

109年公務人員特種考試司法人員、法務部
調查局調查人員、國家安全局國家安全情報
人員、海岸巡防人員及移民行政人員考試試題

代號：3101
頁次：6-1

考試別：司法人員、海岸巡防人員、移民行政人員

等別：三等考試

類科組：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 A 報紙報導公務員甲涉嫌違法收受賄賂，甲認為該篇報導涉嫌誹謗，依法提出告訴。下列有關基本權利之敘述，何者正確？
 - (A)本案涉及 A 報紙之新聞自由與甲之名譽權兩項基本權利之衝突
 - (B)本案若以刑法誹謗罪之規定處罰 A 報紙之負責人，涉及基本權利第三人效力之問題
 - (C)本案 A 報紙之報導係對於甲名譽權之限制
 - (D)本案涉及甲之言論自由與名譽權兩項基本權利之競合
- 2 依司法院大法官解釋意旨，下列何者無法律保留原則之適用？
 - (A)全民健康保險醫事服務機構特約內容
 - (B)法官迴避制度
 - (C)電子遊戲場業營業場所之禁止設立排除區域
 - (D)公務人員彈性上下班制度
- 3 依司法院大法官解釋，關於言論自由之保障，下列敘述何者正確？
 - (A)低價值言論之事前審查，法院仍應從嚴審查其是否違憲
 - (B)商業廣告不受言論自由保障
 - (C)就言論自由的干預強度而言，事前審查必然低於觀點歧視之管制
 - (D)含藥化妝品之廣告均不得事前審查
- 4 關於國家責任，下列敘述何者錯誤？
 - (A)憲法第24條規定人民得依法律向國家請求賠償為「憲法委託」
 - (B)國家責任包括「國家賠償」及「損失補償」
 - (C)司法院大法官認為，經治安機關逮捕以罪嫌不足逕行釋放前受羈押之人民，有權請求國家賠償
 - (D)為追求公共利益，人民之財產權負有容忍特別犧牲之義務，國家不負損失補償責任
- 5 依司法院大法官解釋意旨，下列何者不屬於營業自由之保障範圍？
 - (A)緊鄰國民小學開設並經營電子遊戲場業
 - (B)菸商拒絕於銷售之菸品上加註吸菸危害健康之警語
 - (C)搬家公司拒絕僱用具原住民身分之員工
 - (D)藥師同時於兩家藥局常駐執業
- 6 依憲法規定，制定法律應符合何種程序？
 - (A)立法院通過、總統公布
 - (B)應經各政黨黨團協商
 - (C)應經聽證程序，廣納各方意見
 - (D)立法委員不得自行提案，應經由業務主管機關向立法院提出

- 7 依司法院大法官解釋之意旨，下列差別待遇，何者合憲？
(A)為稽徵便利，以年齡作為分類標準，規定僅有扶養一定年齡之親屬始得減除免稅額
(B)為維持警察養成教育制度，以警大或警官學校畢業或訓練合格為分類標準，作為任用與晉升警察職務之資格
(C)為維護租稅公平及確保公庫收入，對故意致公司逃漏稅捐之公司負責人一律處徒刑，而對其他受處罰對象得處有期徒刑、拘役或罰金
(D)為維護一夫一妻婚姻制度，僅限配偶間財產權之移轉免徵贈與稅，其他未婚異性伴侶則無從免徵
- 8 依司法院大法官解釋，關於隱私權，下列敘述何者錯誤？
(A)女性有決定是否終止懷孕之權利
(B)隱私權受憲法第22條之保障
(C)資訊隱私權亦屬隱私權之保障範圍
(D)強制請領國民身分證必須按捺指紋，可能違反隱私權保護
- 9 下列何者不屬於立法院國會自律權之行使？
(A)訂定議事規則
(B)決議召開臨時會
(C)決議將立法委員送交黨紀處分
(D)同意檢察機關於會期中逮捕立法委員
- 10 下列有關彈劾權與糾舉權之敘述，何者正確？
(A)二者均得對違法或失職之公務人員提出
(B)彈劾之對象為中央公務人員；糾舉之對象為地方公務人員
(C)二者均須由八位監察委員提案後，始得進行調查
(D)彈劾之對象為除公務員外，尚包括民意代表
- 11 依司法院大法官解釋，下列何者有赴立法院各委員會備詢之義務？
(A)大學教授
(B)檢察官
(C)參謀總長
(D)監察院院長
- 12 憲法或憲法增修條文未明文規定下列何種人員應超出黨派以外，依據法律獨立行使職權？
(A)立法委員
(B)考試委員
(C)監察委員
(D)法官
- 13 依現行規定及司法院大法官解釋意旨，下列有關司法院之敘述，何者正確？
(A)司法院僅為司法行政機關，不具有司法審判機關之性質
(B)現行制度下，司法院並非民刑事、行政訴訟之終審機關，與憲法第77條規定司法院為最高司法機關之意旨，不盡相符
(C)為維持審判獨立，司法院對於普通法院之審理程序，不得發布任何命令或規則
(D)司法院有向立法院提出法律案及預算案之權
- 14 關於預算案與決算案之敘述，下列何者正確？
(A)立法院對於行政院所提之預算案，不得為增加支出之建議
(B)行政院主計總處應於會計年度終了後六個月，向立法院提出決算案審查報告
(C)考試院所提的考試概算，行政院不得刪減
(D)行政院於會計年度開始六個月前，應將下年度預算提出於立法院
- 15 下列何者不符聲請司法院大法官解釋憲法之要件？
(A)總統於行使職權，適用憲法發生疑義時
(B)雲林縣政府發布之自治規則經主管機關函告無效後
(C)經濟部於行使職權時，認立法院通過之法律有牴觸憲法之疑義
(D)法官於審理非訟事件時，認為適用之法律有牴觸憲法之疑義

- 16 有關美國法的特色，下列敘述何者錯誤？
(A)繼受了英國的普通法傳統，但也吸收了法國的啟蒙思想，主張更多的平等與自由
(B)除聯邦憲法或國會的法律已有規定的事項外，一切訴訟案件應以聯邦法優先
(C)法院有權於個案中判決某項法律違反憲法，是為「司法審查」制度
(D)擁有一部成文的聯邦憲法，且於增修條文中將人權保障入憲
- 17 緊急命令是指國家遇有緊急事變，須為急速處分時所發布的命令，其效力與何者相當？
(A)憲法 (B)法律 (C)命令 (D)自治法規
- 18 最高法院判決曾指出，雖病人屬消費者保護法所稱之消費者，但因醫療行為具特殊性，如適用消費者保護法之無過失責任，而導致醫生為避免被訴之風險，選擇消極之醫療行為，反而無法達成消費者保護法之立法目的，因此醫療行為不適用上述無過失責任。此為下列何種法律適用方法？
(A)類推適用 (B)目的性解釋 (C)目的性限縮 (D)目的性擴張
- 19 依憲法訴訟法之規定，下列何者不得聲請憲法裁判？
(A)人民認為終審法院的確定裁判侵害其基本權利
(B)法官審判時，確信作為裁判依據之法律違憲
(C)臺北市政府認為其職權上所應適用之中央法律違憲
(D)行政院就其職權行使而對某法律所表示之見解，與考試院就同一法律所表示之見解不同
- 20 下列有關司法院院長之敘述，何者錯誤？
(A)司法院院長亦為大法官，同受大法官任期的保障
(B)司法院院長由總統提名，立法院同意後任命
(C)立法院開會時，司法院院長得列席陳述意見
(D)司法院院長為司法行政的最高首長
- 21 下列有關立法委員選舉之敘述，何者錯誤？
(A)採行「單一選區兩票制」
(B)區域代表依人口比例分配名額，但每縣市至少一人
(C)政黨須在政黨選舉票中獲得百分之五以上的選票，方能分配席次
(D)各政黨之政黨比例代表席次，婦女名額不得低於三分之一
- 22 依司法院釋字第756號解釋，監獄行刑法第66條規定：「發受書信，由監獄長官檢閱之。如認為有妨害監獄紀律之虞，受刑人發信者，得述明理由，令其刪除後再行發出；受刑人受信者，得述明理由，逕予刪除再行收受。」所涉及之基本權利是：
(A)秘密通訊自由及財產權 (B)居住自由及言論自由
(C)秘密通訊自由及言論自由 (D)言論自由及人格權
- 23 為有效管理街頭藝人及其相關活動，某市訂定街頭藝人從事藝文表演活動管理辦法，規定街頭藝人從事街頭藝文活動須有許可證，此與何種基本權利無涉？
(A)言論自由 (B)工作權 (C)財產權 (D)居住遷徙自由
- 24 有關中央與地方法規效力的敘述，下列何者錯誤？
(A)自治條例與法律牴觸者，無效
(B)自治規則與法律牴觸者，無效
(C)基於法律授權之法規與自治條例牴觸者，無效
(D)自治規則與上級自治團體自治條例牴觸者，無效

- 25 依現行民法規定，下列何者無須經登記即生法律效力？
(A)結婚 (B)婚後以其本姓冠以配偶之姓
(C)兩願離婚 (D)土地之繼承
- 26 契約當事人約定以將來訂立一定契約為內容之契約，稱之為？
(A)本約 (B)預約 (C)從契約 (D)擬制要約
- 27 甲允諾贈與其所有之名貴 A 跑車一部予乙，允諾3個月內將 A 車移轉交付給乙，該贈與契約並經公證人做成公證書。惟經5個月後，甲仍未交付之。下列敘述何者正確？
(A)贈與契約為無償契約，甲得隨時撤銷贈與契約，故乙不得請求交付 A 車
(B)贈與契約業經公證，乙得請求甲交付 A 車
(C)乙得向甲請求因遲延給付所生之遲延利息
(D)乙得向甲請求因遲延給付所生之損害賠償
- 28 甲住臺北，欲前往高雄開會，遂請友人乙將其從臺北載送至高雄參加會議。途中甲叮囑乙開快一點，避免遲到，隨即在乘客座上打盹。乙因為搶快，於路途中不慎撞上他車駕駛丙，造成丙嚴重受傷。問丙得向何人請求損害賠償？
(A)丙僅得向甲主張侵權行為損害賠償
(B)丙僅得向乙主張侵權行為損害賠償
(C)丙得向甲、乙主張侵權行為，負連帶賠償責任
(D)丙得向甲、乙主張侵權行為，負不真正連帶賠償責任
- 29 建商甲得知某市政府有一土地開發計劃，委託中間人乙帶著甲的計畫書去見負責開發案的副市長丙。丙開價500萬元，願意將甲的計畫書內容納入市政府的開發計劃。乙將丙的意思傳達給甲。甲遂請乙轉交500萬元給丙，同時付佣金100萬元給乙。下列敘述何者錯誤？
(A)丙構成公務員受賄罪 (B)乙構成行賄罪的共同正犯或幫助犯
(C)甲構成公務員受賄罪的共同正犯或幫助犯 (D)乙構成公務員受賄罪的共同正犯或幫助犯
- 30 甲死亡後遺留土地一筆，有乙、丙二位繼承人，未辦理繼承登記。下列敘述何者正確？
(A)該土地為乙、丙分別共有
(B)移轉登記前，乙、丙即取得土地所有權，應經登記，始得處分
(C)若土地被無權占有，乙、丙須共同向無權占有人起訴請求返還
(D)乙、丙於繼承前在土地上有抵押權，該抵押權因繼承而受影響
- 31 The government is considering the creation of a dedicated immigration law to _____ manpower shortage in the country.
(A) tickle (B) tackle (C) trickle (D) twinkle
- 32 Until they obtain citizenship through _____, immigrants may be denied full rights of citizenship precisely because they are not citizens.
(A) alienation (B) internalization (C) internationalization (D) naturalization
- 33 New immigrants not only need to adjust to a new culture, they also, often, must _____ with traumatic experiences from their past.
(A) come to terms (B) come in handy (C) catch up (D) team up
- 34 The fact that Taiwan has a lower _____ of investment for immigration, compared to other developed countries, makes the island country more appealing.
(A) reputation (B) threshold (C) benefit (D) respect
- 35 An immigration officer needs advanced knowledge of the immigration laws and procedures to uncover potential complex fraud schemes that _____ the integrity of the legal immigration system.
(A) expose (B) reinforce (C) defend (D) threaten

- 36 The Kenyan government spends about US\$5 million in 2018 to _____ foreigners working in the country illegally, a significant increase compared to the US\$3.6 million spent in the previous year.
(A) deport (B) consent (C) compensate (D) immigrate
- 37 New luggage _____ methods can identify liquid explosives and help track down the dangerous substances in the airport.
(A) acquisition (B) calculation (C) inspection (D) stagnation
- 38 Some tourists intend to _____ from one attraction to the next in order to make the most of the trip.
(A) drain (B) halt (C) recess (D) whisk
- 39 With the recent increase in number of lone wolf terrorist attacks, governments around the world have been on high alert for social media outlets that may potentially radicalize _____.
(A) individuals (B) animals (C) peoples (D) humanitarians
- 40 The task is _____, but he has risen to the challenge with intelligence, creativity, flexibility and commitments to excellence.
(A) daunting (B) amusing (C) delighting (D) encouraging

請回答下列第41題至第45題

Capital controls may be imposed on capital leaving a country or entering it. The former include controls over 41 transactions for direct and equity investments by residents and/or foreigners. For example, restrictions on the repatriation of capital by foreigners can include 42 a period before such repatriation is allowed, and regulations that phase the repatriation according to the availability of foreign exchange. Residents may be restricted 43 their holdings of foreign stocks, either directly or through limits on the permissible portfolios of the country's investment funds. Law can also restrict bank deposits abroad by residents. Alternatively, bank accounts and transactions 44 in foreign currencies can be made available to residents, and non-interest-bearing capital reserve requirements can be imposed on deposits in foreign currencies, 45 reducing or eliminating the interest paid on them and therefore diminishing their attractiveness. The main purpose of controls over capital out flows is to thwart attempts to shift between currencies during financial crises, which can exacerbate currency depreciation.

- 41 (A) ultimate (B) upmost (C) outward (D) inbound
- 42 (A) sacrificing (B) fortifying (C) specifying (D) foreseeing
- 43 (A) in respect of (B) in addition to (C) by way of (D) in spite of
- 44 (A) distributed (B) denominated (C) denounced (D) discriminated
- 45 (A) albeit (B) after (C) unless (D) thus

請回答下列第46題至第50題

Two years ago, a group of elders in a village in north-western Uganda agreed to lend their land to refugees from South Sudan. About 120,000 are now in the surrounding area. Here they live in tarpaulin shelters and mud-brick huts on a patch of scrub where cows once grazed. Kemis Butele, a gravel-voiced Ugandan elder, explains that hosting refugees is a way for a remote place, long neglected by the central government, to get noticed. He hopes for new schools, clinics and a decent road – and “that our children can get jobs.”

There are more than 20 million refugees in the world today, more than at any time since the end of the second world war. Nearly 90% reside in poor countries. In many, to preserve jobs for natives, governments bar refugees from working in the formal economy. Uganda has shown how a different approach can reap dividends. The government gives refugees land plots and lets them work. In some places, the refugees boost local businesses and act as a magnet for foreign aid. Mr. Butele and many other Ugandans see their new neighbors as a benefit, not a burden. Sadly, such attitudes are still the exception.

Refugees are “brothers and sisters,” say many Ugandans. Mr. Butele was once one himself. But the welcome is also a pragmatic one. Northern Uganda is so poor that some locals pose as refugees to receive food aid. Others see refugees as buyers for local goods. Elsewhere in Uganda has indeed seen such positive **spillover**. One study from 2016 found that the presence of Congolese refugees in western Uganda had increased consumption per household. Another estimates that each new refugee household boosts total income, including that of refugees, by \$320-430 more than the cost of the aid the household is given. That rises to \$560-670 when refugees are given cash instead of rations.

- 46 What is the main idea of this passage?
- (A) Allowing refugees to work can bring benefits.
 - (B) Barring refugees from working boosts economy.
 - (C) The Ugandan approach to refugees proves problematic.
 - (D) Ugandans host refugees to receive foreign aid.
- 47 Why do many governments bar refugees from working in the formal economy?
- (A) Refugees would rather take odd jobs in a bar than formal jobs.
 - (B) The governments intend to preserve jobs for the local natives.
 - (C) The research shows that immigrants rarely take native workers' jobs.
 - (D) The research shows that refugees have increased consumption per household.
- 48 Which of the following words is closest in meaning to “spillover”?
- (A) Dividend.
 - (B) Magnet.
 - (C) Presence.
 - (D) Excess.
- 49 What is the implication of the statement, “such attitudes are still the exception”?
- (A) The majority of refugees prefer to reside in rich countries.
 - (B) The majority of governments give refugees land plots.
 - (C) The majority of people consider refugees to be a burden.
 - (D) The majority of local businesses see refugees as a benefit.
- 50 Which of the following statements is true?
- (A) Ugandans welcomed refugees because the central government promised new schools, clinics and a decent road.
 - (B) Most refugees stayed in poor countries in order to boost local businesses and act as a magnet for foreign aid.
 - (C) A study found that the presence of refugees in Uganda had decreased consumption per household.
 - (D) Each new refugee household boosted total income more than the cost of the aid the household was given.