that graced her Yemeni great-grandmother's face. Rich with meaning and history, the markings 41 a style of facial tattoo once found across rural communities in the Middle East and North Africa. Yet as Al-Arashi grew older and learned more about the practice, she discovered it was a tradition few young women seemed 42 on continuing. Intrigued, the London-based photographer of Egyptian-Yemeni descent resolved to document what remained of the practice and explore why its popularity had 43. Nearly all of the women she encountered loved their tattoos and considered them to be 44 of beauty, in much the same way younger generations of women enjoy makeup. While some tattoos appeared to be astrological motifs, others 45 symbols of protection from superstitions. She collected portraits of 100 women over the age of 70 on her journey, many of whom were farmers or fisherwomen.

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|-----------------|---------------|-------------------|----------------------|
| 41 (A) reduced | (B) repeated | (C) reproduced | (D) represented |
| 42 (A) keen | (B) intent | (C) dependent | (D) undertemined |
| 43 (A) waned | (B) increased | (C) boosted | (D) neutralized |
| 44 (A) markers | (B) thinkers | (C) restrictions | (D) regulations |
| 45 (A) posed as | (B) served as | (C) reversed into | (D) transformed into |

請依下文回答第 46 題至第 50 題

You probably know the story of the great irony of the Titanic. The ship hailed as “unsinkable” sank after it struck an iceberg on its very first trip across the Atlantic Ocean. In hindsight, it seems almost silly that anyone would assume that a ship weighing more than 50,000 tons (when fully laden) was unsinkable. And indeed, many myth busters have claimed that few people were actually calling the ship “unsinkable” before it sank.

While it is hard to say whether people thought the ship was absolutely unsinkable under any circumstances, it is clear that people believed that the passenger liner's safety design (by Thomas Andrews) was state-of-the-art, and some did describe it as “unsinkable” before it ever set sail. Reportedly, that claim was enough to keep many passengers calm even as the ship was in fact sinking. A vice president of the company in charge of the voyage told the U.S. Congress that he initially did not believe reports that the ship was sinking because he thought it to be unsinkable.

The idea that the ship was unsinkable was advanced by newspaper and magazine articles as well as by advertisement materials from the shipping company. The widely circulated articles detailed the design of the liner and its technologically advanced safety features. Chief among those features were 16 compartments within the hull whose doors could be shut by the flick of a switch. It was believed that the ability to quickly close off the compartments if any of them were breached could keep the ship afloat even if it suffered damage.

Though it's an exaggeration to claim that nobody thought the ship unsinkable, it may be true that, before the Titanic sank, people were not particularly interested in whether the ship was unsinkable. The Titanic's selling point was really its grandeur and luxury, not its safety. Most of the articles and advertisements for the Titanic focused on its size and accommodations, not on the details of its design, and the affluent passengers who boarded the ship chose it for its prestige and comfort. It was only after the ship's demise that the “unsinkable” moniker really took off, presumably for dramatic effect. So even though the ship was in fact touted as “unsinkable” before it sank, it was the irony of its tragic sinking that actually brought that claim to the fore.

- 46 What is the passage mainly about?
- | | |
|---|--|
| (A) New evidence of how the Titanic sank. | (B) The futility of human ambition in history. |
| (C) The perceptions of the Titanic at its time. | (D) The faulty design that sank the Titanic. |
- 47 What commonly-held false idea has been challenged?
- (A) The sinking of the ship was caused by a mysterious force.
 (B) Many people at that time claimed that the ship was unsinkable.
 (C) The gigantic ship sank as a result of hitting an iceberg.
 (D) The considerable weight of the ship was the cause of its sinking.
- 48 According to the passage, what might make some people believe in the ship's unsinkability?
- (A) Its safety design was the newest and most advanced at its time.
 (B) There were reports about how the ship had endured many adverse situations.
 (C) The ship designer and the company were making such a claim.
 (D) Its sheer size and beauty easily gave people such an impression.
- 49 What was advertised as a safety feature that could prevent the ship from going down after a collision?
- (A) The ship's body was built by using the most advanced materials.
 (B) Some sections in the ship could be blocked off quickly if there were holes.
 (C) Several guest rooms were controlled by a single switch to make them unbreakable.
 (D) There were spaces specially designed to keep floating in case of emergency.
- 50 Why does the author consider Titanic's tragic sinking an irony in the conclusion of the passage?
- (A) The advertisements at that time boasted the unsinkability of the Titanic.
 (B) The ship's unsinkability was not really the center of attention before the accident.
 (C) The rich passengers on the ship considered safety the top priority.
 (D) The ship was believed to be sinkable only by some people at its time.