

107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 下列有關監察院之敘述，何者正確？
(A)修憲後，監察院仍相當於民主國家之國會 (B)監察院不得對軍人提出彈劾案
(C)監察院院長由監察委員互選之 (D)監察委員獨立行使職權
- 2 依據立法院職權行使法之規定，有關文件調閱權，下列敘述何者錯誤？
(A)立法院經院會決議，得設調閱委員會或調閱專案小組，要求有關機關就特定議案涉及事項提供參考資料
(B)政府機關或公務人員違反本法規定，於立法院調閱文件時拒絕、拖延或隱匿不提供者，應負刑責
(C)受要求調閱文件之機關，除依法律或其他正當理由得拒絕外，應於五日內提供之
(D)調閱委員會或調閱專案小組於必要時，得向有關機關調閱特定議案涉及事項之文件原本
- 3 依憲法、增修條文與司法院大法官解釋，下列關於調查權之敘述，何者錯誤？
(A)立法院有文件調閱權
(B)監察院有調查權
(C)立法院經院長同意，即可要求與調查事項相關之人員陳述意見
(D)立法院行使調查權之程序應以法律定之
- 4 原住民族工作權保障法及政府採購法規定，得標廠商員工逾百者應進用一定比例原住民，未進用者應繳代金，關於此規定，下列敘述何者正確？
(A)此規定源自於憲法本文基本國策的明文規定
(B)大法官認為此規定對於原住民族和非原住民族的勞工，構成差別待遇，違反民族平等
(C)此規定對於雇主的營業自由、財產權造成過度侵害，故違憲
(D)雇主未達一定進用比例被課予代金，其金額若超過政府採購金額而顯不相當，國家宜有適當之減輕機制
- 5 依司法院大法官解釋之意旨，關於秘密通訊自由，下列敘述何者錯誤？
(A)國家對人民之通訊採取限制手段時，應有法律依據
(B)國家對人民之通訊採取限制手段時，限制之要件應具體明確
(C)通訊監察書應由法官、而非檢察官核發
(D)犯罪嫌疑人危害國家安全情節重大且情況急迫時，例外得由檢察官核發通訊監察書
- 6 依據司法院大法官解釋之意旨，有關人身自由之保障，下列何者正確？
(A)行政執行之管收屬憲法第 8 條第 1 項所規定之「拘禁」，涉及人身自由之限制，於決定管收之前，應由法院審問
(B)傳染病防治法之強制隔離使人民在一定期間內負有停留於一定處所之義務，已屬人身自由之剝奪，於決定隔離前，應由法院審理
(C)臺灣地區與大陸地區人民關係條例規定之強制出境前暫予收容程序，涉及人身自由之限制，於決定收容前，應由法院審理
(D)入出國及移民法規定之受驅逐前暫時收容程序，係干預人民身體自由之強制處分，於決定收容前，應由法院審理
- 7 關於行政院之敘述，下列何者正確？
(A)行政院對於立法院決議之法律案，如認為窒礙難行時，經行政院會議之決議後，即得移請立法院覆議
(B)立法院通過對行政院院長之不信任案後，行政院院長得解散立法院
(C)覆議時，如經全體立法委員二分之一以上決議維持原案，行政院院長應即辭職
(D)行政院院長辭職或缺時，由行政院副院長暫行代理，直至總統任命新行政院院長為止
- 8 憲法關於選舉之規定，下列敘述何者正確？
(A)全國不分區立法委員名額及選舉，其辦法另以法律定之
(B)各種選舉，應規定婦女當選名額
(C)國家對於僑居國外國民之政治參與，應予保障，故各種選舉，亦應規定其當選名額
(D)為保障原住民族之政治參與，立法委員選舉之各政黨不分區立法委員當選名單中，其比例不得低於三分之一
- 9 依憲法及憲法增修條文規定，下列何者不是立法院的權限？
(A)同意行政院院長之人選 (B)同意監察委員之人選
(C)提出正、副總統彈劾案 (D)議決條約案

- 10 司法院就人民 A 聲請解釋之案件作成解釋公布前，另一人 B 以同一法令牴觸憲法疑義聲請解釋，經大法官受理但未合併審理，則司法院就 A 之聲請案所為之解釋，對 B 之聲請案件，效力如何？
 (A)既未合併審理，即無從適用 (B)雖未合併審理，仍可適用
 (C)依個案而定 (D)漏未合併審理 B 之聲請案，對 A 之解釋無效
- 11 下列有關司法權之敘述，何者錯誤？
 (A)法官為終身職，非受刑事或懲戒處分，或禁治產之宣告，不得免職
 (B)法官須超出黨派以外，依據法律獨立審判，不受任何干涉
 (C)司法院解釋憲法，並有統一解釋法律及命令之權
 (D)司法院掌理公務員之懲戒及公職人員之財產申報事項
- 12 考試院掌理有關公務人員之事項，不包含下列何者？
 (A)保障 (B)銓敘 (C)撫卹 (D)彈劾
- 13 依司法院釋字第 744 號解釋意旨，下列敘述何者錯誤？
 (A)化粧品廣告宣傳化粧品效能，應受言論自由之保障
 (B)化粧品廣告之事前審查乃對言論自由之重大干預
 (C)事前審查應賦予人民有立即司法救濟之機會
 (D)對化粧品廣告之事前審查，係為維護國民健康所必要，與憲法並無牴觸
- 14 關於司法院釋字第 748 號解釋之敘述，下列何者錯誤？
 (A)相同性別二人成立永久結合關係，亦受憲法第 22 條婚姻自由之保障
 (B)現行民法第 4 編親屬第 2 章婚姻規定，侵害憲法第 22 條保障之隱私權
 (C)以何種形式保障相同性別二人成立永久結合關係，以達婚姻自由之平等保護，屬立法形成之範圍
 (D)以性傾向為分類標準所為之差別待遇，亦屬憲法第 7 條平等權規範之範圍
- 15 中央警察大學碩士班入學考試招生簡章，以有無色盲決定入學資格之規定，依司法院釋字第 626 號解釋，此項限制涉及下列何種憲法權利？
 (A)學習自由 (B)工作權
 (C)受國民教育權 (D)受國民教育以外教育之權利
- 16 有關法規命令之敘述，下列何者錯誤？
 (A)人民可直接針對法規命令之合法性逕向行政法院起訴請求審查
 (B)行政法院得於撤銷訴訟中，附帶審查行政處分所適用法規命令之合法性
 (C)行政法院審理時，若認為法規命令違法，得不待聲請大法官解釋，逕行拒絕適用該法規命令
 (D)受不利裁判之人民，對於行政法院確定終局裁判所適用之法規命令，得向司法院聲請解釋，進行違憲審查
- 17 所有人甲的下列二物之間，何者不具民法規定之主物與從物的關係？
 (A)筆記型電腦與隨身碟 (B)電視機與遙控器 (C)汽車與備胎 (D)眼鏡與眼鏡盒
- 18 甲向乙借款 1 萬元並將其價值 2 萬元之手機設定質權予乙以供擔保，如乙於該借款期屆至未受清償時，關於其質權實行之敘述，下列何者錯誤？
 (A)乙得自行拍賣或聲請法院拍賣該手機，並就其賣得價金優先受清償
 (B)乙於無害其他質權人之利益，得與甲訂立契約取得該手機所有權
 (C)乙如係經許可以受質為營業者，甲未於取贖期間屆滿後五日內取贖其手機時，乙取得手機之所有權，但手機價值超過擔保債權 1 萬元之部分，應返還予甲
 (D)如甲、乙於設定質權之初，約定於債權已屆清償期而未為清償時，手機之所有權移屬於乙者，乙得請求甲為手機所有權之移轉，但手機價值超過擔保債權 1 萬元之部分，應返還予甲
- 19 下列人員之任命，何者不須經立法院同意？
 (A)行政院院長 (B)司法院大法官 (C)考試委員 (D)監察委員
- 20 涉外民事法律適用法之性質屬於下列何者？
 (A)公法 (B)母法 (C)直接法 (D)國內法
- 21 依中央法規標準法之規定，法規因下列何種事由而當然廢止？
 (A)因法規規定之事項已執行完畢 (B)因同一事項已定有新法規
 (C)因情勢變遷無繼續施行之必要 (D)因施行期限屆滿
- 22 行政程序法第 7 條規定，行政機關有多種同樣能達成目的之方法時，應選擇對人民權益損害最少者。此係指下列何者？
 (A)適合性原則 (B)必要性原則 (C)狹義比例原則 (D)特定性原則
- 23 債務人甲為擔保新臺幣（以下同）500 萬元借貸債權，提供 L（價值 150 萬元）、M（價值 450 萬元）二地設定抵押權，且未限定各土地所負擔的金額。就內部言，M 地對該債權負擔的金額為何？
 (A) 300 萬元 (B) 375 萬元 (C) 450 萬元 (D) 500 萬元
- 24 甲、乙為夫妻，育有一子 A；甲為躲債而偷渡海外，故意由乙申報失蹤人口並於其後聲請作死亡宣告；之後乙、丙再婚，3 年後甲回臺灣並撤銷死亡宣告；又經 1 個月後乙若因車禍死亡，留下新臺幣 300 萬元遺產，則丙可繼承多少遺產？
 (A) 0 元 (B) 75 萬元 (C) 100 萬元 (D) 150 萬元

- 25 依民法之規定，下列何者非屬解除權消滅之事由？
 (A)除斥期間屆滿，有解除權之人未行使解除權者
 (B)有解除權之人，於解除權行使後，因可歸責於自己之事由，致所領之給付物有滅失者
 (C)有解除權之人，於解除權行使前，因加工將所受領之給付物變其種類者
 (D)解除權之行使，未定有期間者，他方當事人得定相當期限，催告解除權人於期限內確答是否解除，如逾期未受解除之通知者
- 26 中華民國人民在美國犯下列何種犯罪，仍有中華民國刑法的適用？
 (A)偽造貨幣罪 (B)通姦罪 (C)普通傷害罪 (D)偽造私文書罪
- 27 犯罪成立的判斷，通說採取三階段的檢驗，下列何者非檢驗要件？
 (A)構成要件該當 (B)消極構成要件要素 (C)違法性 (D)有責性
- 28 下列關於有限公司之敘述，何者正確？
 (A)股東應至少兩人以上
 (B)公司增資應經全體股東同意
 (C)公司董事非得其他全體股東同意，不得以其出資額之全部或一部，轉讓於他人
 (D)每一股東不問出資多寡，均僅有一表決權
- 29 依全民健康保險法之規定，當保險對象、投保單位、扣費義務人及保險醫事服務機構對保險人核定案件有爭議時，應該如何處理？
 (A)先申請審議，對於爭議審議結果不服時，得依法提起訴願或行政訴訟
 (B)先申請審議，對於爭議審議結果不服時，得依法提起再審議
 (C)先申請審議，對於爭議審議結果不服時，得依法提起民事訴訟
 (D)依法得逕行提起訴願或行政訴訟請求救濟
- 30 受僱者或求職者因受性別、性傾向歧視或性騷擾，受有損害者，雇主應負賠償責任。該賠償請求權之時效，下列何者正確？
 (A)自請求權人知有損害及賠償義務人時起，2 年間不行使而消滅。自有性騷擾行為或違反各該規定之行為時起，逾 10 年者，亦同
 (B)自請求權人知有損害及賠償義務人時起，1 年間不行使而消滅。自有性騷擾行為或違反各該規定之行為時起，逾 2 年者，亦同
 (C)自請求權人離職後，2 年間不行使而消滅。自有性騷擾行為或違反各該規定之行為時起，逾 10 年者，亦同
 (D)無時效之規定
- 31 The police turned the apartment almost _____, searching for the criminal evidence.
 (A) in and out (B) up and down (C) inside and outside (D) upside down
- 32 AT&T said that it had reached an agreement with America's biggest satellite television provider, DirecTV, in a _____ worth almost \$50 billion.
 (A) motivation (B) deal (C) hearing (D) sample
- 33 Our family trip to Yellow Stone National Park last summer is one of the most _____ experiences in my life. I will never forget all the beautiful sceneries I saw there.
 (A) luxurious (B) memorable (C) popular (D) romantic
- 34 College students are _____ to explore the world by participating in international volunteer programs.
 (A) improved (B) enforced (C) suspected (D) encouraged
- 35 Worried about the terrorism _____, the government has been stricter on issuing the tourist visa.
 (A) request (B) medium (C) selection (D) threat

請依下文回答第 36 題至第 40 題：

Among the well-preserved historical sites in Lukang, a coastal city located in the western Changhua county, the Longshan Temple is something a visitor cannot miss. 36 the busy Longshan Temple in Taipei, the one in Lukang is quieter and less touristy. Built in the end of Ming Dynasty, the temple was 37 a small one and later it was renovated several times to the current larger scale. It is mainly dedicated to Guanyin, Goddess of Mercy and Compassion, 38 there are over one hundred gods and goddesses in the rear and side halls. The beautifully-designed temple is worthy of detailed 39. Check out the colorful figures on the roof, the wonderful spider web ceiling structure, the stone carvings on the dragon poles at the front gate, as well as the largest bronze bell in Taiwan.

During the 921 Earthquake in 1999, the Longshan Temple in Lukang was severely damaged. Community members, local and national government institutions, and prominent enterprises came together to help rebuild this national heritage site. The restoration was 40 from 2001 to 2008. Nine years after the earthquake, with lots of efforts from specialists, the temple was restored from ruins and today remains an important religious center.

- 36 (A) Unlike (B) Except (C) Despite (D) Through
 37 (A) permanently (B) regularly (C) effectively (D) originally
 38 (A) since (B) though (C) once (D) wherever
 39 (A) celebration (B) recognition (C) observation (D) prescription
 40 (A) looked after (B) passed over (C) broken down (D) carried out

請依下文回答第 41 題至第 45 題：

Climate change is having a significant effect on one of the biggest green turtle populations in the world. A study shows that 99% of immature green turtles born in the northern part of Australia's Great Barrier Reef are female. Among adult turtles, 87% are female. The result is 41 —rising temperatures have turned sea turtle population female.

The sex of a sea turtle is 42 by the temperature of the nesting environment. Warm temperatures produce more female hatchlings, and cooler temperatures produce more males. During the past two decades, temperatures in northern Great Barrier Reef have increased to the point that virtually no male turtles are produced, 43 raises new concerns over the immediate threats of climate change to the population's future. Sea turtles, protected under the Endangered Species Act, are among the most ancient species roaming the oceans and have adjusted to shifting climates. Increasing numbers of females may 44 be a good thing for its population. The reproductive potential can be boosted. The problem, however, is that the modern climate appears to be changing faster than turtles can adjust to it. Species evolve 45 climate and other environmental changes, but they need time for that. According to researchers of World Wildlife Fund Australia, setting up shade cloth to cool beaches might help, but the only sustainable solution is to stop climate change.

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|----|--------------------|----------------------|------------------|---------------------|
| 41 | (A) deceitful | (B) alarming | (C) prosperous | (D) thoughtful |
| 42 | (A) maintained | (B) classified | (C) determined | (D) straightened |
| 43 | (A) while | (B) whatever | (C) which | (D) whether |
| 44 | (A) once again | (B) little by little | (C) worst of all | (D) at first |
| 45 | (A) at the risk of | (B) in response to | (C) in place of | (D) on the verge of |

請依下文回答第 46 題至第 50 題：

In a recent interview, the venerable Mr. Xu lamented how the Korean Drama obsession is hurting China's "cultural self-esteem." In an interesting twist, Guangzhou's *Time Weekly* reported how the show is challenging traditional gender roles in China: "The handsome male characters have also encouraged Chinese women to demand their men take more care with their appearance. By contrast, the archetype of a male character in Chinese dramas is someone who is careless and nagging but generally a good person. Korean dramas, on the other hand, like their male leads to be Prince Charming characters." ... This nationwide love for Korean dramas such as *My Love From the Star*, as well as the hit American show, *House of Cards*, has left people like Xu wondering: Where is the love for Chinese TV? But, Xu is no dummy: He acknowledged in the interview that most Chinese television shows are "poorly written and lack creativity." Even *The China Daily* acknowledges the overall shittiness of Chinese television, saying: "Chinese TV screens are flooded by knock-off and/or poorly made soap operas. Most of the Chinese TV dramas either distort the War of Resistance against Japanese Aggression, which is a distortion of history, or blindly copy foreign programs. The lack of good stories has of late resulted in loads of TV series on time travel or fights in the harems of Qing Dynasty emperors. These, in short, are the bane of Chinese TV productions." So, in short, it's no surprise to anyone involved that Chinese TV clearly needs to step its game up.

- 46 According to this passage, which of the following is NOT the problem with Chinese TV dramas?
(A) Frequently distorting history. (B) Not enough good stories.
(C) Too much repetition in the stories. (D) Too many love stories.
- 47 Which of the following is the best title for this passage?
(A) The Impact of Chinese Obsession with Korean Dramas
(B) The Secrets of Korean TV Dramas' Success
(C) Ways to Stop Chinese Women's Craze for Korean Dramas
(D) Ways to Encourage Chinese Men to Improve Their Looks
- 48 According to this passage, what is the biggest problem for Chinese TV shows?
(A) Lack of enough funding from foreign enterprises.
(B) Too many old-fashioned scripts that are not creative.
(C) Not enough handsome male characters inside the show.
(D) No good love stories in Chinese TV shows.
- 49 Which of the following statements is NOT true about this passage?
(A) The media is making invalid criticism of the shittiness of Chinese TV shows.
(B) In China, there seemed to be a nationwide love for Korean dramas as well as some hit American shows.
(C) Chinese TV screens are flooded by knock-off and/or poorly made soap operas.
(D) The Korean Drama obsession is hurting China's "cultural self-esteem."
- 50 According to this passage, which of the following is the best way to improve Chinese TV shows?
(A) To avoid creating the archetype of a male character in Chinese dramas.
(B) To present more love stories just like the Korean dramas.
(C) To produce more well-written and original stories for TV shows.
(D) To imitate good stories like the one in the hit American show "House of Cards."