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102年公務人員特種考試關務人員考試、102年公務人員特種考試稅務人員考試、102年公務人員特種考試海岸巡防人員考試、102年公務人員特種考試移民行政人員考試、102年特種考試退除役軍人轉任公務人員考試及102年國軍上校以上軍官轉任公務人員考試試題

等 別：三等稅務人員考試、三等海岸巡防人員考試、三等移民行政人員考試、三等退除役軍人轉任考試

類(科)別：各科別、移民行政、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。

- B 1 依據憲法本文規定，下列何者間之關係應本協調合作原則？  
(A)地主與佃農 (B)勞資雙方 (C)執政黨與在野黨 (D)中央與地方
- C 2 依總統副總統選舉罷免法之規定，有關總統副總統罷免之敘述，下列何者錯誤？  
(A)罷免案之投票，中央選舉委員會應於收到立法院移送之罷免理由書及答辯書次日起 60 日內為之  
(B)罷免案之投票，不得與各類選舉之投票同時舉行  
(C)總統、副總統之罷免案，皆應聯名為之  
(D)罷免票應在票上刊印同意罷免、不同意罷免二欄
- C 3 刑事訴訟法規定，羈押之被告僅得向原法院聲請撤銷或變更該處分，不得提起抗告，係限制被告之何種基本權利？  
(A)請願權 (B)訴願權 (C)訴訟權 (D)復審權
- B 4 監督寺廟條例規定特定寺廟處分或變更其不動產應經所屬教會之決議，並呈請該管官署許可，涉及下列何種基本權利之限制？  
(A)集會自由及財產權 (B)宗教自由及財產權 (C)宗教自由及人格權 (D)人格權及人性尊嚴
- C 5 非政黨推薦者，必須依連署方式始得申請登記為總統、副總統候選人，並應繳交連署保證金新臺幣 100 萬元之規定，依司法院解釋，下列何者正確？  
(A)相較於依政黨推薦方式申請登記為總統、副總統候選人者無須連署及繳交連署保證金之規定，顯與憲法平等原則有違  
(B)此已侵害憲法第 45 條規定之總統、副總統被選舉權  
(C)此為防止人民任意參選，耗費社會資源，在合理範圍內所為之適當規範，尚難認為對總統、副總統之被選舉權為不必要之限制  
(D)強制被選舉人先行負擔鉅額之連署費用，係對總統、副總統被選舉權之不當限制，與憲法第 23 條有所違背
- B 6 徵兵機關就役男之體位判定，依司法院解釋，下列敘述何者正確？  
(A)此屬醫師依專門知識就役男體格之技術性判斷，除其判定之程序違法外，不應作為司法審查之標的  
(B)此對役男在憲法上之權益有重大影響，得依法提起訴願及行政訴訟  
(C)「體位判定」尚不直接決定役男之服役或軍種，對役男尚未發生法律效果  
(D)役男之體位判定非屬對役男在憲法上權益之重大影響，故不得聲請釋憲
- B 7 依司法院解釋，法律規定人民入出境應經主管機關許可，否則予以刑罰制裁，係違反下列何種原則？  
(A)平等原則 (B)比例原則 (C)誠信原則 (D)法律保留原則
- D 8 下列對於憲法上人民權利之敘述，何者錯誤？  
(A)私法人在權利性質許可範圍內，亦享有憲法上之權利保障  
(B)憲法之所以保障集會自由，主要在保障集體之言論表現自由  
(C)外國人亦得享有生存權之保障  
(D)憲法第 8 條保障之人身自由，主要係保障人民之居住遷徙自由
- C 9 立法院至少得經多少立法委員之提議，於院會決議後，由程序委員會排定議程，就國家大政方針，聽取總統國情報告？  
(A)全體立法委員二分之一 (B)全體立法委員三分之一  
(C)全體立法委員四分之一 (D)全體立法委員五分之一
- B 10 關於憲法第 108 條所規定，屬於中央立法並執行，或交由省縣執行之各款事項中，何者已因憲法增修條文第 9 條第 1 項之規定，而無實際之立法及執行？  
(A)移民及墾殖 (B)省縣自治通則  
(C)全國戶口調查及統計 (D)行政區劃
- B 11 有關我國憲法前言之敘述，下列何者錯誤？  
(A)司法院在釋字第 3 號曾援引憲法前言之國父遺教，作為理論依據  
(B)憲法前言指出：立法院受全體國民之付託，制定本憲法  
(C)憲法前言指出：為鞏固國權，保障民權，制定本憲法  
(D)憲法前言指出：為奠定社會安寧，增進人民福利，制定本憲法

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- C 12 憲法法庭審理政黨違憲解散案件之程序，除法律另有規定外，原則上準用下列何者之規定？  
(A) 民事訴訟法 (B) 刑事訴訟法 (C) 行政訴訟法 (D) 行政程序法
- B 13 司法院接受人民聲請憲法解釋案件，應先推定大法官幾人審查？  
(A) 2 人 (B) 3 人 (C) 4 人 (D) 5 人
- C 14 審計長應於行政院提出決算後最遲幾個月內，依法完成其審核，並提出審核報告於立法院？  
(A) 1 個月 (B) 2 個月 (C) 3 個月 (D) 6 個月
- C 15 依憲法增修條文之規定，行政院向立法院提出之覆議案，經全體立法委員二分之一以上決議維持原案時，行政院院長：  
(A) 得呈請總統解散立法院 (B) 應即辭職  
(C) 應即接受該決議 (D) 應到立法院作施政報告
- A 16 下列何種情形違反性別工作平等法之規定？  
(A) 雇主於受僱者之配偶分娩時，給予無薪資之陪產假 3 日  
(B) 僱用受僱者 30 人以上之雇主，應訂定性騷擾防治措施、申訴及懲戒辦法  
(C) 雇主允許受僱於僱用 30 人以上雇主之受僱人，為撫有未滿 3 歲之子女，得請求調整工作時間  
(D) 僱用受僱者 250 人以上之雇主，應設置托兒設施
- A 17 下列關於勞工工作年資之計算，何者錯誤？  
(A) 勞工因遭遇職業災害之醫療期間，雇主不得終止契約，但職業災害醫療期間之年資，應予扣除，不得併計  
(B) 定期契約屆滿後或不定期契約因故停止履行後，未滿 3 個月而訂定新約或繼續履行原約時，勞工前後工作年資，應合併計算  
(C) 勞工工作年資以服務同一事業者為限，但受同一雇主調動之工作年資，應予併計  
(D) 事業單位改組或轉讓時，由新舊雇主商定留用之勞工，其工作年資應由新雇主繼續予以承認
- D 18 下列關於股份有限公司股東表決權之敘述，何者錯誤？  
(A) 普通股股東為一股一表決權  
(B) 公司持有自己的股份無表決權  
(C) 相互投資公司所得行使之表決權，不得超過被投資公司已發行有表決權股份總數的三分之一  
(D) 被持有已發行有表決權之股份總數或資本總額超過半數之從屬公司持有控制公司之股份，得行使表決權
- D 19 甲公司係提供瘦身產品及服務之企業，乙慕名而來並加入會員。一日，乙在使用運動器材時，因鍊條鬆脫導致鉛塊掉落砸傷經過乙身旁的會員丙。經查，該鍊條鬆脫係因丁製造商設計瑕疵所致。下列敘述，何者正確？  
(A) 因為是丁製造商的產品有瑕疵，所以丙不得向甲公司求償  
(B) 因為丙是甲公司的會員，所以丙僅得向甲公司求償  
(C) 因為器材是乙使用過程中發生的問題，所以丙僅得向乙求償  
(D) 甲公司與丁製造商都是企業經營者，故丙可以向甲公司、也可以向丁製造商求償
- A 20 甲先犯重傷罪，一個月後又犯過失致人於死罪。重傷害罪經法院宣告判處有期徒刑 5 年 6 月，過失致死罪宣告判處 2 年有期徒刑，兩罪為數罪併罰。試問法官定應執行刑時，所定之下列那一個應執行刑違反刑法第 51 條規定？  
(A) 5 年有期徒刑 (B) 5 年 8 月有期徒刑 (C) 6 年有期徒刑 (D) 7 年 2 月有期徒刑
- A 21 下列有關撤銷身分行為之敘述，何者正確？  
(A) 收養子女未得配偶之同意者，該配偶有撤銷權  
(B) 因被詐欺或脅迫而為結婚之當事人，雙方當事人皆有撤銷權  
(C) 未成年子女於懷胎後未經父母同意而結婚時，其父母有撤銷權  
(D) 生父因被詐欺而認領有血緣連絡之非婚生子女者，生父有撤銷權
- B 22 寄發黑函之行為，有可能涉及誣告罪，依最高法院之見解，下列有關誣告罪之敘述，何者正確？  
(A) 無告訴權人所為之誣告，不構成誣告罪  
(B) 一狀誣告數人，僅成立一個誣告罪  
(C) 誣告內容是否真實，應以行為人之主觀記憶作為判斷標準  
(D) 誣告尚未達到該管公務員，應論以誣告罪未遂罰之
- B 23 有關占有之敘述，下列何者正確？  
(A) 占有不得為侵權行為之客體  
(B) 善意占有有人是無權占有  
(C) 典權人占有典物，是自主占有  
(D) 受僱人受僱用人指示而占有其物時，受僱人是直接占有人
- B 24 下列關於代理的敘述，何者正確？  
(A) 代理人為限制行為能力人者，其所為或所受之意思表示，視為其法定代理人所為或所受之意思表示  
(B) 代理權經限制或撤回者，對於因過失而不知其事實的第三人，本人就其已經限制或撤回的部分，不負授權人之責任  
(C) 原則上，代理權於其所由授與之法律關係存續中，不得撤回之  
(D) 代理權消滅或撤回時，代理人得保留原授權書
- C 25 依司法院解釋，下列何者違反法律保留原則？  
(A) 最高行政法院庭長法官聯席會議將簡易訴訟程序之訴訟標的金額提高  
(B) 公務人員曾任公營事業人員者，其服務於公營事業之期間，得否併入公務人員退休年金年資，由授權命令定之  
(C) 因法無明文，內政部以「自耕能力證明書之申請及核發注意事項」規定學生不得申請自耕能力證明書  
(D) 因法無明文，公務人員保險金請求權，應類推適用公務人員退休法關於退休金請求權消滅時效期間之規定

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- D 26 下列那一個情形中，行政機關基於信賴保護原則而應給予人民合理之補償？  
(A)行政機關基於人民提出不完整之文件，認定其具有中低收入戶資格，嗣後經查證而撤銷中低收入戶之資格認定  
(B)人民因於食品中添加塑化劑，並拒絕行政機關之抽查，行政機關依食品衛生管理法之規定廢止其營業執照  
(C)行政機關發現領有營業小客車執業登記證之人民，曾吸食毒品經判刑確定，依法不得登記，撤銷其登記證  
(D)行政機關核發人民加油站之建造執照，後因該加油站距離醫院過近，基於公共安全之考量而廢止建造執照
- A 27 動物保護法第 19 條第 3 項規定：「前項寵物之登記程序、期限、絕育獎勵與其他應遵行事項及標識管理辦法，由中央主管機關定之。」中央主管機關基於本項規定，應進行一定程序，以訂定管理辦法。下列關於人民參與管理辦法訂定程序之敘述，何者錯誤？  
(A)人民應信任中央主管機關具有研擬草案之專業，不得自行提議  
(B)人民可由政府公報或新聞紙中，獲悉中央主管機關研擬之草案  
(C)中央主管機關得視情形舉行聽證，人民可參與聽證程序，表達其意見  
(D)中央主管機關如未舉行聽證程序，人民亦得向指定之機關陳述其意見
- D 28 民法第 1 條規定：「民事，法律所未規定者，依習慣；無習慣者，依法理。」本條可以視為下列何種法學思想的實踐？  
(A)概念法學 (B)機械法學 (C)契約自由 (D)自由法運動
- B 29 現行社會秩序維護法關於從事性交易的處罰，何者說明錯誤？  
(A)處罰對象為從事性交易的雙方  
(B)於地方政府所設之性交易專區之內，得合法從事性交易  
(C)性交易場所未依法辦理登記、領有執照，不得經營  
(D)違法從事性交易之行爲，除科處罰鍰外，尚可處 3 日以下拘留
- B 30 原社會秩序維護法第 80 條有關意圖得利與人姦、宿者，應處罰鍰之規定，遭司法院大法官宣告違憲之原因為何？  
(A)對性交易之處罰過重，違反比例原則  
(B)僅對從事性交易一方處罰，違反平等原則  
(C)無法律依據即處罰從事性交易之行爲，違反法律保留原則  
(D)剝奪人民從事性交易營生機會，侵害工作權
- A 31 When young people travel, many of them would choose to stay at a youth hostel, a cheap \_\_\_\_\_ where ten or more people sleep in one room.  
(A) accommodation (B) compliance (C) furnishing (D) installation
- B 32 If you must ride your bicycle at night, you need to wear light or bright-colored clothing to increase your \_\_\_\_\_ to oncoming traffic.  
(A) perception (B) visibility (C) recognition (D) sensitivity
- D 33 *Randall & Hopkirk (Deceased)* is a British television series about two private detectives, one alive, one dead, played \_\_\_\_\_ by comedians Vic Reeves and Bob Mortimer.  
(A) rightfully (B) privately (C) personally (D) respectively
- A 34 It has become a tradition for this company to \_\_\_\_\_ ten percent of its annual profits to charities or organizations that help people in need.  
(A) allocate (B) constitute (C) dispatch (D) establish
- C 35 Flaubert was extremely \_\_\_\_\_: by the age of sixteen he was writing stories in the romantic taste, which were published only after his death.  
(A) critical (B) immature (C) precocious (D) theoretical
- A 36 Being entirely \_\_\_\_\_ by land and with no access to the ocean, the country cannot easily transport its products to other countries.  
(A) enclosed (B) manipulated (C) polarized (D) refilled
- A 37 Most people living in the suburbs take the \_\_\_\_\_ train to their offices in the city every day.  
(A) commuter (B) freight (C) stationary (D) voyage

請依下文回答第 38 題至第 42 題

At the start of the Dark Ages, there were no galaxies, no stars, and no planets. Even if there had been, we would not be able to spot them. That is because hydrogen-gas clouds are nearly opaque to 38 light. No ordinary 39 will ever be able to see what happened afterward. 40 somehow the matter that started as a sea of individual atoms managed to transform itself into something more. So back in the early 1990s, Avi Loeb at Harvard University began lobbying theorists to make a major push to 41 through computer simulations how the first stars formed. The plan was to 42 the young universe digitally, plug in equations for the relevant physics, and see what must have happened.

- A 38 (A) visible (B) visionary (C) visionless (D) visual  
D 39 (A) microscope (B) stethoscope (C) stereoscope (D) telescope  
A 40 (A) Yet (B) Likely (C) Again (D) Perhaps  
B 41 (A) induce (B) deduce (C) reduce (D) seduce  
D 42 (A) re-design (B) re-deliver (C) re-cover (D) re-create

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- D 43 Fashion has always been demonized by moralists, and often represented as a threat to pre-existing models of decorum, gender definitions, and the boundaries between them.  
(A) Fashion, viewed by moralists as a social evil, is believed to represent pre-existing behavior models and gender roles in the society.  
(B) Fashion is a threat to established models of good manners and gender roles which have long been criticized by moralists.  
(C) Moralists have always criticized fashion for its potential to destroy new decorum models and gender roles.  
(D) Moralists have long viewed fashion as an evil that threatens good behavior and clearly-defined gender roles in the society.
- C 44 Making a good first impression begins with a conscious decision to put your best foot forward. And then, whenever possible, you must make the effort to live up to that impression.  
(A) Living up to the first impression is easier once the best foot is put forward.  
(B) It is possible to put your best foot forward every time by remaining conscious.  
(C) It is just as important to make a good first impression as to maintain it at all times.  
(D) The first impression of someone cannot be changed unless it is done with a conscious effort.
- B 45 Officials across the country have been busying themselves with what until three or four years ago would have been an unthinkable task: persuading migrants to stay.  
(A) All officials of the country have been busy with a vital task they should have done three years ago: persuading migrants to stay.  
(B) Officials of the country have been busy persuading migrants to stay, which would have been unthinkable three or four years ago.  
(C) Not until three or four years ago did the officials across the country think of the remarkable task: persuading migrants to stay.  
(D) Officials of the country have been trying hard to ask migrants to stay, which won't be done until three or four years from now.
- A 46 The only way to prevent e-waste from flooding our cities is to carve a new and more responsible direction for it to flow in.  
(A) To design a more reliable new way to store e-waste is the only solution to prevent our cities from being sabotaged by it.  
(B) A more reliable new method to solve the problem of e-waste is the only way for our cities to avoid being flooded.  
(C) In order to stop the circulation of e-waste, innovated and clear instructions are needed in our cities.  
(D) Prevention of e-waste in our flooded cities is the only way to a new and more reliable instruction.
- 編號第 47 題至第 50 題為篇章結構，各題請依文意，從四個選項中選出最合適者，各題答案內容不重複。  
Conditions in which people live vary from place to place. That is, we all live and grow up in different environments. 47 These kinds of differences—and of course, similarities—are studied by cross-cultural psychology. 48 It also explores the ways in which particular human activities are influenced by different, sometimes dissimilar, social and cultural forces.  
49 It also establishes psychological universals, that is, phenomena common for people in several, many, or perhaps all cultures. In general, human personality traits are relatively enduring patterns of thinking, feeling, and acting. 50 For example, it was found that the same composition of personality is common in people in various countries such as Germany, Portugal, Israel, China, Korea, and Japan. These universal traits include neuroticism, extroversion, openness to experience, agreeableness, and conscientiousness.
- C 47 (A) Cross-cultural psychology cares not only about differences between cultural groups.  
(B) Cross-cultural psychology researchers draw their conclusions from at least two samples representing two cultural groups.  
(C) Human actions and mental sets may also fluctuate from group to group.  
(D) In particular, cross-cultural psychology examines the linkages between cultural norms and behavior.
- D 48 (A) Cross-cultural psychology involves more than a single observation made by a psychotherapist.  
(B) Human actions and mental sets may also fluctuate from group to group.  
(C) Cross-cultural psychology researchers draw their conclusions from at least two samples representing two cultural groups.  
(D) In particular, cross-cultural psychology examines the linkages between cultural norms and behavior.
- B 49 (A) Perhaps the structure of human personality is one of such universals.  
(B) Cross-cultural psychology cares not only about differences between cultural groups.  
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- A 50 (A) Perhaps the structure of human personality is one of such universals.  
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