

108年公務人員特種考試警察人員、一般警察人員考試及
108年特種考試交通事業鐵路人員、退除役軍人轉任公務人員考試試題

考試別：鐵路人員考試、退除役軍人轉任公務人員考試

等別：員級考試、四等考試

類科別：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 依司法院大法官解釋意旨，對公務員權利義務之規範，下列何者違憲？
(A)允許無法定理由將高職等之公務員調任為較低職等之職務
(B)公務員因有違法失職之行為而受懲戒處分，就公務員懲戒委員會所為之議決，不得上訴
(C)將兼任學校行政職務之公立學校教師納為公務員服務法之規範對象
(D)限制離職公務員於一定期間內不得從事特定工作
- 2 下列何者非憲法基本國策章中國民經濟之內涵？
(A)促成農業之工業化 (B)扶植自耕農 (C)發展私人資本 (D)普設平民金融機構
- 3 依憲法增修條文規定，現行憲法之修改程序，下列敘述何者正確？
(A)先由立法院提出憲法修正案，再經公民複決 (B)由立法院提出憲法修正案並決議之
(C)先由總統提出憲法修正案，再經公民複決 (D)先由行政院提出憲法修正案，再經立法院決議
- 4 下列何者非限制憲法上結社自由之法律？
(A)人民團體法 (B)祭祀公業條例 (C)行政法人法 (D)商業登記法
- 5 依司法院大法官解釋意旨，下列何者屬於職業自由的主觀資格限制？
(A)非視覺功能障礙者不能從事按摩業
(B)藥師執業處所，以一處為限
(C)有特定前科者不得開計程車
(D)電子遊戲場營業場所與國民中、小學應保持一定距離
- 6 依憲法增修條文規定，有關總統解散立法院，下列敘述何者錯誤？
(A)得於立法院通過對行政院院長之不信任案後 10 日內，逕行宣告解散立法院
(B)於戒嚴或緊急命令生效期間，不得解散立法院
(C)立法院解散後，應於 60 日內舉行立法委員選舉
(D)立法委員重新選舉結果確認後 10 日內自行集會，且任期重新起算
- 7 依憲法第 137 條第 1 項規定，下列何者是該項明示之國防目的？
(A)捍衛司法正義 (B)保護消費者安全 (C)維護社會秩序 (D)保衛國家安全
- 8 依司法院釋字第 574 號解釋，民事訴訟法規定訴訟標的金額低於 150 萬元者，不得上訴最高法院第三審。此舉是否符合憲法關於人民訴訟權之保障？
(A)符合，立法機關對財產權之限制，本有絕對自由形式空間，不受任何限制，司法機關不應審查
(B)符合，此規定係立法機關斟酌訴訟資源與社會經濟發展，對人民訴訟權所為之合理限制
(C)不符合，此係變相排除訴訟標的金額低於 150 萬元之訴訟當事人，可尋求訴訟救濟之權利
(D)不符合，以訴訟標的 150 萬元區分可否上訴第三審，違反平等原則
- 9 依憲法增修條文之規定，下列何者任期為 6 年？
(A)大法官 (B)立法委員 (C)監察委員 (D)總統
- 10 依據憲法增修條文之規定，下列關於縣之敘述，何者錯誤？
(A)縣下設區 (B)縣設縣政府
(C)縣設縣議會 (D)縣長與縣議員由選民選舉之
- 11 依司法院釋字第 419 號解釋及憲法增修條文規定，下列敘述何者錯誤？
(A)對於行政院院長「非憲法上義務之辭職」應如何處理，乃總統之裁量權限
(B)副總統與行政院院長二者之職務性質並非顯不相容
(C)憲法增修條文已明文禁止副總統得兼任行政院院長
(D)副總統兼任行政院院長可能影響憲法規定繼任或代行職權之設計
- 12 依憲法規定，立法院院長如何產生？
(A)立法委員互選 (B)總統直接任命
(C)總統提名，經立法院同意 (D)立法院各政黨協商產生

- 13 依憲法規定，關於立法院職權，下列敘述何者錯誤？
(A)立法院對行政院所提預算案，不得為增加支出之提議
(B)立法院對於總統、副總統之彈劾案，依法定門檻提出決議後，交由監察院審理
(C)立法院每年集會得聽取總統國情報告
(D)立法院有議決宣戰案及戒嚴案之權
- 14 依憲法規定，下列何者為國家最高司法機關？
(A)司法院 (B)最高法院 (C)法務部 (D)法院
- 15 依司法院大法官解釋，下列何者非屬聲請釋憲之標的？
(A)臺北市電子遊戲場業設置管理自治條例 (B)最高法院民事庭會議決議
(C)行政機關所訂定之解釋函令 (D)公寓大廈之管理規約
- 16 有關我國勞工保險條例對於老年給付之規定，下列何者錯誤？
(A)保險年資合計每滿 1 年，按其平均月投保薪資發給 2 個月
(B)被保險人逾 60 歲繼續工作者，其逾 60 歲以後之保險年資，最多以 5 年計
(C)符合請領老年年金給付條件而延後請領者，於請領時應發給展延老年年金給付
(D)對於尚未符合請領老年年金之年齡而提前請領者，最多減給百分之二十
- 17 關於法律與社會經濟活動之敘述，下列何者錯誤？
(A)憲法固然保障財產權，但必須透過法律形塑其內容
(B)國家可以透過法律建立財產權行使之保障機制
(C)國家可以透過法律來調整契約當事人應負之責任
(D)在民主法治社會中，國家不得透過法律干涉自由市場
- 18 有關解釋令函之敘述，下列何者為錯誤？
(A)行政主管機關就行政法規所為之釋示，應自法規生效之日起有其適用
(B)行政主管機關就行政法規所為之釋示，不論事件是否已經確定，應自釋示之日起有其適用
(C)行政主管機關就行政法規所為之前、後釋示不一致時，前釋示並非當然錯誤
(D)行政主管機關就行政法規所為之前釋示若有錯誤，得適用後釋示救濟
- 19 關於地方制度法之自治規則，下列敘述何者正確？
(A)與自治條例相同，屬於地方立法機關之權限
(B)與自治條例相同，皆得於自治規則內規定行政罰
(C)自治規則不得牴觸憲法及法律，但與自治條例牴觸則無妨
(D)自治規則應於發布後函送地方立法機關查照
- 20 現行憲法及法律之規定，下列何者非源自於民主原則？
(A)立法委員之任期為 4 年 (B)請願、訴願及訴訟權之保障
(C)政府機關應主動公開政府資訊 (D)總統由人民直接選舉產生
- 21 下列何者非屬信賴保護原則之成立要件？
(A)信賴基礎存在 (B)客觀信賴表現行為 (C)信賴值得保護 (D)單純願望或期待
- 22 關於法律之「地的效力」，下列敘述何者正確？
(A)凡居住在中華民國領土主權所及範圍者，毫無例外應受本國法律之規範
(B)縱令位於中華民國領土主權以外之地區，仍有可能適用本國法律之情形
(C)位於國外使領館外交人員，基於國際法規定應適用該使領館所在國之法律
(D)刑法規定在中華民國領域外中華民國航空器內犯罪，仍應適用航空器所在地之法律
- 23 關於授權明確性原則之敘述，下列何者錯誤？
(A)法律授權行政機關訂定法規命令，其授權之目的、內容及範圍應明確
(B)大法官解釋曾闡明所謂授權明確性，應以法律總體關聯意義判斷之
(C)透過概括授權訂定之命令，僅能就執行母法有關細節性及技術性事項規定
(D)縱使法律無轉授權之規定，被授權之機關仍得再授權
- 24 下列有關收養之敘述，何者正確？
(A)養子女的直系血親親屬無論是否成年，均受到收養效力所及
(B)收養只要訂立收養契約書，即屬合法有效
(C)甲、乙婚後育有一子 A，甲、乙離婚後，乙單獨行使 A 之親權，甲僅有會面交往權，乙之再婚對象若欲收養 A 為養子女，仍須經甲之同意
(D)養子女若於終止收養關係後，回到本生家，可要求兄弟姊妹將先前因繼承所取得的亡父遺產重新分割，並分配一份給自己
- 25 民法關於法人董事職權的規定，下列敘述何者錯誤？
(A)對於董事代表權所加限制，不得對抗善意第三人
(B)董事就法人一切事務，對外代表法人
(C)如董事有數人，法人事務的執行，除章程另有規定外，取決於全體董事的同意
(D)如董事有數人者，除章程另有規定外，各董事均得代表法人

- 26 甲開設餐廳，向乙借用 12 瓶法國五大酒莊出產之紅酒做為餐廳室內裝飾之用，言明半年後歸還。甲、乙間成立何種契約？
(A)租賃契約 (B)贈與契約 (C)使用借貸契約 (D)消費借貸契約
- 27 依刑法規定與實務見解，關於共同正犯，下列敘述何者正確？
(A)多人參與的犯罪就是所謂的共同正犯
(B)若無犯罪行為分擔即不會成立共同正犯
(C)以正犯意思參與構成要件以外的行為屬正犯
(D)以正犯意思幫助他人犯罪者並非正犯
- 28 甲教師因教學需要，擬指定某一授權得在公共場所播放之公播版影片做為參考教材，故將其重製放置在圖書館的數位隨選視訊系統中，供學生於學習期間在圖書館內播放使用。下列敘述，何者正確？
(A)公播版係指著作權人授權「公開演出」之影片
(B)於圖書館數位隨選視訊系統播放，屬於「公開傳輸」
(C)圖書館基於保存資料之必要，得就其收藏之著作重製，但此處重製不包括將錄影帶重製為光碟等數位方式
(D)重製公播版影片並放置在數位隨選視訊系統之行為，符合著作權法「因授課需要重製他人著作」之著作財產權限制事由
- 29 關於消費者保護法所規定之團體訴訟，下列敘述，何者正確？
(A)消費者保護團體依規定提起團體訴訟者，得不委任律師代理訴訟
(B)消費者保護團體對於同一之原因事件，致使眾多消費者受害時，得受讓 10 人以上消費者損害賠償請求權後，以自己名義，提起訴訟
(C)消費者保護團體許可設立 2 年以上，置有消費者保護專門人員，且申請行政院評定優良者，得以自己之名義提起團體訴訟
(D)消費者非財產上之損害賠償請求權為專屬權，不得讓與消費者保護團體
- 30 有關家庭暴力防治法之適用，下列何者錯誤？
(A)警察機關及家庭暴力防治中心於接獲羈押中之被告，經法院撤銷或停止羈押通知，應立即通知被害人或其家庭成員
(B)廣播、電視或其他媒體，不得報導或記載被害人及其未成年子女之姓名，但經有行為能力之被害人同意不在此限
(C)同居同性伴侶間之暴力問題，目前尚未適用本法
(D)矯正機關應將家庭暴力罪或違反保護令罪受刑人預定出獄之日期通知被害人、其住居所所在地之警察機關及家庭暴力防治中心
- 31 With the software available on the market, users need not _____ to build their own website.
(A) bend out of shape (B) look high and low (C) take the long haul (D) start from scratch
- 32 Because of the mayor's _____, the city is on the verge of bankruptcy and has to raise the trash disposal fee, water rates and sewer line rate.
(A) kindness (B) incompetence (C) intelligence (D) desensitization
- 33 In this Internet age, many people respond to a _____ image more than a real one.
(A) virtuous (B) vital (C) victorious (D) virtual
- 34 In this country, more than 4,000 people are killed and 70,000 _____ in car accidents each year.
(A) injured (B) enabled (C) observed (D) accessed
- 35 The patient has been _____ of the safety of the operation.
(A) assured (B) guaranteed (C) entrusted (D) confirmed
- 36 He _____ the task of checking the facts in the book and found that many are indeed true.
(A) abandoned (B) overlooked (C) suppressed (D) undertook
- 37 Although Betty's microwave is still in good _____, she wants to get rid of it and buy a new one.
(A) look (B) usage (C) condition (D) situation
- 38 People around the world celebrate _____ in different ways. In New Orleans, musicians play jazz and people dance in the streets.
(A) intervals (B) removals (C) carnivals (D) upheavals
- 39 The orchids, roses, and lilies in the greenhouse may _____ when the guardian forgets to water them.
(A) wither (B) withdraw (C) withstand (D) withhold
- 40 She is very much living in her own world and quite _____ of what is happening in the society.
(A) talkative (B) ignorant (C) far-fetched (D) dreamy

請依下文回答第 41 題至第 45 題：

That, more or less, is how the story would run, I think, if a woman in Shakespeare's day had had Shakespeare's genius. But for my part, I agree with the deceased bishop, if such he was— it is unthinkable that any woman in Shakespeare's day 41 Shakespeare's genius. For genius like Shakespeare's is not born among 42, uneducated, servile people. It was not born in England among the Saxons and the Britons. It is not born today among the working classes. How, then, could it have been born among women whose work began, 43 Professor Trevelyan, almost before they were out of the nursery, who were 44 to it by their parents and heed to it by all the power of law and custom? Yet genius of a sort must have existed among women 45 it must have existed among the working classes.

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|----|----------------|------------------|-----------------|---------------------|
| 41 | (A) had | (B) have had | (C) should have | (D) should have had |
| 42 | (A) laboring | (B) learning | (C) labored | (D) learned |
| 43 | (A) because of | (B) according to | (C) such as | (D) owing to |
| 44 | (A) forced | (B) forcing | (C) turned | (D) turning |
| 45 | (A) so | (B) if | (C) as | (D) when |

請依下文回答第 46 題至第 50 題：

China completed the construction of the Qinghai-Tibet Railroad in 2006. This 1,142-km railroad line runs across the snow-covered Plateau of Tibet, effectively linking the Tibetan capital, Lhasa, to the northwestern province of Qinghai. Also known as the Pan-Himalayan Railroad, this record-breaking railroad rises to 5,072 meters, earning the title as the world's highest passenger train with more than eighty percent of the track 13,000 feet or 3,962 meters above sea level.

The Qinghai-Tibet Railroad is a great engineering achievement. Since it was built at high altitudes, both engineers and workers had to breathe bottled oxygen for fear of altitude sickness while working on the construction of the track. Additionally, there were many other challenges they had to cope with, including the soil that can rise and sink as the season changes. Some sections of track had to be laid on ground that is permanently frozen. Due to global warming, the rising temperatures may cause this **permafrost** to melt, making the land sink to a lower level. The track may become bent or curved as a consequence. Nevertheless, some smart countermeasures were taken so that the engineers managed to cool off the roadbed by keeping the permafrost stable.

The cost savings to travelers resulting from the completion and operation of the Qinghai-Tibet Railroad are tremendous. Compared with typical fares for direct air travel, a typical train fare between Beijing and Lhasa is much cheaper. Moreover, travelers get to enjoy the magnificent sights and scenery along the way, making the long trip more than worthwhile. It is hoped that with better linkage to the world, the tourism industry will play an increasingly important role in Tibet's economy.

- 46 What is the main purpose of this passage?
 (A) To compare two famous Chinese railroads.
 (B) To explain a health hazard at high altitudes.
 (C) To detail the process of constructing a railroad.
 (D) To persuade travelers to take a train trip to Tibet.
- 47 Which of the following statements about the Qinghai-Tibet Railroad is NOT true according to this passage?
 (A) It runs across high altitudes.
 (B) It connects Lhasa with Qinghai.
 (C) It causes the permafrost to melt.
 (D) It marks an amazing engineering victory.
- 48 What does the word "**permafrost**" in the second paragraph most likely mean?
 (A) A hard shiny metal that exists in the ground.
 (B) A layer of soil and rock that stays icy forever.
 (C) A place where water from a river falls down over a cliff.
 (D) A straight surface that has one side higher than the other.
- 49 Which of the following is one of the challenges engineers and workers had to face during the construction of the Qinghai-Tibet Railroad?
 (A) Travelers from Beijing may suffer altitude sickness in Lhasa.
 (B) The idea of a train trip is not as appealing as that of air travel.
 (C) The tourism industry is impossible on the snow-covered permafrost.
 (D) The railroad track may become bent or curved if frozen ground melts.
- 50 Which of the following statements can be inferred from this passage?
 (A) The Qinghai-Tibet Railroad is a record holder in terms of the total length of its track.
 (B) The completion of the Qinghai-Tibet Railroad is likely to enhance Tibet's tourism industry.
 (C) Thousands of engineers died of altitude sickness while building the Qinghai-Tibet Railroad.
 (D) The permafrost under the Qinghai-Tibet Railroad makes it necessary to breathe bottled oxygen.