

# 110年公務、關務人員升官等考試、110年交通 事業公路、港務人員升資考試試題

代號：2501  
頁次：5-1

等 級：佐級晉員級

類科(別)：各類別一公路、港務

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 刑法上的罪刑相當原則，是憲法上何種原則的體現？  
(A)平等原則 (B)比例原則 (C)不當聯結禁止原則 (D)依法審判原則
- 2 下列何者並非憲法及增修條文中關於社會安全制度之規定？  
(A)國家為謀社會福利，應實施社會保險制度  
(B)國家對於身心障礙者應予保障，並扶助其自立與發展  
(C)國家對於社會救助和國民就業等救濟性支出應優先編列  
(D)國家應獎勵與扶助合作事業
- 3 關於民主原則，下列敘述何者錯誤？  
(A)民主的實踐包括直接民主與代議民主等形式  
(B)採行虛位君主制之國家，仍可能是民主國家  
(C)必須實行創制複決之直接民主制度，才符合民主原則  
(D)民主原則的核心要求是國民主權
- 4 依司法院大法官解釋意旨，甲於網路上散布乙的負面消息，乙對甲提起誹謗自訴。關於甲的法律責任，下列敘述何者正確？  
(A)甲若能證明其所述在客觀上為真實，即能免責  
(B)甲若能證明其係就可受公評之事為善意評論，即能免責  
(C)甲若非新聞記者，即使證明其有相當理由確信所述為真實，仍不得免責  
(D)乙毋須舉證甲具有誹謗之故意
- 5 關於憲法對宗教信仰自由之保障，下列敘述何者錯誤？  
(A)兵役法規定成年男子均有服兵役之義務，非為助長、促進或限制宗教而設  
(B)對於因宗教信仰而再次拒服兵役者予以處罰，違反一行為不二罰原則  
(C)如法律限制之信仰自由越趨近內在信仰核心，其受保障程度就越接近絕對保障  
(D)信仰實踐行為，因可能妨礙他人權利、損及公益或影響公序良俗，仍僅受憲法相對之保障
- 6 下列何種情況，不涉及憲法保障之一般行為自由？  
(A)警察禁止受酒測檢驗者，未受檢驗前離開受檢驗處  
(B)陳情人民停留於陳情之行政機關辦公大樓前，遭保全人員驅離  
(C)犯罪嫌疑人遭羈押  
(D)汽車駕駛人違規，接受道路交通安全講習
- 7 依憲法或憲法增修條文規定，有關總統與立法院間關係，下列敘述何者正確？  
(A)立法院得對總統提出不信任案  
(B)總統、副總統均缺位時，由行政院院長代行總統職權  
(C)總統之罷免案，經憲法法庭判決成立時，即為通過  
(D)總統得主動解散立法院
- 8 關於共和國原則，下列敘述何者正確？  
(A)實施憲政之君主制即屬共和國  
(B)國家最高實權者如未經人民直接選舉產生，即不具正當性  
(C)不包括君主制  
(D)國家最高實權者有固定任期

- 9 依憲法增修條文規定，有關總統職權，下列敘述何者錯誤？  
(A)總統為避免國家或人民遭遇緊急危難或應付財政經濟上重大變故，得經行政院會議之決議發布緊急命令  
(B)總統為決定國家安全有關大政方針，得設國家安全會議及所屬國家安全局  
(C)總統、副總統之彈劾案，由立法院提出，司法院大法官審理  
(D)總統、副總統之罷免案，經全體立法委員 4 分之 1 之提議，全體立法委員 3 分之 2 之同意後，即行解職
- 10 依大法官解釋意旨，關於行政權之敘述，下列何者錯誤？  
(A)憲法明定行政院為國家最高行政機關，目的在於維護行政一體  
(B)行政分設不同部門之目的係著眼於分工合作，而非使其各自為政  
(C)獨立機關之存在將對行政一體及責任政治有所減損，故其設置應屬例外  
(D)立法者制定關於行政組織之法律時，如未遵循中央行政機關組織基準法之規定，即屬違憲
- 11 立法院得依憲法第 69 條規定召開臨時會，下列敘述何者正確？  
(A)立法院院會及臨時會之召集程序、出席門檻及可議決事項均有所不同  
(B)立法院臨時會之召開，以決議召開臨時會之特定事項為限  
(C)立法院休會期間提出行政院院長不信任案時，立法院應立即召開臨時會議審議之  
(D)立法院得經全體立法委員 2 分之 1 以上連署，對行政院院長提出不信任案
- 12 大法官解釋關於平等權審查基準，下列敘述何者錯誤？  
(A)以性傾向作為分類標準所為之差別待遇，其手段與目的之達成間須具有實質關聯  
(B)法律為貫徹立法目的，而設刑事追訴審判之規定時，如就必要共犯撤回告訴之效力形成差別待遇者，因攸關刑罰制裁，則須與立法目的間具有合理關聯  
(C)法規範所採取之分類如未涉及可疑分類，且其差別待遇並不涉及攸關個人人格發展及人性尊嚴之重要基本權利，採寬鬆標準予以審查  
(D)以受規範對象是否再任私立學校職務及支領超過法定基本工資之薪酬為分類標準，規定是否停止其原得領受之月退休金權利，其手段與目的之達成間須具有實質關聯
- 13 依憲法訴訟法，憲法法庭所得審理之事項，不包括下列何者？  
(A)總統彈劾 (B)統一法令解釋 (C)政黨違憲解散 (D)公務員懲戒
- 14 憲法第 80 條規定：「法官須超出黨派以外，依據法律獨立審判，不受任何干涉。」下列何者不屬於本條規定衍生之原則？  
(A)依法審判原則 (B)司法獨立原則 (C)法官利益迴避原則 (D)司法權優位原則
- 15 依司法院大法官解釋意旨，地方自治之本質為何？  
(A)制度性保障 (B)住民主權 (C)固有權 (D)基本權
- 16 關於法院組織法所新增大法庭之規定，以下敘述何者正確？  
(A)大法庭的判決係由庭長會議決議，但不可拘束下級法院  
(B)大法庭裁定僅針對個案判決有效，不具有抽象規範效力  
(C)大法庭由大法官組成，可針對個案做憲法解釋  
(D)大法庭頒布之判例要旨，對下級法院之判決有拘束力
- 17 關於法律之效力，下列敘述何者正確？  
(A)立法院所制定之法律，於我國領域內僅對中華民國國民有效  
(B)法官於審理具體案件時，得適用已經立法院政黨協商程序之法律案  
(C)法律案經立法院通過並由總統公布施行後，始得成為大法官解釋之標的  
(D)預算性質上屬措施性法律，其效力原則上不設期限，得於次年度繼續沿用
- 18 關於自治法規與委辦規則之效力，下列敘述何者錯誤？  
(A)委辦規則牴觸憲法、法律、中央法令者，由委辦機關予以函告無效  
(B)除罰鍰之處罰外，自治條例得規定處以其他種類行政罰，包含勒令停工、停止營業、吊扣執照等不利處分  
(C)自治法規須經上級政府核定者，核定機關應於 1 個月內為核定與否之決定，逾期視為未獲核定  
(D)地方自治團體為辦理上級機關委辦事項，除基於法律或中央法規之授權外，尚得依其法定職權訂定委辦規則

- 19 依憲法及增修條文之規定，有關監察院權限，下列敘述何者錯誤？  
(A)監察院得對司法院人員提出彈劾案  
(B)監察院得對考試院的部會提出糾正案  
(C)監察院得對地方公務人員提出糾舉案  
(D)監察院為行使監察權，得對行政院行使調查權
- 20 依據行政程序法之規定，關於行政行為，下列敘述何者錯誤？  
(A)無正當理由，不得為差別待遇  
(B)應保護人民正當合理之信賴  
(C)行政行為之內容應明確，不得使用不確定法律概念  
(D)行政機關行使裁量權應符合法規授權之目的
- 21 關於總統與立法院間之關係，下列敘述何者錯誤？  
(A)立法院得聽取總統國情報告  
(B)立法院得提出總統彈劾案  
(C)立法院得提出總統罷免案  
(D)立法院得對總統提出不信任案
- 22 有關法律制定及生效之規定，下列敘述何者正確？  
(A)法規應規定施行日期，不得授權以命令規定之，以符合明確性  
(B)法規明定發布日施行者，自發布之日起算至第三日起發生效力  
(C)法規特定有施行日期者，自該特定日起算至第三日起發生效力  
(D)法規不得定有施行區域，因法律係針對不特定人權益所為之規範
- 23 私法的法律行為中，有負擔行為與處分行為的分類，下列敘述何者錯誤？  
(A)買賣契約屬於處分行為  
(B)土地所有權移轉契約屬於處分行為  
(C)動產所有權拋棄屬於處分行為  
(D)僱傭契約屬於負擔行為
- 24 債務人就其故意或過失之行為，應負責任。關於過失責任，下列敘述何者錯誤？  
(A)故意或重大過失之責任，不得預先免除  
(B)債務人為無行為能力人或限制行為能力人者，僅就具體輕過失之行為，負其責任  
(C)應與處理自己事務為同一注意者，如有重大過失，仍應負責  
(D)過失之責任，依事件之特性而有輕重，如其事件非予債務人以利益者，應從輕酌定
- 25 關於刑之加重或減輕，下列敘述何者正確？  
(A)無期徒刑減輕者，為三十年以下二十年以上有期徒刑  
(B)死刑減輕者，為無期徒刑或十年以上有期徒刑  
(C)有期徒刑減輕者，減輕其刑至三分之一  
(D)罰金有加重或減輕者，最高度及最低度同加減之
- 26 自然人甲受僱於乙公司，負責撰寫廣告文案與美術設計，且甲乙間以契約約定以乙公司為著作人，著作財產權歸乙公司享有。有關甲於職務上所完成之美術著作，下列敘述何者正確？  
(A)法人不得為著作人，故甲乙間契約無效，系爭美術著作之著作人仍為甲  
(B)甲乙間既然已經締結契約約定以雇用人為著作人，即應從其約定，故系爭美術著作之著作人為乙公司  
(C)為保障受雇人之權益，受雇人於職務上完成之著作，應由受雇人與雇用人成為共同著作人。故甲乙間契約無效，系爭美術著作之著作人為甲乙二人  
(D)為保障受雇人之權益，無論職務上著作之著作人為甲或乙，其著作財產權均應歸甲享有
- 27 A 遺失高鐵車票。B 撿到後，出售給無重大過失而不知情的 C。A 隨即向高鐵站掛失車票，在無因公示催告宣告為無效之前提下，下列敘述何者正確？  
(A)因為是盜賊遺失物，2 年後 C 始能主張善意取得該車票  
(B)C 不得主張善意取得該車票  
(C)B 得主張無主物先占而取得該車票  
(D)即使是盜賊遺失物，C 仍然可以主張善意取得該車票
- 28 繼承人有開具遺產清冊陳報法院，若違反民法第 1158 條到第 1160 條之規定，致被繼承人之債權人無法完全獲得滿足，下列敘述何者有誤？  
(A)被繼承人之債權人若因此受有損害，繼承人應負賠償責任  
(B)被繼承人之債權人若因此受有損害，對於不當受領之債權人，得請求返還其不當受領之數額  
(C)被繼承人之債權人若因此受有損害，對於不當受領之受遺贈人，得請求返還其不當受領之數額  
(D)被繼承人之債權人若因此受有損害，繼承人對於不當受領之債權人，得請求返還其不當受領之數額

- 29 法官在文義解釋之範圍內，採取符合憲法價值之解釋，下列敘述何者正確？  
(A)解釋憲法是大法官之職權，法官不得依據憲法進行法律解釋  
(B)基於民主原則，法官不得以憲法來解釋法律  
(C)法官為法律解釋時，可依據憲法價值進行體系解釋或目的解釋，不必拘泥於文義解釋  
(D)法官只能依文義進行解釋，否則會破壞權力分立
- 30 針對重大危害之家庭暴力加害人，檢警執行逮捕或拘提程序，下列敘述何者錯誤？  
(A)警察執行拘提時，有急迫情形不及報請檢察官者，仍需於執行後報請檢察官簽發拘票  
(B)警察偵查犯罪，認被告犯家庭暴力罪或違反保護令罪嫌疑重大，且有繼續侵害家庭成員生命、身體或自由之危險，而情況急迫者，得逕行拘提  
(C)檢察官親自執行拘提時，得不用拘票  
(D)警察人員發現家庭暴力罪之現行犯時，不得逕行逮捕，須報請檢察官簽發拘票
- 31 Thomas is an \_\_\_\_\_ student; he always studies hard and prepares for exams.  
(A) auspicious (B) epidemic (C) optical (D) industrious
- 32 The government is building a new \_\_\_\_\_ to protect the neighboring cities from the flood.  
(A) can (B) dam (C) ray (D) yam
- 33 Opportunity is knocking; be ready to \_\_\_\_\_ your chance at success.  
(A) grab (B) grade (C) gaze (D) grant
- 34 \_\_\_\_\_ a picture puzzle helps your brain stay healthy since this exercises not only your motor skills but also your mind.  
(A) Assembling (B) Calculating (C) Evaluating (D) Withdrawing
- 35 The salesman jumped up and down on the sofa to demonstrate how \_\_\_\_\_ it was.  
(A) gallant (B) gracious (C) steep (D) sturdy
- 36 The doctor is popular with patients of all ages for she is always \_\_\_\_\_ to their needs.  
(A) defensive (B) explosive (C) primitive (D) sensitive
- 37 Because of the COVID-19 pandemic, all foreign visitors to our country are required to spend two weeks in \_\_\_\_\_.  
(A) qualification (B) questionnaire (C) quotation (D) quarantine
- 38 As a novice in this field, you had better \_\_\_\_\_ before the experts.  
(A) bite your tongue (B) bring into being (C) make a fuss (D) keep up with
- 39 Research has suggested that long \_\_\_\_\_ to the sunlight may cause harm to your skin.  
(A) expense (B) extension (C) exposure (D) expansion
- 40 The conflict between the two regions has lasted for two decades; now the ceasefire just signed is expected to help create \_\_\_\_\_.  
(A) torture (B) tension (C) stability (D) suspense

請依下文回答第 41 題至第 45 題

I'm pretty sure none of this would have happened if I hadn't been fired from Apple. It was awful tasting medicine, but I guess the patient needed it. Sometimes life hits you 41 the head with a brick. Don't lose faith. I'm 42 that the only thing that kept me going was that I loved what I did. You've got to find what you love. And that is as true for your work 43 it is for your lovers. Your work is going to 44 a large part of your life, and the only way to be truly satisfied is to do 45 you believe is great work. And the only way to do great work is to love what you do. If you haven't found it yet, keep looking. Don't settle.

- 41 (A) in (B) to (C) off (D) like  
42 (A) confused (B) annoyed (C) convinced (D) appointed  
43 (A) since (B) because (C) if (D) as  
44 (A) fill (B) cause (C) cost (D) favor  
45 (A) how (B) what (C) who (D) when

請依下文回答第 46 題至第 50 題

We like music because it makes us feel good. But why does it make us feel good? Neurologists have utilized magnetic resonance imaging to show that people listening to pleasurable music had activated brain regions called the limbic and paralimbic areas, which are connected to euphoric reward responses, like those we experience from sex, good food and addictive drugs. Those rewards come from a gush of a neurotransmitter called dopamine.

But why? It's easy enough to understand why sex and food are rewarded with a dopamine rush: this makes us want more, and so contributes to our survival and propagation. But why would a sequence of sounds with no obvious survival value do the same thing? The truth is no one knows. However, we now have many clues to why music provokes intense emotions. The current favorite theory among scientists who study the cognition of music – how we process it mentally – dates back to 1956, when the philosopher and composer Leonard Meyer suggested that emotion in music is all about what we expect, and whether or not we get it. Meyer drew on earlier psychological theories of emotion, which proposed that it arises when we're unable to satisfy some desire. That creates frustration or anger – but if we then find what we're looking for, be it love or a cigarette, the payoff is all the sweeter. This is what music does too. It sets up sonic patterns and regularities that tempt us to make unconscious predictions about what's coming next. If we're right, the brain gives itself a little reward – as we'd now see it, a surge of dopamine. The constant dance between expectation and outcome thus enlivens the brain with a pleasurable play of emotions.

Since it's not as if our life depended on them, why should we care whether our musical expectations are right or not? Perhaps once it did. Making predictions about our environment – interpreting what we see and hear on the basis of only partial information – could once have been essential to our survival, and indeed still often is, for example when crossing the road. And involving the emotions in these expectations could have been a smart idea. On the African savannah, our ancestors did not have the luxury of mulling over whether that screech was made by a harmless monkey or a predatory lion. By bypassing the “logical brain” and taking a shortcut to the primitive limbic circuits that control our emotions, the mental processing of sound could prompt a rush of adrenalin – a gut reaction – that prepares us to get out of there anyway.

We all know that music has this direct line to the emotions. We can't turn off this anticipatory instinct, nor its link to the emotions – even when we know that there's nothing life-threatening in a Mozart sonata.

46 According to the passage, which of the following can be inferred?

- (A) Music can be linked to emotion majorly at the subconscious level.
- (B) Positive reward responses are linked to dancing accompanied with music.
- (C) The neural chemical substance activated by music differs from that by food.
- (D) The involvement of emotion in anticipation of musical patterns is purely aesthetic.

47 What is the major purpose of Paragraph Two?

- (A) To exhibit how researchers examined the neurological responses to music.
- (B) To show the deficiency in psychological research on music and emotion.
- (C) To explain how human's perception of music is critical to the need of survival.
- (D) To attempt a link between emotion in music and neurological reward responses.

48 Which of the following is closest in meaning to primitive in the passage?

- (A) fragmentary.                      (B) rudimentary.                      (C) supplementary.                      (D) complementary.

49 What does it in the third paragraph refer to?

- (A) life.                      (B) music.                      (C) emotion.                      (D) expectation.

50 Which of the following is correct about the sentiment we experience from music?

- (A) The sentiment may be derived from whether the patterns of tunes fit listeners' anticipation.
- (B) That the sentiment in music could stimulate the same neurotransmitter as in sex was reported in 1956.
- (C) The fundamental principle of having positive sentiment is that people need to dance along with music.
- (D) The sentiment from listening to music is more intense than from a good meal or an intimate relationship.