

103 年警察人員升官等考試、103 年交通事業鐵路人員升資考試試題

等 別：警正、員級晉高員級

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 地方自治團體為規範下列事項，何者無須訂定自治條例？
(A)為增加稅收而課徵娛樂稅 (B)居民違反義務之處罰
(C)規範地方議會之相關組織 (D)地政事務所執行土地登記之內部分工
- 2 下列何者不屬於縣議會之職權？
(A)接受人民請願 (B)接受人民訴願 (C)議決縣預算 (D)議決縣財產之處分
- 3 下列何者不屬於國家賠償責任範圍？
(A)警察駕駛警車巡邏時撞傷人民
(B)人民駕車撞上高速公路路面坑洞而受傷
(C)人民所有之既成道路因提供公眾通行而無法自由使用
(D)人民因為公務員怠於執行職務而死亡
- 4 下列有關室外集會、遊行之敘述，何者正確？
(A)室外集會、遊行均不用向主管機關申請許可
(B)無中華民國國籍者可以擔任室外集會、遊行之負責人
(C)室外集會、遊行申請之許可或不許可，主管機關應於收受申請書之日起 3 日內以書面通知負責人
(D)室外集會、遊行經許可後，主管機關不得廢止許可或變更原許可之時間、處所、路線或限制事項
- 5 憲法第 8 條第 1 項所稱「非經司法或警察機關依法定程序，不得逮捕、拘禁」之警察機關，係指：
(A)專指組織法上之形式「警察」
(B)專指具有犯罪偵查權之刑事警察
(C)專指受檢察官指揮監督執行犯罪偵查任務之警察
(D)凡法律規定，以維持社會秩序或增進公共利益為目的，賦予其機關或人員得使用干預、取締之手段者，均屬之
- 6 醫學系公費生負有至公立衛生醫療機構服務之義務，在服務期間未屆滿前，其證書並由分發機關保管之規定，依司法院解釋，下列敘述何者正確？
(A)此為達成行政目的所必要之限制措施，未逾越合理之範圍，與憲法尚無牴觸
(B)公費生若未服務期滿，即使償還其在學期間所領取之公費，仍無法取得專業證書之規定，已屬對工作權過當之限制
(C)此種限制與所欲達成之目的間不具有實質關聯性
(D)此種限制係對人民服公職權利之過度限制
- 7 國家基於一定政策目標之需要，由一般行政機關依法對於有特定關係之國民所課徵之公法上負擔，並限定其所徵得收入之用途者，此稱為：
(A)租稅 (B)受益費 (C)規費 (D)特別公課
- 8 在私有既成道路成立公用地役關係，下列敘述何者屬於司法院釋字第 400 號解釋之意旨？
(A)在私有既成道路設定公用地役關係，因法無明文，不符合法律保留原則，應歸還人民
(B)私有既成道路成立公用地役關係者，其所有權人受有特別犧牲，國家自應依法律之規定辦理徵收並給予損失補償
(C)私有既成道路成立公用地役關係者，其所有權人受有不法侵害，自應給予其國家賠償
(D)在私有既成道路設定公用地役關係，其所有權人受有不法侵害，國家自應免除其土地稅
- 9 下列何者有提出總統罷免案之提案權？
(A)監察委員 (B)立法委員 (C)中華民國人民 (D)司法院大法官
- 10 下列有關立法委員言論免責權保障範圍之敘述，何項與司法院解釋意旨不符？
(A)在院會之發言、質詢、提案、表決以及與此直接相關之附隨行為均應予保障
(B)在委員會之發言、質詢、提案、表決以及與此直接相關之附隨行為均應予保障
(C)與行使職權無關之行為不在保障之列
(D)立法委員之行為是否已逾越保障之範圍，應完全交由國會自律，司法機關不得行使偵審之權限
- 11 下列何者非立法院議事之原則？
(A)多數決原則 (B)議案同時討論原則 (C)一事不再議原則 (D)會議公開原則
- 12 關於我國現行民事訴訟與行政訴訟之審判，下列敘述何者正確？
(A)採司法二元訴訟制度
(B)採司法一元訴訟制度
(C)除法律有特別規定外，關於私法關係所生之爭執，由行政法院審判
(D)除法律有特別規定外，關於公法關係所生之爭執，由普通法院審判

- 13 我國憲法規定，選舉訴訟由下列那一機關審判之？
(A)法院 (B)司法院大法官 (C)中央選舉委員會 (D)公民投票審議委員會
- 14 依憲法增修條文之規定，憲法之修正案，須經立法委員：
(A)三分之一提議，過半數出席，出席委員三分之二之決議
(B)三分之一提議，三分之二出席，出席委員三分之二之決議
(C)四分之一提議，過半數出席，出席委員四分之三之決議
(D)四分之一提議，四分之三出席，出席委員四分之三之決議
- 15 依憲法增修條文之規定，下列何者不屬於監察院之職權？
(A)糾舉權 (B)糾正權 (C)同意權 (D)審計權
- 16 有關母法或子法關係之敘述，下列何者錯誤？
(A)子法規定不得牴觸母法
(B)母法規定修正或廢止，子法規定不須隨同修正或廢止
(C)監獄行刑法為外役監條例之母法
(D)兵役法為兵役法施行法之母法
- 17 甲乙為夫妻，甲經常毆打乙，經過乙聲請核發保護令禁止甲實施家庭暴力後，仍未改善，反而越打越兇。檢察官獲報後，可否認為甲有反覆實施家庭暴力行為之虞，聲請法院為預防性羈押？
(A)否，家庭暴力罪或違反保護令罪並不在刑事訴訟法第 101 條之 1 預防性羈押所定各罪範圍內
(B)否，因為家庭暴力無法事先預防
(C)是，依照家庭暴力防治法的特別規定為預防性羈押，以保護被害人安危
(D)是，若曾經核發保護令，一經違反保護令，即可為預防性羈押
- 18 下列關於著作及著作權之敘述，何者正確？
(A)著作權之保護及於該著作之表達及其所表達之思想
(B)衍生著作之保護，與原著作不可分離
(C)出資聘請他人完成之著作，除另有約定外，以該受聘人為著作人
(D)2 人以上共同完成之著作，其各人之創作，不能分離利用者，為結合著作
- 19 公司是法人，雖享有權利能力，但畢竟與自然人不同。下列關於公司權利能力之敘述，何者錯誤？
(A)公司不得借錢給股東。但倘股東係公司或商號，且與公司有業務往來者，不在此限
(B)公司不得投資無限公司，公司負責人違反此一規定者，應賠償公司因此所受之損害
(C)公司除依法律或股東會決議得為保證外，不得為任何保證人
(D)公司為具有權利能力之社團法人
- 20 下列關於有限公司之敘述，何者錯誤？
(A)有限公司之董事為公司之負責人
(B)有限公司之資本總額，應由各股東全部繳足，不得分期繳納或對外招募
(C)有限公司不執行業務之股東，均得行使監察權
(D)有限公司必須由 2 人以上股東所組成
- 21 業者丙為向公務員甲行賄，透過甲之妻乙（不具公務員身分）邀宴，宴席中甲表示將對丙的某項業務放水，丙除支付該筵席價金新臺幣 5 萬元外，事後又贈送現金新臺幣 50 萬元作為後謝。依據最高法院之見解，下列有關本案之敘述，何者正確？
(A)乙因為不具有公務員身分，不成立受賄罪
(B)筵席價金，既不得沒收，亦不得追徵其價額
(C)甲享用筵席，又接受現金，前後成立兩次受賄罪
(D)甲從丙處受賄，甲、丙兩人成立受賄罪之共同正犯
- 22 刑法第 135 條第 1 項規定「對於公務員依法執行職務時，施強暴脅迫者，處 3 年以下有期徒刑、拘役或 3 百元以下罰金。」下列何者不是本條之公務員？
(A)縣市政府所屬機關僱用之保全人員
(B)依政府採購法規定之公營事業之承辦、監辦採購人員
(C)民選之縣市長
(D)農田水利會會長
- 23 下列關於犯罪類型的敘述，何者正確？
(A)重婚罪是結果犯 (B)放火罪是實害（侵害）犯
(C)內亂罪是舉動（行為）犯 (D)詐欺罪是繼續犯
- 24 甲將汽車交給 18 歲之乙無償使用，若未得乙之法定代理人允許，該使用借貸契約之效力為何？
(A)有效 (B)無效 (C)得撤銷 (D)效力未定
- 25 民法規定之保證人權利，何者得預先拋棄？
(A)拒絕清償之權利 (B)消滅時效之抗辯權 (C)保證人之抵銷權 (D)先訴抗辯權
- 26 下列何人不能成為我國民法上之法定繼承人？
(A)配偶 (B)孫子女 (C)曾祖父母 (D)兄弟姊妹
- 27 甲將 A 車出賣給乙，但後來交付 B 車以代替 A 車，經乙受領。此種清償方式，通常稱為：
(A)間接給付 (B)代物清償 (C)新債清償 (D)舊債清償

- 28 關於受託行使公權力之個人或團體，在我國法制上的地位，下列敘述何者錯誤？
(A)受委託行使公權力的團體或個人，於委託範圍內，視為行政機關
(B)在其授權範圍內，既有政府機關之功能，以行使該公權力為行政處分之特定事件為限，當有行政訴訟之被告當事人能力
(C)對於公權力委託事件中受託的私人或團體所為之行政處分，應以原委託機關之上級機關為訴願管轄機關
(D)國家賠償事件中，受委託行使公權力之團體，其執行職務之人於行使公權力時，視同委託機關之公務員
- 29 依行政程序法規定，行政機關對於人民依法規之申請，除另有規定者外，其處理期間為：
(A)2 個月 (B)3 個月 (C)4 個月 (D)5 個月
- 30 民法第 973 條規定：「男未滿 17 歲，女未滿 15 歲者，不得訂定婚約。」換言之，如果男滿 17 歲，女滿 15 歲者，即得訂定婚約。此種解釋方法為：
(A)反面解釋 (B)類推適用 (C)擴張解釋 (D)縮小解釋
- 31 Prior to the 1970s, musicologists generally considered Western art music as the _____ of absolute genius unrelated to the social being of the composer.
(A)fruit (B)gist (C)origin (D)sound
- 32 Over 100 people suffered from food poisoning; some of them treated early enough were free of _____ within hours and on the road to recovery.
(A)sympathies (B)symposiums (C)symptoms (D)syntheses
- 33 Children's teeth start growing around the ninth month, which allows them to _____ their diet beyond food in liquid form like milk or juice.
(A)calculate (B)convince (C)dispossess (D)diversify
- 34 Jason Wu, who designed the gown the U.S. First Lady Michelle Obama wore to her husband's inauguration ball, has _____ his family for encouraging him to pursue his interest.
(A)credited (B)designated (C)exposed (D)recognized
- 35 The most common workplace _____ for doctors and nurses is needlestick injuries, and about 800,000 such injuries occur annually in the United States.
(A)annoyance (B)hazard (C)interruption (D)plague
- 36 Working for a mean, stingy boss, the staff talked _____ about their unreasonably heavy workload and low pay.
(A)bountifully (B)efficiently (C)effectively (D)resentfully
- 37 Bobby Fischer, who began playing chess as a boy and soon developed his own style, often _____ attacked his opponents, forcing them to play defensively.
(A)diversely (B)futilely (C)mercifully (D)relentlessly
- 38 A hasty _____ which results from a conclusion with insufficient evidence is unreliable. Unless typical samples are provided, a small number of samples prove nothing.
(A)discharge (B)generalization (C)persistence (D)understatement
- 39 The director of the museum posted some _____ information about newly-found ancient cadavers, including how old they were and where they were found.
(A)exclusive (B)exotic (C)redundant (D)rudimentary
- 40 What does "Poverty could be addressed by targeted subsidies, off-peak discounts, and other measures." mean?
(A)Poverty is specific funds, off-peak discounts, and other metrics.
(B)Poverty could be targeted at subsidies, off-peak discounts, and other measures.
(C)Targeted money, off-peak discounts, and other factors of poverty could be addressed.
(D)We could deal with poverty by using designated grants, off-peak discounts, and other methods.

請回答第 41 題至第 45 題：

Even though the origin of alchemy is still controversial, most ancient scholars had the consensus that alchemy was based on spiritual and philosophical concepts. Those concepts certainly predated Christianity, and were, therefore, "pagan" in the eyes of the medieval church—a good reason for the alchemists of the Middle Ages to wrap their work in the costume of metallurgy, and thereby hope to avoid being persecuted as heretics.

The fundamental premise of alchemy is that there are precise correspondences between the visible and invisible worlds, the worlds of matter and spirit, inner and outer, heaven and earth. According to the alchemical view, everything—plants, animals, minerals—contains a "seed" of divinity, and this seed can be developed through application of certain principles of learning. In philosophical terms, then, alchemy is the art of transforming the base metal of ignorance into the gold of wisdom, or divinity. Furthermore, according to alchemy, the material world is a reflection of the spiritual world, and should work according to the same principles. It should be possible, therefore, to transform the grosser physical substances into more refined ones, or literally to transform base materials into gold.

The secret of success in this latter process, however, is the secret that has eluded so many practitioners of the art through the ages. The most important secret ingredient in the science of alchemy is the alchemist him/herself. He or she must have the power to attract and make use of the invisible spiritual ingredient, the "divine spark," that brings about the desired transformation. In other words, the alchemist must be able to "imitate the work of the gods."

- 41 According to the passage, how did the Christian church in the Middle Ages regard alchemy?
(A) Heretical (B) Original (C) Profitable (D) Spiritual
- 42 According to the passage, which of the following was most probably the pretended subject of the alchemists' studies in the Middle Ages?
(A) Air (B) Dust (C) Silver (D) Water
- 43 According to the alchemical view, what is contained in a piece of tin?
(A) Holiness (B) Paganism (C) Ideal (D) Justice
- 44 Which of the following words best describes the world view of alchemy?
(A) Binary (B) Chaotic (C) Multiple (D) Unitary
- 45 According to the passage, which of the following statements is true?
(A) In alchemists' view, the visible and invisible worlds work in different principles.
(B) An alchemist needs to play the role of the god to transform all the rough materials into refined ones, and vice versa.
(C) The key secret to alchemy was discovered by the church in the Middle Ages.
(D) In the Middle Ages, the alchemists tended to disguise themselves as scientists.

請回答第 46 題至第 48 題：

A brown dwarf is a dim, hypothetical type of star that astronomers have long thought must exist, but firm proof that it does has so far eluded them. The problem is simply that, by definition, a brown dwarf is maddeningly difficult to see. So astronomers have resorted to rather indirect methods of detection. They have tried to find a dwarf whose gravity is causing a bright star nearby to wobble. Or they have picked a bright star that should be emitting a certain amount of light and looked to see if a dwarf companion is adding a little extra. Now the astronomer William Forrest of the University of Rochester has apparently succeeded in a direct approach: he says he has simply taken a picture of one—in fact, not just of one but of several.

It was not quite as easy as it sounds. A brown dwarf has less than 8 percent of the sun's mass, which means it is not massive enough to squeeze its core enough to keep fusion reactions going. In other words, it is not a proper star at all; the only radiation it gives off is heat left over from its birth in a collapsing cloud of interstellar gas. With no internal reactor, the star quickly cools and gets too dim and brown to see.

- 46 According to the passage, what does a brown dwarf refer to?
(A) A bright star (B) A star eight times larger than the sun
(C) A dim mass with no internal reactor (D) A star with fusion reactions going
- 47 Which of the following is one of the indirect approaches to detect a brown dwarf?
(A) To simply take a picture of it
(B) To compare its weight to a nearby star's
(C) To see if a star nearby is quavered by the gravity of a dwarf
(D) To see if extra light is added to a dwarf by a certain bright star
- 48 What does the underlined word "maddeningly" most likely mean in the context?
(A) Incredibly (B) Irritatingly (C) Obstinately (D) Unfortunately

請回答第 49 題至第 50 題：

The sultry figure combs her golden hair and gazes at a mirror; her dressing gown has slipped off one shoulder. In a sonnet inscribed on the painting's elaborate gold frame, the artist, a London poet and painter named Dante Gabriel Rossetti, identified his subject as Lilith, Adam's first wife—"the witch he loved before the gift of Eve." Adding a hint of menace, Rossetti garnished the scene with poisonous foxglove and an opium poppy (whose narcotic, it was widely known, had killed his own wife a few years before). Rossetti filled the background of the picture with sprays of white roses. With characteristic thoroughness, he had procured a huge basket of fresh-cut roses from which to work. And not just any roses, but those gathered from the personal garden of England's most influential art critic, John Ruskin. If you could curry favor with the critics by painting their flowers, why not, Rossetti must have thought. *Lady Lilith* is the centerpiece of an exhibition called "Waking Dreams: The Art of the Pre-Raphaelites from the Delaware Art Museum." Widely if not universally praised in its time, disdained as mawkish and heavy-handed throughout much of the 20th century, the Pre-Raphaelites' emotionally charged art is today enjoying a renaissance of its own.

- 49 Where did the painter identify the name of the painting?
(A) On the painting's background
(B) On the painting's frame
(C) Next to the basket of fresh-cut roses
(D) In the garden of the museum
- 50 According to the passage, which of the following statements is true?
(A) Dante Gabriel Rossetti was a member of the Pre-Raphaelites.
(B) The art of the Pre-Raphaelites was widely respected throughout the 20th century.
(C) John Ruskin, an English painter, did not like the art of the Pre-Raphaelites.
(D) The art of the Pre-Raphaelites is disdained today because it is over-sentimental.