

105年警察人員升官等考試、105年 交通事業郵政人員升資考試試題

等(級)別：佐級晉員級

科(類)別：各類別

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 有關憲法第 7 條平等原則之內涵，下列敘述何者錯誤？
(A)憲法第 7 條之「男女、宗教、種族、階級、黨派」，是例示規定，並非列舉規定
(B)應符合實質平等之精神
(C)立法機關之立法行為，不受平等原則之拘束
(D)考試與監察機關之公權力行為，亦應受平等原則之拘束
- 2 下列何者不能作為基本權利之主體？
(A)未成年人 (B)外國人 (C)國家表演藝術中心 (D)行政院
- 3 關於憲法第 8 條人身自由之敘述，下列何者正確？
(A)對於外國人驅逐出境前所為之收容，為國家主權之行使，與人身自由無涉
(B)不論刑事被告與非刑事被告之人身自由限制，其踐行之法律程序均須一致
(C)限制人身自由必須踐行必要之司法程序或其他正當法律程序
(D)對外國人收容不屬於對刑事被告之強制處分，故不須經由法院為之
- 4 政府主管機關命不符合衛生安全標準之食品下架，係落實基本權之下列何種功能？
(A)抵抗權功能 (B)分享權功能 (C)制度性保障功能 (D)客觀保護功能
- 5 依憲法之規定，人民因公務員違法行為致其權利受損，得向國家請求賠償之前提為何？
(A)監察院彈劾該公務員 (B)立法院質詢該公務員
(C)法院判決該公務員有罪確定 (D)須有法律之規定
- 6 下列何者係由總統提名，經立法院同意後任命之？
(A)最高法院檢察署檢察總長 (B)行政院政務委員
(C)中央選舉委員會委員 (D)國家通訊傳播委員會委員
- 7 立法院依憲法第 63 條規定所議決之議案，下列何者須經三讀會議決？
(A)宣戰案 (B)戒嚴案 (C)條約案 (D)預算案
- 8 下列何者屬於立法權之合法行使？
(A)違反已通過公民投票立法原則創制案而制定法律
(B)對於業已被宣告違憲之法律內容，在無情勢變更情形下重複制訂同樣規範
(C)針對特定人制定法律
(D)就特定建設有關預算案所通過之法案
- 9 依憲法增修條文之規定，有關立法委員不受逮捕特權之敘述，下列何者錯誤？
(A)係對立法委員人身自由所為之特別保障 (B)立法委員於任期內皆享有不受逮捕之權
(C)若為現行犯則不受保障 (D)如經立法院許可，仍得逮捕或拘禁
- 10 依司法院大法官解釋意旨，行政機關與外國簽訂之條約，若未附有批准條款，下列何者仍須送立法院批准？
(A)經法律授權而簽訂之條約 (B)事先經立法院同意而簽訂之條約
(C)內容與國內法律相同之條約 (D)由多數締約國簽訂之多邊公約
- 11 下列何者與增進兩性地位之實質平等無直接關聯？
(A)性別平等教育法 (B)性別工作平等法 (C)民法親屬編 (D)性騷擾防治法
- 12 下列何者不屬於憲法第 80 條及第 81 條關於法官之保障範圍？
(A)法官依據法律獨立審判 (B)法官非受刑事或懲戒處分，不得免職
(C)法官之撫卹 (D)法官非依法律，不得停職
- 13 關於監察院職權之敘述，下列何者正確？
(A)對監察院人員不得行使彈劾權 (B)就重大貪腐案件，監察院調查權優先於檢察機關
(C)對司法機關訴訟審理中之案件，其調查權受有限制 (D)就考試機關對於應考人成績之評定，亦有調查權

- 14 下列何者非屬地方自治團體之自治權？
(A)自主組織權 (B)人事權 (C)財政自主權 (D)外交權
- 15 如法院認為原住民自製獵槍，作為生活工具使用，不受刑事訴追處罰，判決原住民被告無罪。此無罪判決最重要之依據，應為下列何者？
(A)自製獵槍的殺傷力很有限，不屬於應受管制之槍械 (B)依原住民傳統而製作的獵槍，屬於工藝品，不受管制
(C)自製之獵槍係作為生活工具使用，其目的合法正當 (D)司法機關審判時，須積極考量維護原住民傳統文化
- 16 有關法律與道德之敘述，下列何者錯誤？
(A)道德亦為社會生活規範之一，其目的亦在維持社會秩序
(B)法律由國家制定、公布、施行
(C)道德只講權利，而不講義務
(D)道德亦得作為法律規範之內容
- 17 海洋污染防治法第 2 條第 1 項規定，本法適用於中華民國管轄之潮間帶、內水、領海、鄰接區、專屬經濟海域及大陸礁層上覆水域。前述之規定，涉及何種法律效力？
(A)人的效力 (B)時的效力 (C)物的效力 (D)地的效力
- 18 X 法為 Y 法之特別法，之後 Y 法修訂，X 法並未修訂。Y 法修訂後所發生之事件，應如何適用法規？
(A)僅適用 X 法 (B)僅適用修訂後之 Y 法 (C)優先適用 X 法 (D)優先適用修訂後之 Y 法
- 19 民法第 12 條規定：「滿 20 歲為成年。」據此，未滿 20 歲者即為未成年人。此一解釋，應係採取下列何項法律解釋方法所得之結果？
(A)當然解釋 (B)文理解釋 (C)擴張解釋 (D)反面解釋
- 20 依憲法增修條文第 5 條規定，危害自由民主憲政秩序之政黨，得由下列何者解散之？
(A)最高法院 (B)最高行政法院 (C)憲法法庭 (D)政黨法庭
- 21 下列有關考試院權限範圍之敘述，何者錯誤？
(A)舉辦記帳士考試 (B)公務人員褒獎之法制事項
(C)舉辦烘焙技術士考試 (D)公務人員之保障事項
- 22 依司法院大法官解釋，關於憲法第 19 條規定人民有依法律納稅之義務，下列敘述何者正確？
(A)租稅構成要件不包含稅率、納稅方法及納稅期間等
(B)課稅事實有無之認定，不屬於租稅法律主義之範圍
(C)給予人民減免稅捐之優惠不適用租稅法律主義
(D)主管機關就租稅法規所為之闡釋，不受一般法律解釋方法之限制
- 23 關於委任契約，下列敘述何者錯誤？
(A)除非經委任人同意或另有習慣，原則上受任人應親自處理委任事務
(B)受任人有將處理事務之進行狀況，向委任人報告之義務
(C)委任為勞務契約之基本類型，故勞務契約不屬於法律所定其他契約之種類者，適用關於委任之規定
(D)委任之授權須以書面為之
- 24 甲託運易碎物品，未告知乙要小心裝卸，致運送時不慎撞毀。甲訴請損害賠償時，法院基於乙不知，而甲卻未預促乙注意，是有怠於避免損害之發生，故減輕乙之賠償金額，稱之為：
(A)損益相抵 (B)過失相抵 (C)限額賠償 (D)生計減輕
- 25 下列何者為罪責（有責性）階層中所要審查的要素？
(A)不法意識（違法性意識） (B)個人減免刑罰事由
(C)客觀可歸責性 (D)因果關係
- 26 甲因故懷恨 X，遂於傍晚攜刀侵入 X 家中，潛伏於 X 床下，擬乘機殺害，但是在 X 返家前就被發覺拿獲。前述情形，依最高法院見解，甲應成立下述何罪？
(A)殺人既遂 (B)殺人未遂 (C)預備殺人 (D)不成立犯罪
- 27 甲畫一幅圖，該圖如欲受著作權保護，其要件為何？
(A)新穎性 (B)原創性 (C)識別性 (D)進步性
- 28 下列有關消費者保護法消費者保護團體之敘述，何者錯誤？
(A)消費者保護團體僅限於財團法人
(B)消費者保護團體就企業經營者重大違反消費者保護法之行為，得向法院訴請停止或禁止之
(C)消費者保護團體可接受消費者申訴，調解消費爭議
(D)主管機關對於績效良好之消費者保護團體得予以財務上之獎助
- 29 依勞動基準法之規定，雇主僱用勞工人數在幾人以上者，應依其事業性質，就相關事項訂立工作規則？
(A)15 人 (B)30 人 (C)50 人 (D)80 人

- 30 依家庭暴力防治法之規定，全國各地的家庭暴力防治中心不處理下列那一項業務？
(A)提供 24 小時電話專線服務
(B)提供被害人 24 小時緊急救援、協助診療、驗傷、採證及緊急安置
(C)核發民事保護令
(D)提供被害人及其未成年子女短、中、長期庇護安置
- 31 My grandparents set out hiking early this morning regardless of the _____ weather conditions.
(A)advanced (B)adverse (C)favorable (D)defective
- 32 Of all the sounds that assault the ears of the first-time visitor to Istanbul, perhaps the call to prayer leaves the most _____.
(A)complaisant (B)indelible (C)obsolete (D)sanguine
- 33 Billboard named Taylor Swift its woman of the year for 2014, the second time she's received that _____ in the award's eight-year history.
(A)distinction (B)dedication (C)administration (D)accusation
- 34 Winnie can no longer _____ the noise coming from his neighbor late at night, so she decides to call the police to help solve the problem.
(A)look out for (B)take away from (C)put up with (D)make up for
- 35 There seemed to be no compelling reason for them to meet again; _____, he wanted to see her right away.
(A)nonetheless (B)likewise (C)consequently (D)hence
- 36 At the end of the 6-month fitness program, Sarah lost 50 pounds. She _____ that it was in fact possible when she first joined the program.
(A)had never to expect (B)was never expected (C)was never to expect (D)had never expected

請依下文回答第 37 題至第 40 題：

The nation's schools may actually do a better job than parents in keeping children fit and trim. A study found that 5- and 6-year-olds gained more weight over the summer than during the school year, casting doubt on the assumption that children are more active during summer vacation. The findings, which come as the issue of childhood obesity is gaining prominence in the US, do not reveal _____ 37 _____ is behind the out-of-school weight gain. The researchers guess it is because the summer months _____ 38 _____ the structure of the school year with its activities and daily comings and goings.

Dough Downey, an Ohio State University sociologist who co-authored the study, said that for many youngsters, the lazy days of summer may offer _____ 39 _____ free time to eat snacks and lounge about watching TV or playing video games. He said the study seems to point to the need for parents to be more involved. It also raises the idea of a longer school year and more after-school programs to _____ 40 _____ children active. And schools should continue their efforts to promote good health, he said. "Clearly the source of children's obesity problems lies outside of the school."

- 37 (A)it (B)that (C)what (D)which
38 (A)lack (B)demand (C)reduce (D)exchange
39 (A)a few (B)little (C)plenty of (D)a large number of
40 (A)let (B)have (C)take (D)keep

請依下文回答第 41 題至第 45 題：

From December 2013 to February 2014, the tremendous success of Korean TV drama, *My Love from the Star*, has helped its production company, SBS, make a great profit. This drama basically tells how an alien, who has lived on earth for 400 years, falls in love with a successful actress during modern days. Apart from having a high viewing rating in South Korea, it has also become a big hit in other Asian countries such as China, where it was streamed billions of times during the time the drama was broadcasted. Many of the products such as clothes, shoes, lipsticks, and sunglasses worn by the leading actress in the show have also created a high demand for the fashion industry. Even the food industry benefited from the success of the show, as a snack of chicken with beer and instant noodles consumed by the main characters in the show have become extremely popular among fans. Sightseeing tours to the sites in Korea shot in the drama have also been made for fans.

Although the plot of *My Love from the Star* may seem unbelievable to some people, its great success lies in the fact that the production company has invested a huge amount of money in shooting each episode, thus enabling the whole drama to receive high approval both from the critics and audiences. Some critics have, in particular, praised the show as being creative in terms of its themes and uses of special effects. Ever since the coming of Korean wave in 1997, this popularity gained by *My Love from the Star* can be seen as a part of this development. Indeed, this admiration with the Korean culture in Asia and around the world is a cultural phenomenon that is worth studying.

- 41 What is the main idea of this passage?
(A)The success of a Korean TV drama (B)The popularity of fashion products
(C)The coming of Korean wave (D)The criticism of a Korean TV drama

- 42 When *My Love from the Star* was streamed in China, what is the form of media that people used to watch or listen to the show?
 (A)TV (B)Radio (C)The Internet (D)Cinema
- 43 According to the passage, what would people do with their craze for the drama?
 (A)They pursued the stars wherever they went.
 (B)They bought the products shown in the drama.
 (C)They learned how to make the food displayed in the show.
 (D)They donated a lot of money to the show.
- 44 According to the passage, why was *My Love from the Star* so successful?
 (A)Because of its attractive protagonists (B)Because of its highly creative themes and special effects
 (C)Because it meets the tastes of many Asian audiences (D)Because it speaks to the needs of modern people
- 45 What does the term, the Korean wave, mean in this passage?
 (A)It is about the conflict between the two Koreas. (B)It means that South Korea has become a stronger nation.
 (C)It describes the success of Korean economy. (D)It refers to the greater interest in South Korean culture.

請依下文回答第 46 題至第 50 題：

The earliest tattoos found are more than 5,000 years old. In 1991, a 5,300-year-old mummy was discovered in the Alps. He had more than 50 tattoos on various parts of his body, and he is the oldest human ever found to have tattoos. The rationale of tattoos has differed from one culture to another over the centuries. According to history, Egyptians used tattoos to differentiate slaves and peasants. Tattoos spread to China and then to Greece around 2,000 B.C. where they were used as a mode of communication between spies.

The word “tattoo” was first brought to the English language after Captain Cook’s voyages to Tahiti in 1771. Western sailors then began to adopt tattooing. In the early 19th century, tattooing became very popular with criminals and the working class in Britain and the US; hence the association of tattoos with those belonging to a lower social class. Tattooing retained a negative image until its recent revival as a mainstream symbol of individuality.

There are many reasons why people nowadays choose to have a tattoo, and the media is a big influence behind the popularity of tattoos. Tattoos can be seen on people appearing in commercials selling expensive cars. Famous sports heroes and fashion models with tattoos are often seen wearing designer clothes. Tattoos are so linked to ideas of wealth, success, and status that many people would decide to get a tattoo for its fashion and status value. Moreover, some people wear tattoos to express their artistic nature, their beliefs, or their feelings—their individuality. A musician in a rock band may get a tattoo of a guitar on the arm. Some environmentalists may tattoo pictures of endangered animals on their shoulders. Lovers may tattoo each others’ names over their heart. A tattoo can be a public sign to show what is important in a person’s life.

- 46 What is the first paragraph mainly about?
 (A)The history of tattoos (B)The popularity of tattoos
 (C)The psychology of tattoos (D)The negative image of tattoos
- 47 According to the passage, what function did the tattoos serve in ancient Greece?
 (A)As a token of goodwill (B)As a symbol of social status
 (C)As a punishment in disguise (D)As a secret means of conveying information
- 48 According to the passage, when was the word “tattoo” first introduced to Europeans?
 (A)Around 2000 B. C. (B)In the late twentieth century
 (C)In the late eighteenth century (D)In the early nineteenth century
- 49 Which of the following is NOT mentioned in the passage as a reason for a person to get a tattoo?
 (A)To display high social rank (B)To make a fashion statement
 (C)To maintain a healthy body (D)To show passion and devotion for a loved one
- 50 What is the author’s attitude toward tattooing?
 (A)Suspicious (B)Neutral (C)Disdainful (D)Indifferent