

108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 依憲法規定，憲法施行之準備程序，由何機關定之？
(A)制定憲法之國民大會 (B)立法院 (C)行政院 (D)司法院大法官
- 2 下列關於憲法中基本國策條款效力之敘述，何者正確？
(A)基本國策條款是國家的施政方針，都沒有強制性質
(B)國家對於基本國策之實施，應盡力為之，即使因客觀上資源不足而未達成目標，仍然違憲
(C)基本國策規定中有若干條文屬憲法委託，立法者對於如何實現，沒有任何裁量權
(D)大法官得引用基本國策規定，宣告法令違憲
- 3 依司法院大法官解釋，下列敘述何者與憲法保障人民工作權之意旨不符？
(A)已聘任之教師有教師法規定行為不檢有損師道者，應報請主管教育行政機關核准後，予以解聘、停聘或不續聘
(B)限制公務員於離職後一定期間內，選擇營利事業特定職務之自由
(C)對於未肇事拒絕接受酒測之職業駕駛人，吊銷其持有各級車類之駕駛執照，且 3 年內不得考領
(D)針對經主管機關限期整理之人民團體，依據督導各級人民團體實施辦法，停止其理監事之職權
- 4 依司法院釋字第 689 號解釋，下列敘述何者錯誤？
(A)依正當法律程序原則，人民權利受侵害時，應有司法救濟之機會
(B)警察機關就無正當理由之跟追行為，經勸阻而不聽者，須由法官核定後，始得裁罰跟追人
(C)新聞採訪自由並非僅保障隸屬於新聞機構之新聞記者之採訪行為
(D)個人縱於公共場域中，亦應享有依社會通念得不受他人持續注視、監看等侵擾私人活動領域之權利
- 5 依司法院大法官解釋意旨，有關結社自由之限制，下列敘述何者正確？
(A)農會法規定農會會員住址遷離原農會組織區域者為出會之原因，過度侵害人民之結社自由
(B)督導各級人民團體實施辦法規定，人民團體經主管機關限期整理者，其理監事之職權應即停止，僅屬細節性規定，無須法律明確授權
(C)基於國家安全，人民團體法規定主張特定政治性言論之團體得不予許可設立，並不牴觸結社自由
(D)人民團體法規定職業團體理事長應由理事就常務理事中選舉之，不設常務理事者，就理事中互選之，限制內部組織與事務之自主決定，違反比例原則
- 6 依司法院釋字第 736 號解釋，下列敘述何者正確？
(A)教師因學校年終成績考核留支原薪，認其權利或法律上利益受侵害時，得向法院請求救濟
(B)教師不服再申訴決定者，僅得依法提起訴願
(C)教師因學校教師評量，認其權利或法律上利益受侵害時，仍不得向法院請求救濟
(D)基於大學自治，大學教師之權利因學校具體措施遭受侵害時，僅能尋求大學內部管道救濟
- 7 依憲法及增修條文規定、司法院大法官解釋，關於緊急命令，下列敘述何者錯誤？
(A)緊急命令具有暫時變更或代替法律之效力
(B)緊急命令之發布，屬於總統之職權
(C)緊急命令發布前，應諮詢行政院院長
(D)發布後十日內應提交立法院追認
- 8 依憲法第 145 條第 1 項之規定，國家對於私人財富及私營事業，認為有妨害國計民生之平衡發展者，應以何種規範限制之？
(A)行政規則 (B)法規命令 (C)法律 (D)自治條例
- 9 下列那一種案件類型，非屬我國憲法中司法權之行使範圍？
(A)訴願之決定 (B)行政訴訟之審判 (C)公務員之懲戒 (D)解釋憲法
- 10 下列何者並非構成我國現行地方制度之法規範依據？
(A)憲法本文 (B)憲法增修條文 (C)省縣自治通則 (D)地方制度法
- 11 依司法院釋字第 613 號解釋，關於宣告國家通訊傳播委員會組織法部分條文違憲之理由，下列敘述何者錯誤？
(A)剝奪總統之提名權 (B)違反通訊傳播自由之意旨
(C)違反責任政治 (D)實質上幾近完全剝奪行政院之人事決定權

- 12 依憲法增修條文第 4 條之規定，下列關於立法委員選舉制度之敘述，何者錯誤？
(A)合格選民可以投兩票
(B)直轄市、縣市之選舉區，每區只能選出一名立法委員
(C)得到超過百分之五以上政黨選舉票之政黨，才能分配全國不分區立法委員席次
(D)各政黨提出之不分區立法委員候選名單，婦女不得低於二分之一
- 13 依據憲法增修條文之規定，下列何者並非立法院之職權？
(A)行使考試委員及考選部部長、銓敘部部長之同意權
(B)提出總統、副總統彈劾案
(C)聽取總統國情報告
(D)提出領土變更案
- 14 關於司法院院長之職權，下列敘述何者錯誤？
(A)綜理院務
(B)主持大法官會議，而當決議可否同數時，取決於主席
(C)監督所屬機關
(D)為集思廣益，研商重要事項，得召開司法院會議
- 15 根據憲法增修條文之規定，下列何者之任期為憲法所明文保障？
(A)行政院院長 (B)監察院院長 (C)考試院院長 (D)司法院院長
- 16 下列何者具有母法與子法的關係？
(A)消費者保護法與消費者保護法施行細則 (B)民法與民事訴訟法
(C)公司法與證券交易法 (D)刑法與陸海空軍刑法
- 17 依憲法增修條文規定，下列何者提出憲法修正案之後，由中華民國自由地區選舉人依規定投票複決？
(A)總統 (B)立法院 (C)行政院 (D)公民投票審議委員會
- 18 關於法律解釋，下列何者正確？
(A)學理解釋屬於有權解釋
(B)刑罰必須遵守罪刑法定原則，故禁止類推解釋
(C)依照法律條文字義所為之解釋，稱為論理解釋
(D)不拘泥於法律條文的字義，而以整體法律秩序為基礎，闡明法律真意的解釋方法，稱為限縮解釋
- 19 甲將其收藏之臺灣畫家陳澄波的畫作出賣與乙，乙非因過失不知該畫係屬贗品，惟甲可得而知其事。越一年，乙發現上開情事，擬撤銷其意思表示，下列何者正確？
(A)乙得以物之性質，在交易上認為重要者為由，於發現錯誤後一年內，撤銷其錯誤之意思表示
(B)乙依民法錯誤之規定撤銷其意思表示後，對於甲應負損害賠償責任
(C)乙就該錯誤或不知事情，沒有過失，其撤銷權自意思表示後，經過十年而消滅
(D)乙不得依民法詐欺之規定撤銷其意思表示
- 20 依民法規定，有關承攬之危險負擔，下列敘述何者錯誤？
(A)一旦定作人受領工作，工作毀損、滅失之危險，即由定作人負擔
(B)一旦承攬人完成工作，工作毀損、滅失之危險，即由定作人負擔
(C)定作人受領遲延，工作毀損、滅失之危險，由定作人負擔
(D)定作人供給之材料，因不可抗力而毀損滅失者，由定作人負擔
- 21 下列何種情形，雖屬不法，但仍可阻卻故意犯及過失犯的罪責（有責性）？
(A)行為人未滿 16 歲 (B)行為人對於構成犯罪之事實欠缺完整認知
(C)行為人無法避免認識自己的行為是違法 (D)行為人係依法令而行為
- 22 依消費者保護法規定，關於消費者健康與安全之保障，下列敘述，何者錯誤？
(A)商品具有危險性者，應於明顯處為警告標示及緊急處理危險之方法
(B)從事改裝、分裝商品或變更服務內容之企業經營者，若對於損害之防免已盡相當之注意，或縱加以相當之注意而仍不免發生損害者，不須與設計、生產、製造商品或提供服務之企業經營者，負連帶賠償責任
(C)商品或服務不得僅因其後有較佳之商品或服務，而被視為不符合商品流通進入市場或服務提供當時，科技或專業水準可合理期待之安全性
(D)企業經營者所為必要之處理，若足以除去商品或服務對消費者安全與健康之危害，即不須回收該批商品或停止其服務
- 23 依性別工作平等法第 15 條之規定，下列何者非屬雇主應使其停止工作，給予產假之情形？
(A)女性受僱者分娩前後 (B)女性受僱者妊娠三個月以上流產者
(C)女性受僱者妊娠未滿二個月流產者 (D)女性受僱者經醫生診斷需安胎休養者
- 24 關於法規制定或訂定之敘述，下列何者錯誤？
(A)行政機關研擬之法規命令草案原則上應預先公告
(B)法規命令之訂定，得由人民或團體提議為之
(C)立法者制定法律，因其係代表民意，故不受正當程序之限制
(D)法律之制定或法規命令之訂定，應踐行公布或發布程序

- 25 有關向立法院提出法律案、預算案提案權之敘述，下列何者錯誤？
(A)預算案關係到國家整體運作，僅行政院始得提出
(B)依據憲法規定，針對法律案、戒嚴案、條約案等，行政院有提案權
(C)依據憲法規定，針對所掌事項，考試院得向立法院提出法律案
(D)監察院並無法律案之提案權
- 26 關於給付行政措施是否適用法律保留原則之問題，下列敘述何者正確？
(A)不適用法律保留原則
(B)有法定預算作為依據即符合法律保留原則
(C)應以法律規定
(D)如涉及公共利益或實現人民基本權利之保障等重大事項者，原則上仍適用法律保留原則
- 27 內政部曾依據戶籍法規定要求國民於請領身分證時應按指紋並儲存，此等作法違反下列何種原則？
(A)比例原則 (B)信賴保護原則 (C)平等原則 (D)誠信原則
- 28 民國（以下同）99 年 10 月 10 日上午，83 歲的甲男失蹤。法院於受理其親屬的死亡宣告聲請，經法定公示催告程序後，應裁判宣告甲於何時死亡？
(A) 100 年 10 月 9 日下午 12 時 (B) 102 年 10 月 10 日下午 12 時
(C) 104 年 10 月 10 日下午 12 時 (D) 106 年 10 月 9 日下午 12 時
- 29 下列關於財團法人之敘述，何者錯誤？
(A)屬於他律法人
(B)屬於公益法人
(C)重要管理方法不具備時，由目的事業主管機關酌定之
(D)於登記前，應得主管機關之許可
- 30 依全民健康保險法之規定，下列關於保險費負擔之敘述，何者正確？
(A)受雇於私立高中之數學教師甲，負擔 30%之保險費，其餘 70%由學校負擔
(B)受雇於公立高中之國文教師乙，負擔 30%之保險費，35%由學校負擔，政府則負擔 35%
(C)受雇於民營企業之丙，負擔 30%之保險費，民營企業負擔 60%，政府負擔 10%
(D)合於社會救助法所規定之中低收入戶丁，接受中央役政主管機關全額補助
- 31 I like to go to the cinema when I am in the _____ for it.
(A) motive (B) mind (C) mood (D) notion
- 32 Burke resigned from the company, and Jones, as his good friend, immediately _____; the company lost two capable men.
(A) followed suit (B) made a scene (C) flew in a rage (D) stepped in
- 33 I suggest you study in the library where you would have fewer _____ than in other places.
(A) frustrations (B) obstructions (C) distractions (D) instructions
- 34 The sales manager is leaving this week, _____ to get a higher paid job in an international company.
(A) presumably (B) considerably (C) legally (D) hysterically
- 35 A little girl _____ argues with an adult for his rude behavior in the museum. Her language expressions are very fluent and appropriate.
(A) ambiguously (B) consciously (C) dependently (D) eloquently
- 36 Psychologists found that people addicted to alcohol cannot go back to _____ drinking.
(A) desperate (B) fortunate (C) immediate (D) moderate
- 37 The United Kingdom has long been _____ to cut its tie with the European Union mainly because of the issues of refugee flows and economic migrants.
(A) bald (B) keen (C) sleek (D) tepid
- 38 I don't believe he had the _____ to take the credit! He didn't even move a finger in the project.
(A) cheek (B) check (C) creek (D) click
- 39 The doctor warned the parents that the new born baby cannot _____ hard food, such as crackers.
(A) digest (B) differ (C) diffuse (D) discover
- 40 To show respect to the Muslim belief, shorts are _____ out of the question when you visit a mosque.
(A) scarcely (B) unlikely (C) relatively (D) definitely

請依下文回答第 41 題至第 45 題：

Whether it's a beach getaway or a camping trip, animal encounters — some potentially dangerous — can happen on any vacation. According to the experts, the secret to 41 a dangerous animal encounter, like one with a shark, bear or rattlesnake, is to not panic. "Easier said than done, and sounds obvious, but seriously, try and keep your cool," Ms. Levin said. The best thing to do during such an encounter is to 42 yourself slowly from the scene if you can. If you come face-to-face with a bear, mountain lion or coyote, do your best to look 43. Stand tall, huddle together, open your coats, and raise your backpack overhead. In addition, do not feed wild animals; the more you feed them, the more they grow 44 humans, and stick around people — which leads to people treating them like 45 and trying to poison, trap, or kill them. In general, it's better if wild animals retain a healthy fear of (and distance from) humans in densely populated places.

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| 41 | (A) seducing | (B) suffering | (C) surviving | (D) solving |
| 42 | (A) exclude | (B) remove | (C) distinguish | (D) erase |
| 43 | (A) imposing | (B) involving | (C) impatient | (D) inefficient |
| 44 | (A) accustomed to | (B) fascinated by | (C) reliable on | (D) cooperative with |
| 45 | (A) pals | (B) pets | (C) pests | (D) peers |

請依下文回答第 46 題至第 50 題：

Wherever you go in France, the country's artistic heritage is very much in evidence. France does have her share of ugly urban sprawl and unlovely out-of-town hypermarkets, but these are eclipsed by her wealth of beautifully restored and maintained historic buildings which, together with striking new architecture and works of art, are part of the fabric of everyday life.

France has had an important role throughout the history of western art which began with the cave painters of the Dordogne, long before their land became a nation. From the Renaissance onwards French kings invited the finest European painters to decorate their palaces, and Paris became the center of nearly all important artistic developments, whether the artists concerned were French or not.

It was only in the nineteenth century that French painters formed a distinctively French movement that was far more influential than the Flemish, German and Italian schools of previous centuries. The impressionists and their successors radically altered the direction of European art, attracting even more foreign artists to Paris.

Since the seventeenth century, when the Academies of painting and sculpture, and architecture were founded, architecture and the visual arts have been a central concern of the French state. Today, the Ministry of Culture is housed in the elegant seventeenth-century Palais-Royal, alongside two of the nation's highest institutions, the Conseil Constitutionnel and the Conseil d'Etat, exemplifying the belief of Catherine Trautmann, the culture minister from 1997 to 2000, that "culture is at the heart of our democratic system." This sentiment echoes the aims of her predecessors who include de Gaulle's post-war minister Andre Malraux and Mitterrand's innovative and daring minister, Jack Lang, both of whom wanted to enrich the lives of ordinary citizens.

- 46 What is the passage mainly about?
- | | |
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| (A) The origin of European art. | (B) The ancient buildings of Paris. |
| (C) The importance of art to the French. | (D) The development of architecture in France. |
- 47 According to the passage, which of the following is true about France?
- (A) She has the rich people share their wealth with the poor.
- (B) She combines old and new elements in shaping her culture.
- (C) She skillfully hides the ugly parts of the country from tourists.
- (D) She replaces the historical buildings with modern architectural projects.
- 48 According to the passage, which of the following is true about the "Dordogne"?
- (A) It is an association of painters who served French kings.
- (B) It is a place famous for its prehistoric cave paintings.
- (C) It is a method used to decorate the palaces in the Renaissance.
- (D) It is a country defeated by France in the seventeenth century.
- 49 According to the passage, what did French artists achieve in the nineteenth century?
- (A) They applied the features of different forms of art to French architecture.
- (B) They challenged the art establishment and started a new approach to painting.
- (C) They supported the European artists to begin their careers as the impressionists.
- (D) They promoted the value of art democracy which attracted the interest of young people.
- 50 Who is Andre Malraux?
- | | |
|---------------------------------------|---|
| (A) The owner of Palais-Royal. | (B) A culture minister of France. |
| (C) A famous artist of impressionism. | (D) The head of a party against Mitterrand. |