

108年公務人員特種考試外交領事人員及外交行政
人員、民航人員、稅務人員及原住民族考試試題

考試別：原住民族考試

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、原住民族行政及法規、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 依司法院大法官解釋，關於緊急命令，下列敘述何者錯誤？
(A)具有暫時替代法律、變更法律效力之功能
(B)以不得再授權為補充規定即可逕予執行為原則
(C)得明文規定，由執行機關就技術性、細節性事項訂定命令為補充規定
(D)執行機關為執行緊急命令所訂定之補充規定，毋須送交立法院審查
- 2 依司法院大法官解釋，有關立法院之文件調閱權及調查權，下列敘述何者錯誤？
(A)立法院行使調查權所得調查之對象或事項，並非毫無限制
(B)立法院於必要時，得經院會決議，要求調查事項相關之政府人員陳述證言，但不得施以強制手段
(C)立法院文件調閱權與監察院調查權之性質、功能及目的有別
(D)立法院與受調閱文件之機關對於文件是否能調閱有所爭議時，得循協商途徑合理解決之
- 3 憲法第 167 條第 2 款規定國家對於僑居國外國民之教育事業成績優良者，予以獎勵或補助。僑民甲長期於非洲國家從事華語教育，成績優良，甲依上述規定請求國家補助。請問甲之請求，有無理由？
(A)有理由；依憲法第 167 條第 2 款規定，甲有給付請求權
(B)有理由；依憲法第 167 條第 2 款規定，國家有給付義務
(C)無理由；國家應給予甲獎勵或補助，但甲不能指定一定要補助
(D)無理由；甲不得僅依上述憲法規定請求國家補助
- 4 依司法院大法官解釋，人身自由限制程序是否符合憲法正當法律程序，應考量的因素不包括下列何者？
(A)國家財政負擔 (B)有無替代程序 (C)案件涉及之事物領域 (D)所涉及基本權之種類
- 5 依司法院大法官解釋，關於名譽權與表意自由間之關係，下列敘述何者錯誤？
(A)憲法保障人民之表意自由，除保障積極之表意自由外，亦保障消極之不表意自由
(B)名譽權旨在維護個人主體性及人格之完整，受憲法第 22 條所保障
(C)以判決命加害人登報道歉，因屬強制人民表達意見，故涉及憲法所保障消極不表意自由之限制
(D)強制妨害名譽之加害人公開道歉，以回復受害人名譽的法律規定，不符合比例原則
- 6 依司法院大法官解釋，有關國民年金法之遺屬年金，下列敘述何者錯誤？
(A)國民年金保險係國家為實現人民享有人性尊嚴之生活，為社會保險之一種
(B)遺屬年金給付請求權屬社會保險給付請求權，應受憲法財產權之保障
(C)遺屬年金之給付亦涉及被保險人遺屬受憲法第 15 條保障之生存權
(D)立法者就遺屬年金給付請求權之限制，其目的須為追求正當公共利益，所採手段與目的之達成間須具有合理關聯
- 7 如人民聲請釋憲主張行政訴訟法上關於訴願前置主義之規定，係對於訴訟權之不必要限制，違憲。下列敘述何者正確？
(A)訴願制度使行政機關得以自我審查，導致司法權無法審理行政機關決定之合法性，違反權力分立及制衡原則
(B)行政訴訟是否採訴願前置主義，完全屬於立法者之形成自由，與訴訟權之保障無涉
(C)訴願審查行政權決定之合法性及適當性，程序較法院審判程序嚴謹，符合訴訟權之意旨
(D)訴願程序可減輕行政法院負擔，行政訴訟採行一定之訴願前置主義，未違反訴訟權保障之精神
- 8 下列何者，憲法並未明文規定須超越黨派？
(A)法官 (B)考試委員 (C)審計長 (D)軍人
- 9 依司法院大法官解釋，下列何者不屬於個人資訊隱私權之保障範圍？
(A)要求政府提供個人資料的電子檔 (B)要求政府更正錯誤之個人資料記載
(C)拒絕對政府揭露個人資料 (D)要求政府刪除個人資料
- 10 依據司法院大法官解釋，下列何者與人格權密切相關，而應受到憲法第 22 條之保障？
(A)子女獲知其血統來源之權利 (B)健康權
(C)卷證資訊獲知權 (D)契約自由
- 11 司法院釋字第 748 號解釋認為「以性傾向作為分類標準所為之差別待遇，應適用較為嚴格之審查標準，以判斷其合憲性」，下列何者並非上述解釋適用較為嚴格審查標準之理由？
(A)婚姻自由是重要基本權 (B)性傾向是難以改變之個人特徵
(C)婚姻具有繁衍後代與倫理秩序維護等功能 (D)同性性傾向者久為政治上之弱勢者
- 12 依憲法及增修條文規定，應經行政院會議議決後，始得提出於立法院之事項，下列何者不屬之？
(A)預算案 (B)大赦案 (C)條約案 (D)釋憲案

- 13 依憲法增修條文規定，有關立法委員之敘述，下列何者錯誤？
(A)總額為 113 人
(B)任期 4 年
(C)全國不分區立法委員依政黨名單投票選舉之，由獲得百分之五以上政黨選舉票之政黨依得票比率選出
(D)各政黨當選名單中，婦女不得低於三分之一
- 14 依憲法增修條文規定，關於覆議制度，下列敘述何者正確？
(A)立法院所為變更重要政策之決議，行政院不得提起覆議
(B)立法院決議通過之法律案，行政院如認有窒礙難行，應於該決議案送達行政院 10 日內，直接移請立法院覆議
(C)對於立法院不通過之預算案，行政院不得移請覆議
(D)行政院對法律案之移請覆議，必須針對法律案之全部，不得僅針對部分條文為之
- 15 依憲法增修條文規定，有關司法院大法官，下列敘述何者正確？
(A)現任資深法官、檢察官不得被提名為大法官
(B)司法院正、副院長均為大法官
(C)任期 8 年，連任以一次為限
(D)大法官有一定任期，與法官為終身職不同，因此並非憲法上之法官
- 16 依原住民族基本法的規定，政府與原住民族自治間權限發生爭議時，由下列何者召開協商會議決定之？
(A)總統府 (B)行政院 (C)內政部 (D)中央原住民族主管機關
- 17 下列何者為國家賠償法規定的公務員？
(A)台積電董事長 (B)縣立國小教師
(C)桃園市空服員職業工會理事長 (D)中華民國紅十字會會長
- 18 依原住民身分法的規定，原住民父與非原住民母結婚所生子女，從非原住民母姓時，應如何決定該子女是否有原住民身分？
(A)因父親為原住民，故該子女取得原住民身分
(B)因父母一方非原住民，故該子女無法取得原住民身分
(C)因從非原住民母姓，故該子女無法取得原住民身分
(D)由父母協議決定，故該子女得取得原住民身分
- 19 依憲法增修條文第 10 條第 12 項規定，國家應依民族意願，保障原住民族的地位及政治參與，並具體列舉事項予以保障扶助並促其發展。下列何者不是該條文所列舉的事項？
(A)衛生醫療 (B)經濟土地 (C)教育文化 (D)自然資源
- 20 依地方制度法的規定，直轄市山地原住民區實施自治所需財源，由直轄市依法予以設算補助，補助之項目、程序、方式及其他相關事項，應如何定之？
(A)由直轄市洽商中央原住民族主管機關定之 (B)由直轄市洽商直轄市山地原住民區定之
(C)由直轄市議會定之 (D)由直轄市山地原住民區代表會定之
- 21 依地方制度法的規定，有關由山地鄉改制為直轄市山地原住民區的敘述，下列何者正確？
(A)設籍山地原住民區的居民以山地原住民為限 (B)區長以山地原住民為限
(C)區民代表以山地原住民為限 (D)區之公務員以山地原住民為限
- 22 依地方制度法的規定，直轄市山地原住民區與直轄市之關係，準用地方制度法關於那兩者關係之規定？
(A)鄉（鎮、市）與村（里） (B)縣與鄉（鎮、市） (C)直轄市與區 (D)中央與直轄市
- 23 原住民族基本法所指之原住民族，係指既存於臺灣而為國家管轄內之傳統民族，除了明文列舉者外，其他自認為原住民族者，須經下列何種程序，方屬原住民族基本法所指之原住民族？
(A)地方原住民族主管機關報請所屬縣（市）或直轄市政府核定
(B)地方原住民族主管機關報請中央原住民族主管機關核定
(C)中央原住民族主管機關報請行政院核定
(D)中央原住民族主管機關報請總統府核定
- 24 依原住民族基本法的規定，為促進原住民族部落健全自主發展，部落應設部落會議。部落經中央原住民族主管機關核定者，即為下列何者？
(A)非法人團體 (B)私法人 (C)公法人 (D)行政機關
- 25 依原住民族基本法的規定，有關直轄市、縣（市）設原住民族專責單位或置專人，辦理原住民族事務之敘述，下列何者正確？
(A)所有直轄市皆應設原住民族專責單位，辦理原住民族事務
(B)所有縣（市）皆應設原住民族專責單位，辦理原住民族事務
(C)原住民族專責單位之首長，必須通過原住民族公務人員特種考試
(D)辦理原住民族事務之專人，必須通過原住民族公務人員特種考試
- 26 依原住民族基本法的規定，有關政府於原住民族土地或部落及其周邊一定範圍內之公有土地從事生態保育及學術研究之敘述，下列何者正確？
(A)應諮商並取得原住民族或部落同意或參與
(B)應諮商並取得中央原住民族主管機關之核准
(C)應先諮商原住民族或部落，後經中央原住民族主管機關核准
(D)應先諮商中央原住民族主管機關，後經原住民族或部落同意或參與

- 27 依原住民族基本法的規定，原住民族利用原住民族土地或部落及其周邊一定範圍內之公有土地及自然資源，受政府或法令限制而生之損失，政府應如何處理？
(A)由該主管機關寬列預算補償之 (B)由中央原住民族主管機關寬列預算補償之
(C)由該主管機關從優賠償之 (D)由中央原住民族主管機關從優賠償之
- 28 依原住民族基本法的規定，下列敘述何者正確？
(A)原住民族基本法僅適用居住原住民族地區內之原住民
(B)政府為保障原住民族之司法權益，須設置原住民族法院
(C)政府決不可在原住民族地區內存放有害物質
(D)政府得因立即而明顯危險，強行將原住民遷出其土地區域
- 29 依原住民族基本法的規定，政府於原住民族地區劃設國家公園、國家級風景特定區、林業區、生態保育區、遊樂區及其他資源治理機關時，應徵得當地原住民族同意，並與下列何者建立共同管理機制？
(A)原住民族 (B)中央原住民族主管機關
(C)地方原住民族主管機關 (D)內政部
- 30 依原住民族傳統智慧創作保護條例的規定，原住民族之傳統智慧創作申請人以下列何者為限？
(A)原住民族或部落 (B)原住民或部落耆老
(C)原住民族地方自治團體或公法人 (D)原住民族文化發展協會或基金會
- 31 依憲法及憲法增修條文的規定，下列何者並非大法官的權限？
(A)解釋憲法 (B)審理法官彈劾事項 (C)統一解釋法律及命令 (D)審理政黨違憲之解散事項
- 32 有關自治法規的制定，如由地方行政機關訂定並發布者，稱為什麼？
(A)自治通則 (B)自治命令 (C)自治條例 (D)自治規則
- 33 依原住民身分法的規定，山地原住民與平地原住民結婚，其身分如何認定？
(A)平地原住民變更為山地原住民身分
(B)山地原住民變更為平地原住民身分
(C)兩者同時具有兩種身分
(D)兩者得約定變更為相同之山地原住民或平地原住民身分
- 34 依原住民身分法的規定，原住民依法申請喪失原住民身分時，其申請時之直系血親卑親屬的原住民身分是否喪失？
(A)是，隨之喪失 (B)否，不隨之喪失
(C)視申請原因而定其身分是否喪失 (D)由申請人戶籍地所在戶政事務所個案認定是否喪失
- 35 依原住民身分法的規定，有關應具原住民身分者，於原住民身分法施行前，因結婚、收養、自願拋棄或其他原因喪失或未取得原住民身分者之敘述，下列何者正確？
(A)得申請回復或取得原住民身分 (B)應申請回復或取得原住民身分
(C)不待申請，主管機關應主動更正其身分 (D)主管機關應主動造冊，送法院裁定是否更正
- 36 America's traditional _____ toward British colonialism and imperial patterns of trade remained a constant source of friction between the two allies in the years immediately after World War II.
(A)snobbery (B)gravity (C)leaning (D)antipathy
- 37 The embassy has responded to the escalation by issuing a statement saying that it would _____ the visas of several officials.
(A)convey (B)glisten (C)incite (D)revoke
- 38 The underlying cause of compulsive overeating is the inability to eat in _____, not the unavailability of nutritional information.
(A)advance (B)meditation (C)moderation (D)adversity
- 39 It is required by law that all companies established on the island _____ their business and employees.
(A)betray (B)inspire (C)overlook (D)register
- 40 In a recent sexual harrassment case in the show business, 16 victims described inappropriate behavior by this superstar, eight of _____ said they had serious depression.
(A)those (B)which (C)who (D)whom

請依下文回答第 41 題至第 45 題：

Sherlock Holmes was popular from his first appearance in 1887, in the novelette "A Study in Scarlet." He was so popular that soon Conan Doyle began to 41 having created him, since Holmes stories so completely overshadowed what Conan Doyle considered his serious work, such as his historical novel. Readers lined up at newsstands for *The Strand* on publication day 42 a new Holmes story was to appear inside. Because of Holmes, Conan Doyle was, one historian wrote, "as well-known as Queen Victoria."

Holmes fans were truly the 43 middle-class, the exact sort of group whose tastes would be denigrated by snooty critics as populist for more than a century to come. The 44 for Holmes stories seemed endless. *The Strand* would pay Conan Doyle nicely for whatever he could give them. But he hadn't meant to spend the rest of his life inventing and solving fiction crimes. By 1893, Conan Doyle had had enough. So he had the evil professor Moriarty push Holmes down the falls. But by 1901, however, public pressure grew so great that Conan Doyle wrote a new story featuring Holmes before his fall. In 1903, in "The Adventure of the Empty House," he went one step further, resurrecting Holmes with the explanation that only Moriarty had died in the fall, while Holmes had 45 his own death. Fans rejoiced.

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| 41 (A)regret | (B)delight | (C)meditate | (D)accuse |
| 42 (A)until | (B)whenever | (C)since | (D)whether |
| 43 (A)exciting | (B)declining | (C)emerging | (D)inviting |
| 44 (A)indifference | (B)account | (C)hostility | (D)craving |
| 45 (A)faked | (B)committed | (C)reformed | (D)realized |

請依下文回答第 46 題至第 48 題：

Who really makes the changes in an organization? It's not always the people with the highest executive titles. A growing body of research has pointed to the importance of informal leaders known as "brokers," who have the gift of connecting employees in productive new ways. New research by Professor Brands has uncovered bias surrounding brokerage roles. Professor Brands examined what are known as "friendship networks" within organizations. In this sense, friends are the people you turn to for help, advice, and information, whether or not they are in your work group. Simply put, you like and trust them. It's within these friendship networks that much of an organization's work gets done.

In a study of two separate groups—employees of an electronic-components distributor and a cohort of M.B.A. students—she identified brokers based on the high level of connectivity they displayed. They also identified the people who were perceived by their colleagues to be brokers. Researchers asked members to evaluate their colleagues, including the actual and perceived brokers. This is where gender differences emerged. The researchers found that people tended to ignore the activities of female brokers and to exaggerate how much men served as brokers. If women were recognized as brokers, they were perceived more negatively. "They incurred reputation penalties," Professor Brands says. "They were seen as more competent, but less warm." Other research, she says, has shown that men who take on brokerage roles tend to receive benefits in the form of compensation and promotions, whereas female brokers' careers are negatively affected. Professor Brands also analyzed the performance of the brokers' teams. They found that women who were thought by their teams to be brokers tended to perform well individually, but at the expense of their overall team's performance. The professors noted that men are traditionally defined by words like aggressive, forceful, independent, and decisive. Women are expected to be kind, helpful, sympathetic, and concerned about others. Women are thought to excel in the social realm—so you would think that they would be seen as good work brokers, the researchers said. But "despite the widespread notion of women as social specialists, perceptions of the network position of women will be distorted because of the expectation that brokerage is man's work," they wrote.

- 46 What is the main idea of this passage?
- (A)Brokers have the gift of connecting employees in productive new ways.
 (B)Friends are the people you turn to for help, advice, and information.
 (C)A gender bias exists among informal leaders at work.
 (D)Much of an organization's work gets done within the friendship networks.
- 47 According to the passage, which of the following is NOT true?
- (A)Female brokers were perceived more positively.
 (B)Gender difference mattered in evaluating colleagues.
 (C)People tended to ignore the activities of female brokers.
 (D)People exaggerated how much men served as brokers.
- 48 According to the passage, which of the following does NOT traditionally characterize men?
- (A)determined (B)assertive (C)self-reliant (D)compassionate

請依下文回答第 49 題至第 50 題：

There is a general agreement that the unconscious plays an extremely important role in problem-solving. Everyone has had the experience of having the answer to a problem suddenly occur in his/her mind. One maddeningly familiar phenomenon to many people is a late answer to an important problem. One may work for days or weeks on a problem and complete it. Then, at some random point in time, a better answer appears. Since the original problem was probably completed in order to reach a deadline, this better answer often only serves to annoy one that he/she did not think of it sooner. It came straight from the unconscious as a result of the incubation process it was going through. I have found in my own case that this incubation process works. I have the confidence to think hard about a problem and then forget about it for a period of time. When I begin to work on it again, new answers are usually present.

- 49 Which of the following is a suitable title for this passage?
- (A)The Real Work of the Unconscious (B)The Incubation Process
 (C)A Late Answer (D)The Power of Memory
- 50 According to the passage, which of the following statements is true?
- (A)One should not rely on his or her unconscious to help solve problems.
 (B)The time lag between the original answer and the late answer is the incubation process at work.
 (C)One should only rely on the incubation process to solve problems.
 (D)More often than not, a late answer is always welcome.