114年公務人員特種考試警察人員、一般警察人員、 國家安全局國家安全情報人員、移民行政人員考試及 114年特種考試退除役軍人轉任公務人員考試試題

代號:5131 頁次:6-1

考 試 別:退除役軍人轉任公務人員考試、一般警察人員考試、移民行政人員考試

等 别:三等考試

類科組別:各類科、各類別、移民行政

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:(→)本試題為單一選擇題,請選出一個正確或最適當答案。

- 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 有關禁止法律溯及既往原則與過渡條款,下列敘述何者正確?
 - (A)限制基本權利之法律,若適用於該法律施行前已終結之事件,乃憲法所絕對不許
 - (B)基於禁止法律溯及既往原則,對人民有利之法律,不得適用於該法律施行前已終結之事件
 - (C)基於禁止法律溯及既往原則,法律不得適用於施行前已發生,施行後繼續存在之法律關係
 - (D)立法者制定新法,若應設卻未設過渡條款適度排除新法之適用範圍,此一法律漏洞仍有由司法機關補充之可能
- 2 依據憲法增修條文規定,有關基本國策,國家對於公營金融機構之管理,應本下列何種原則?

(A)社會平等

- (B)企業化經營
- (C)組織現代化
- (D)提升競爭力
- 3 政黨為人民之政治性結社團體,有關政黨與結社自由,下列敘述何者錯誤?
 - (A)基於結社自由,人民得自由選擇加入或退出特定政黨
 - (B)政黨財產之使用、收益及處分,受財產權及結社自由之憲法保障
 - (C)政黨就其存續、內部之組織與運作以及對外活動等,不受國家恣意之干預
 - (D)政黨於民主政治運作有其重要性與必要性,故國家不得以任何理由解散政黨
- 4 所得稅法將軍人、國小教師原本免繳所得稅之規定,改為有所得即應繳稅,屬於憲法平等原則對何國 家機關的拘束?
 - (A)對監察院之拘束
- (B)對司法院之拘束
- (C)對行政院之拘束
 - (D)對立法院之拘束

- 5 下列何者與憲法第 15 條保障之工作權無關?
 - (A)老年年金制度

(B)限制醫師藥品調劑權

(C)勞資爭議處理機制

- D對童工的相關保護規範
- 6 依司法院釋字第 490 號解釋,有關「中華民國男子依法皆有服兵役之義務」規定,下列敘述何者 錯誤?
 - (A)基於憲法平等原則的要求,應將女子排除於兵役義務之外
 - (B)人民履行兵役義務的方式,應由立法者決定
 - (C)人民有服兵役之義務,此為憲法明文規定
 - (D)關於服兵役之重要事項,立法者應斟酌國家安全之需要,予以規定
- 7 有關基本權,下列敘述何者正確?
 - (A)依司法院釋字第 748 號解釋,若不許同性結婚,有違憲法增修條文消除性別歧視之規定
 - (B)秘密通訊自由屬於隱私權保障之具體態樣之一
 - (C)凡自然人均享有基本權,因此外國人亦可享有所有基本權
 - (D)國家基於對工作權之保障,有提供人民工作機會之義務

- 8 甲公司僱用女性員工,惟契約條款要求女性員工若結婚則必須辭職,關於該條款效力,下列敘述何者 錯誤?
 - (A)結婚離職條款違反憲法上的性別平等
 - (B)結婚離職條款因屬私人間之契約,對於人民之基本權未構成限制
 - (C)結婚離職條款雖違憲,但法院應透過解釋民法條文來判斷其效力,而非直接援用憲法
 - D法院應認定結婚離職條款違反性別平等工作法而無效
- 9 依司法院大法官解釋,關於正當法律程序,下列敘述何者錯誤?
 - (A)刑事訴訟法未對律師事務所之搜索有特別之程序規定,合憲
 - (B)僅指訴訟權之程序保障,不適用於行政程序
 - (C)為保障刑事被告之防禦權,應保障被告之卷證資訊獲知權
 - (D)檢察事務官與司法警察官因調查犯罪及蒐證必要,對嫌疑人強制採尿雖有法律依據,仍因違反正當 法律程序而違憲
- 10 依憲法、憲法增修條文及司法院大法官解釋,關於行政院之組織,下列敘述何者正確?
 - (A) 行政院與所屬各級機關之組織,均應以法律定之
 - (B)得以法律明定或授權以命令訂定行政院所屬各級機關之設置與組織
 - (C)立法者不得制定單獨組織法規範行政院所屬各級機關
 - (D)行政院與所屬各級機關之職權、設立程序及總員額,應以法律規定
- 11 有關立法委員職權之行使,下列敘述何者錯誤?
 - (A) 得聽取總統國情報告

(B)得提出總統、副總統彈劾案

(C)得提出領土變更案

- (D)得激請司法院院長到院備詢
- 12 依憲法第80條,法官須超出黨派以外,依據法律獨立審判,不受任何干涉。下列敘述何者正確?
 - (A)法官包括檢察官
 - (B)機關釋示之行政命令,法官審判時受其拘束,應予以引用
 - (C)大法庭之裁定,對提案庭提交案件及其他類此案件,均有拘束力
 - (D)各級法院得拒絕適用違憲之行政命令
- 13 依憲法訴訟法之規定,關於人民聲請憲法法庭判決,下列敘述何者錯誤?
 - (A)人民聲請標的須包含法院確定裁判
 - (B)人民聲請須於確定終局裁判送達後 6 個月內為之
 - (C)人民聲請判決之案件如具有憲法重要性,憲法法庭得予受理
 - (D)人民聲請判決如程序要件不合,均直接由憲法法庭作成不受理裁定
- 14 關於地方自治團體之法律主體保障,下列敘述何者錯誤?
 - (A) 我國憲法明文保障的地方自治團體包括縣(市)以及直轄市
 - (B)鄉(鎮、市)之地方自治團體地位不是憲法保障的法律主體
 - (C)某一直轄市或縣(市)被國家廢除或裁併,該直轄市或縣(市)可主張法律主體保障而要求不受廢 除與裁併
 - (D)國家若要廢除鄉(鎮、市)地方自治團體的地位,只須修法即可為之

- 15 依司法院大法官解釋及憲法法庭判決,下列敘述何者錯誤?
 - (A)依行政執行法對酗酒泥醉者予以管束,無須經由法院為之
 - (B)依行政執行法所為管收,應經由法院為之
 - (C)依傳染病防治法所為強制隔離處置,無須經由法院為之
 - (D)依出入國移民法所為暫時收容之處分,應經由法院為之
- 16 有關戰後臺灣憲法發展史,下列敘述何者錯誤?
 - (A)國民大會修正「動員戡亂時期臨時條款」,凍結了憲法第47條總統連任次數之限制
 - (B)司法院大法官做成的釋字第 31 號解釋,使得第一屆的國大代表、立法委員及監察委員得以不用定期改選。直到解除戒嚴,政府再度辦理全國性之次屆中央民意代表選舉
 - (C)司法院大法官曾以司法院釋字第86號解釋要求高等以下之各級法院應改隸屬於司法院
 - (D)司法院大法官曾兩度宣告違警罰法部分規定不符憲法第 8 條第 1 項規定之本旨,然而立法院並未 修改該法規定
- 17 國家的領域稱為領土,但解釋上此之領土尚包括領海、領空,此種解釋方法為:
 - (A)體系解釋
- (B)歷史解釋
- (C)論理解釋
- (D)類推適用
- 18 不具公務員身分的甲與公務員乙謀議收賄,而由甲出面收受賄款。關於甲的刑事責任,依實務見解, 下列敘述何者正確?
 - (A)甲欠缺公務員身分,因此只能論以收賄罪的幫助犯
 - (B)甲欠缺公務員身分,與公務員共同實行收賄罪,仍得論以收賄罪之共同正犯
 - (C)甲欠缺公務員身分,因此只能論以收賄罪的教唆犯
 - (D)甲欠缺公務員身分,代公務員間接實行收賄罪,仍得論以收賄罪之間接正犯
- 19 就我國刑法中有關「刑」的敘述,下列何者正確?
 - (A) 主刑只有四種,分別為死刑、無期徒刑、有期徒刑與罰金
 - (B)從刑只有兩種,分別為褫奪公權與沒收
 - ©刑期自裁判確定之日起算。裁判雖經確定,其尚未受拘禁之日數,不算入刑期內
 - (D)褫奪公權之宣告,自裁判宣告時發生效力
- 20 關於股份有限公司董事會,下列敘述何者錯誤?
 - (A)若章程未規定不設置董事會,則董事不得少於3人
 - (B)董事會之召集通知,經相對人同意時,得以電子方式為之
 - (C)依主管機關實務見解,董事會於任何情況下均不得決定董事之報酬
 - (D)董事會開會得以視訊會議方式為之
- 21 甲公司業務性質特殊,工作通常下午才開始,也經常有夜間工作需求,因此希望透過勞動基準法規定,將兩週內之正常工時,分配到其他工作日,增加人力運用彈性。但雇主跟工會素有糾紛,因此雇主擬召開勞資會議之方式通過。下列敘述何者正確?
 - (A)雇主應獲得工會之同意,但雇主跟工會不睦,因此雇主可以通知工會其決定,表示工會如3天內未 附理由拒絕,視同同意
 - (B)雖然有工會之企業應由工會同意,但勞資會議之決議也具有代表性,兩者擇一獲得同意就可以
 - C)企業內有工會時,應獲得工會之同意,不得以勞資會議決議取代之
 - (D)如果企業確實有彈性工時需求,可請求工會同意,工會不同意時,才可以改透過勞資會議同意之方 式進行變更

- 22 甲受僱於乙公司,遭受主管丙性騷擾,雇主知悉後,召開調查會,決議性騷擾不成立。甲不服,向地方勞工主管機關提出申訴,並要求乙給予公假,讓甲到勞工局接受調查,下列敘述何者正確?
 - (A)乙依法應給予甲公假,不得拒絕
 - (B)乙得視業務調配情形,有正當理由,得予拒絕
 - (C)乙並非行為人,甲不得要求公假
 - (D)乙所召集之會議,調查結果為性騷擾不成立,甲不得再行申訴
- 23 關於比例原則,下列敘述何者錯誤?
 - (A)國家雖為實現公益亦不得過度侵害基本人權
 - (B)有多種同樣能達成目的之手段時,國家應選擇最能達成目的之手段
 - (C)國家所採取之手段侵害人民權益愈重大,其所擬實現之公益目的亦須愈重大
 - (D)國家所採取之手段如反而有害公益目的之達成,則違反比例原則
- 24 甲與乙口頭約定,甲將自己的 H 屋租予乙居住,乙每月付租金 2 萬元,租期 2 年。甲、乙間有何種 民事契約關係?
 - (A) 2 年定期租賃
- (B) 1 年定期租賃
- (C)不定期限租賃
- (D)無效租賃
- 25 下列何者非法律明文規定得不給予當事人陳述意見之情形?
 - (A)情况急迫,如予陳述意見之機會,顯然違背公益者
 - (B)行政機關已先命處分相對人限期改善
 - (C)受法定期間之限制,如予陳述意見之機會,顯然不能遵行者
 - (D)限制自由或權利之內容及程度,顯屬輕微,而無事先聽取相對人意見之必要者
- 26 我國法律採取公、私法二元主義,下列敘述何者正確?
 - (A)國家賠償係由普通法院審理,因此係屬私法關係
 - (B)軍事學校學生領取國家公費,係屬私法上金錢給付關係
 - (C)中央健康保險署與特約醫院間之特約關係屬公法關係
 - (D)國民住宅之承購契約為行政契約
- 27 依憲法訴訟法規定,關於憲法法庭之裁判,下列敘述何者錯誤?
 - (A)判決,除別有規定外,應經大法官現有總額3分之2以上參與評議,大法官現有總額過半數同意
 - (B)裁定,除別有規定外,應經大法官現有總額過半數參與評議,參與大法官過半數同意
 - (C)聲請案件之受理,除別有規定外,應經大法官現有總額3分之2以上參與評議,參與大法官過半數同意
 - (D)不受理之裁定得免附理由,但應記載參與裁定之大法官姓名及其同意與不同意之意見
- 28 依憲法訴訟法規定,關於大法官迴避制度,下列敘述何者錯誤?
 - (A)大法官於執行律師業務期間,其同一事務所律師為該聲請案件之訴訟代理人者,應自行迴避
 - (B) 當事人認為大法官執行職務有偏頗之虞,得向憲法法庭聲請迴避
 - (C)除法定迴避事由外,大法官認有自行迴避之必要者,得經審判長同意迴避之
 - (D)依法迴避之大法官,不計入現有總額之人數
- 29 關於保證人與債權人之關係,下列敘述何者錯誤?
 - (A)保證人不得拋棄先訴抗辯權

- (B)主債務人所有之抗辯,保證人得主張之
- (C)保證人原則上得主張先訴抗辯權
- (D)保證人得以主債務人對債權人之債權,主張抵銷

- 30 下列何者並非遺囑之方式?
 - (A)自書遺囑
- (B)口授遺囑
- (C)見證遺囑
- (D)代筆遺囑

31	When we slow down, stop the busywork, and take in beautiful natural surroundings, not only do we			
	feel, but our men	ntal performance improves t	00.	
	(A) exhaled	(B) exhausted	(C) regretted	(D) restored
32	The tech industry had	a hard hit last year. Many	tech companies stumbled	, digital ad sales, and
	investors lost faith.			
	(A) patented	(B) plunged	(C) plagued	(D) pledged
33	The apartment has a private terrace where you can enjoy the surroundings and scenery of the lake.			
	(A) eliminating	(B) fabricating	(C) fluctuating	(D) enchanting
34	The radio station will the live coverage of the game to listeners across the country.			
	(A) transplant	(B) transmit	(C) trim	(D) tremble
35	The politician's financia	al records came under	_ after allegations of corru	ption were made against him.
	(A) sanctity	(B) scrutiny	(C) sanction	(D) seclusion
36	The speaker's arguments convinced the audience to support his proposal.			
	(A) cogent	(B) confusing	(C) invalid	(D) rambling
37	The universe is filled with thousands of galaxies and countless other objects.			
	(A) exhaustive	(B) extraterrestrial	(C) extraneous	(D) experimental
38	The painting has been lost for centuries, but it was unexpectedly discovered in a small antique shop			
	in Amsterdam.			
	(A) allergic	(B) decent	(C) original	(D) patient
39	The quality of the building began to after years of neglect and lack of maintenance.			
	(A) enhance	(B) flourish	(C) ameliorate	(D) deteriorate
40	The of the countryside was dotted with farms and fields as far as the eye could see.			
	(A) statue	(B) supplement	(C) shipment	(D) landscape
41	His success in the field of medicine was a to his hard work, dedication, and unwavering commitment			
	to improving the lives of his patients.			
	(A) judgment	(B) movement	(C) complement	(D) testament
42	These pesticides have had a effect on the environment and should be banned completely.			
	(A) devastating	(B) marvelous	(C) bewildering	(D) feasible
43	The gymnast won the championship after a performance.			
	(A) ruthless	(B) motionless	(C) flawless	(D) childless
44	This two-week English conversation program offers classes three hours a day and five days a week			
	to help students improve their speaking ability.			
	(A) intensive	(B) detective	(C) exhaustive	(D) probative
45	You must visit a Taiwanese night market when you come to Taiwan since it is an part of the local			
	experience.			
	(A) assertive	(B) accurate	(C) essential	(D) excessive

請依下文回答第46題至第50題

Mark Bertram, 46, lost the tips of two fingers at work in 2018 when his hand became trapped in a fan belt. "It's life-changing but it's not life-ending," he says. "Doing work is harder now. Everything is just a little different."

After two surgeries and occupational therapy, Bertram decided to make light of his condition by asking Eric Catalano, an auto-finance manager turned tattoo artist, to create fingernail tattoos. The idea made everyone in the studio laugh—until they saw the final result. "The mood changed," Catalano recalls from his Eternal Ink Tattoo Studio in Illinois. "Everything turned from funny to 'wow.""

When Catalano posted a photo of the tattoos, a pair of fingernails that looked so real no one could believe their eyes, he had no idea the image would eventually be viewed by millions of people around the world. The viral photo pushed Catalano, 40, further into the world of paramedical tattooing. Now people with life-altering scars come from as far away as Ireland to visit his shop. They enter Eternal Ink looking for the artistic healing they saw online. Using flesh-toned inks and a needle, Catalano transforms his clients' view of themselves.

Leslie Pollan, 32, a dog breeder in Oxford, Mississippi, was bitten on the face by a puppy in 2014. She underwent countless surgeries to correct a scar on her lip. "Plastic surgery gave me no hope," she says. "So I looked for other options." She ultimately traveled six hours for a session with Catalano. He <u>camouflaged</u> Pollan's lip scar, giving her back a piece of her confidence. "You don't understand until you've been through it," Pollan says. "It made me have a different outlook on life."

Using tattoos to blend in rather than stand out is a relatively new field, but it is growing, thanks in part to interest in cosmetic and plastic surgery. In fact, Americans spent more than \$16.5 billion on cosmetic procedures in 2018. After tummy tucks, breast augmentations, and other procedures, some patients want to cover the scars that are a product of such operations.

- 46 According to the passage, why did Bertram want to get fingernail tattoos?
 - (A) He wanted to downplay the influence of his misfortune.
 - (B) He wanted to keep reminding himself of the accident.
 - (C) He wanted to make people around him feel better.
 - (D) He wanted to lay an emphasis on his injury.
- 47 According to the passage, what does the word "camouflage" mean?
 - (A) Eliminate. (B) Contain.
- (C) Restrict.

(D) Conceal.

- 48 According to the passage, which of the following statements can be inferred?
 - (A) Tattoos are viewed as part of a standard cosmetic and medical procedure.
 - (B) People are using tattoos to express their individuality or ideas of beauty.
 - $(\!C\!)$ Tattoos are done to further improve the appearance after a plastic surgery.
 - (D) People are using tattoos as a cheaper and safer alternative to cosmetic surgery.
- 49 According to the passage, which of the following statements is true about Catalano?
 - (A) He had experiences of enduring pain and deformity.
 - (B) He is indifferent to those who are suffering from a disease.
 - (C) His service was in high demand for his artistic healing.
 - (D) His practice in cosmetic surgery boosted his own confidence.
- Which of the following best describes the tone of the passage?
 - (A) Pessimistic.
- $\hbox{\small (B) $Suggestive.}\\$
- (C) Cynical.

(D) Neutral.