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103年特種考試地方政府公務人員考試試題

等 別：三等考試

類 科：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。

- C 1 依憲法增修條文第 4 條第 4 項之規定，立法院經總統解散後，在新選出之立法委員就職前，係處於何種狀態？
 A 視同未解散，由原立法委員繼續行使職權 B 視同未解散，但原立法委員不得行使職權
 C 視同休會 D 視同解職，原立法委員應選出立法院
- B 2 行政院會議如何組成？
 A 由總統、行政院院長、副院長、各部會首長及不管部會之政務委員組織之
 B 由行政院院長、副院長、各部會首長及不管部會之政務委員組織之
 C 由立法院院長、行政院院長、副院長、各部會首長及不管部會之政務委員組織之
 D 由總統、行政院院長、立法院院長組織之
- C 3 總統於立法院通過對行政院院長之不信任案後，至多於幾日內，得宣告解散立法院？
 A 3 日 B 5 日 C 10 日 D 15 日
- A 4 對於職業自由限制，經由憲法「比例原則」形成所謂「三階說理論」進行檢驗。例如，國家規定不得將菸酒販賣給未滿 18 歲之人，此乃何種限制？
 A 職業執行自由的限制 B 職業選擇之主觀許可要件的限制
 C 職業選擇之客觀許可要件的限制 D 職業限制的不當連結
- C 5 依道路交通管理處罰條例第 37 條規定，曾犯故意殺人、搶劫、搶奪、強盜、恐嚇取財及妨礙性自主等犯罪之人，不得辦理計程車駕駛人執業登記。下列何者並非司法院釋字第 584 號解釋對該條規定所闡述之意見？
 A 限制曾犯以上罪名之人不得從事計程車業，係對工作權之限制
 B 限制曾犯以上罪名之人不得從事計程車業，出於保障乘客與社會之治安，係對工作權的合理限制
 C 限制曾犯以上罪名之人不得從事計程車業，雖屬合憲，但為確保其工作權，國家應提供其他相當之工作機會
 D 主管機關應隨著社會情況之演變，檢討是否有必要繼續限制曾犯以上罪名之人不得從事計程車業
- C 6 憲法第 15 條保障人民的財產權，關於財產權的敘述，何者正確？
 A 財產權乃天賦且神聖，不可有任何限制
 B 對於財產權的限制，例如徵收，國家應該給予賠償
 C 財產權保障，除所有權存續保障外，亦包括財產權價值保障
 D 財產權非屬制度性保障
- A 7 依司法院解釋，下列關於資訊隱私權之敘述，何者錯誤？
 A 憲法對資訊隱私權之保障乃係絕對之權利
 B 指紋乃重要之個人資訊，個人對其指紋資訊之自主控制，受資訊隱私權之保障
 C 資訊隱私權乃保障人民決定是否揭露其個人資料之權利
 D 資訊隱私權保障人民對其個人資料之使用有知悉與控制權及資料記載錯誤之更正權
- B 8 立法院法律案通過後，移送總統及行政院，總統應於收到後至遲幾日內公布：
 A 5 日 B 10 日 C 15 日 D 30 日
- C 9 依國家賠償法之規定，國家在下列那一種人員所生之國家賠償責任的責任範圍，有明顯限制？
 A 公有公共設施之管理人員 B 受委託行使公權力之團體
 C 有審判或追訴職務之公務員 D 受委託行使公權力之個人
- A 10 我國憲法上關於基本權利保障，其中何者在大法官憲法解釋中，曾被稱之為具有「憲法保留」性質？
 A 人身自由 B 言論自由 C 生存權 D 訴訟權
- D 11 依憲法規定下列事項之變更，何者無須經我國自由地區選舉人投票複決通過：
 A 憲法修正案 B 領土變更案 C 總統、副總統之罷免案 D 法律案
- C 12 下列對修憲之敘述，何者正確？
 A 修憲為行政行為
 B 如有重大明顯瑕疵雖有違法但仍生效力
 C 不得牴觸憲法中具本質之重要性而為規範秩序存立基礎者
 D 程序無須公開透明
- D 13 下列何者非地方自治團體？
 A 花蓮縣 B 臺東市 C 臺南市 D 臺中市北屯區

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- B 14 直轄市議員、縣（市）議員、鄉（鎮、市）民代表除現行犯、通緝犯外，在下列何項期間內，非經直轄市議會、縣（市）議會、鄉（鎮、市）代表會之同意，不得逮捕或拘禁？
 (A)國慶期間 (B)議會會期內 (C)議會休會期內 (D)任職期間
- B 15 直轄市政府應於會計年度開始，至遲幾個月前將總預算案送達直轄市議會審議？
 (A)2 個月 (B)3 個月 (C)4 個月 (D)6 個月
- D 16 依司法院解釋，下列何種事項得由法律授權，以法規命令定之？
 (A)換發國民身分證時，全面性蒐集人民指紋資料
 (B)國民服兵役、應召集之事項及其違背義務之制裁手段
 (C)公務員免職之構成要件
 (D)曾任公營事業人員轉任公務人員之退休相關權益事項
- D 17 下列關於法律種類的劃分，何者非屬相對應的概念？
 (A)實體法與程序法 (B)國際法與國內法 (C)成文法與非成文法 (D)固有法與強行法
- B 18 下列關於股份有限公司章程之敘述，何者錯誤？
 (A)公司發行特別股時，章程應訂特別股之種類及其權利義務
 (B)章程應訂股份總數與每股金額，依公司法規定，股份有限公司每股金額一律為新臺幣 10 元
 (C)章程得載明分公司之設立
 (D)章程得載明公司解散事由
- C 19 甲為公務員，乙非公務員，下列有關受賄罪之敘述，何者正確？
 (A)甲與乙共同收受賄賂，乙不成立收受賄賂罪之共同正犯
 (B)乙教唆甲收受賄賂，乙不成立收受賄賂罪之教唆犯
 (C)甲幫助乙收受賄賂，甲不成立收受賄賂罪之幫助犯
 (D)甲與乙共同收受賄賂，兩人各自成立收受賄賂罪
- B 20 甲基於無因管理，幫乙對丙清償債務。事後發現，其實乙對丙的債務根本不存在，丙應將所得金錢，向誰返還？
 (A)甲 (B)乙
 (C)向甲乙任一人為返還，因為甲乙為連帶債權人 (D)向甲乙共同返還，因為甲乙為不可分債權人
- D 21 甲、乙、丙共有 A 地，應有部分各為三分之一，甲以其應有部分設定抵押於庚後，甲、乙、丙三人協議分割 A 地。下列敘述，何者正確？
 (A)分割契約一經成立，甲、乙、丙三人即取得所分得部分之所有權
 (B)分割契約一經成立，甲、乙、丙三人絕不能再起訴請求分割共有物
 (C)A 地分割後，庚之抵押權當然僅存在於甲所分得之部分
 (D)庚同意分割，其抵押權移存於甲所分得之部分
- C 22 甲出租其汽車予乙使用，租期屆滿後，甲出售該車於丙，甲、丙合意讓與所有權後，甲並讓與其對乙之返還請求權於丙。下列敘述，何者正確？
 (A)乙交付汽車於丙時，丙才取得汽車所有權
 (B)甲讓與其對乙之返還請求權於丙，謂之「簡易交付」
 (C)甲讓與其對乙之返還請求權於丙時，丙即取得汽車所有權
 (D)丙須至監理站辦理過戶，才能取得汽車所有權
- A 23 下列何者規定非屬對債權人之保護？
 (A)繼承人之生前特種贈與應加入應繼財產
 (B)可向法院聲請命繼承人於 3 個月內提出遺產清冊
 (C)繼承人在繼承開始 2 年內，從被繼承人受有財產之贈與者，該財產視為其所得遺產
 (D)對於夫妻一方之財產已為扣押，而未得受清償時，可向法院聲請宣告改用分別財產制
- B 24 甲與乙訂立 A 畫買賣契約，價金 2 百萬元，乙先交付定金 20 萬元，該畫在交付前因不可歸責於雙方之事由焚燬。有關定金之效力甲乙間並無約定，下列敘述何者正確？
 (A)甲不須返還定金 (B)甲應返還定金
 (C)定金作為乙應支付價金之一部 (D)甲應加倍返還定金予乙
- D 25 甲乙為夫妻，未約定財產制，甲外出工作，乙為家庭主婦，兩人離婚時，乙可向甲請求分配下列何種財產？
 (A)甲所繼承其父之遺產 (B)甲婚前所賺取之薪資
 (C)甲受侵害所取得之精神賠償金 (D)甲婚前所買的房子於婚後所收的租金
- B 26 依行政程序法與司法院解釋，下列關於行政程序之敘述，何者正確？
 (A)受託行使公權力之個人或團體，於委託範圍內，推定為行政機關
 (B)依釋字第 491 號解釋之意旨，公務員的免職處分，固屬行政機關對公務員所為之人事行政行為，但仍應遵循正當行政程序
 (C)由法務部檢察官所負責的刑事案件犯罪偵查程序，仍有行政程序法之適用
 (D)各級民意機關、司法機關、考試機關與監察機關之行為，不適用行政程序法之程序規定

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- C 27 甲、乙為夫妻，乙遭其夫甲長期毆打，為尋求庇護，請求相關單位安置其於庇護所，不讓甲知其行蹤，並將其未成年之子丙轉學，但甲為找尋乙，赴丙原學校詢問乙、丙之所在，請問乙得否向法院聲請核發保護令，禁止甲至學校取得相關資料？
(A)否，家庭暴力防治法無相關規定，法院無權限
(B)否，僅得依照個人資料保護法處理
(C)可以，禁止相對人查閱被害人及受其暫時監護之未成年子女戶籍、學籍、所得來源相關資訊
(D)可以，得依個人資料保護法之規定辦理核發保護令
- A 28 依據「中央法規標準法」之規定，下列何者錯誤？
(A)命令之廢止，須由原發布機關之上級機關為之
(B)法規明定自公布或發布日施行者，自公布或發布之日起算至第3日起發生效力
(C)法規對其他法規所規定之同一事項而為特別之規定者，應優先適用之。其他法規修正後，仍應優先適用
(D)命令定有施行期限，主管機關認為需要延長者，應於期限屆滿1個月前，由原發布機關發布之
- B 29 勞動基準法規定之平均工資係指計算事由發生之當日前，幾個月內所得工資總額除以該期間之總日數所得之金額？
(A)3個月 (B)6個月 (C)9個月 (D)12個月
- D 30 勞動基準法第84條之1有關工時之規定，下列敘述何者錯誤？
(A)適用勞動基準法第84條之1之人員須經中央主管機關核定公告
(B)報請主管機關核備後，工作時間、例假、休假等即不受勞動基準法原有規定限制
(C)勞雇雙方關於工作時間等之約定，須受書面要式之限制
(D)責任制專業人員，因其性質特殊，本於勞動基準法第84條之1之規定，亦得排除本法有關工資章之適用
- B 31 Dr. James Lin _____ his entire career to the research of food safety.
(A)explored (B)devoted (C)imposed (D)resisted
- D 32 _____ the brave general who sacrificed his life in the war, the city built a statue of him and placed it in front of the City Hall.
(A)By means of (B)At the cost of (C)In time of (D)In memory of
- A 33 The official was held in _____ when he was found to be involved in the bribery.
(A)custody (B)territory (C)infirmary (D)reservoir
- A 34 Because of the _____ of two major roads, there is always a traffic problem.
(A)convergence (B)perception (C)reminiscence (D)optimism

第35題至第39題為題組

After terrorists struck New York City on September 11, 2001, airport videotapes from Boston revealed a lost opportunity. One of the 35 hijackers, Mohammed Atta, was captured on the security cameras at Boston's Logan Airport just before boarding his flight. What if that camera 36 a computer database with Atta's picture in it? Could security personnel have identified him as a risk and removed him from the plane? 37 of face-recognition technology say yes. It is technically possible, they say, to build a reliable system to pick suspicious people out of a crowd by digitally photographing their faces. The possibility of preventing a terrorist attack by spotting the bad guys is 38. Face-recognition sweeps have been used at football stadiums, in crowded streets, and at airports in the hope of doing just that. The world's best face-recognition device is the human brain. You may wonder, 39, how a mother or father can tell the difference between identical twins. The two children may look exactly the same to you, but the parent has no trouble telling one from the other. Somehow, the parent has focused on small combinations of features that distinguish each child. No matter how hard you try, you cannot see the same patterns.

- C 35 (A)advertised (B)alienated (C)alleged (D)approved
C 36 (A)being linked to (B)has been linked to (C)had been linked to (D)was linked to
C 37 (A)Adversaries (B)Opponents (C)Proponents (D)Proprietors
D 38 (A)dubious (B)exaggerative (C)remote (D)tempting
B 39 (A)by contrast (B)for example (C)however (D)in addition

第40題至第44題為題組

Cave men did not live in caves. But some died in them and their 40 thus protected from scavengers and the elements, lasted long enough for palaeontologists to discover and examine them. 41 between 600,000 and 300,000 years ago, quite a few died in La Sima de los Huesos near Burgos, in Spain. The Bone Pit, as the name translates into English, has yielded 6,500 pieces of human skeletons, 42 at least 28 individuals.

Who those people were is a matter of 43 —one that shows the difficulty of popping fossils neatly into boxes marked "species." They are usually 44 as *Homo heidelbergensis*, the name given to the first humans who lived in Europe, starting about 600,000 years ago. But they also have features of *Homo neanderthalensis* (Neanderthal man), a younger species believed to have evolved from *heidelbergensis*.

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- B 40 (A)remainings (B)remains (C)reminders (D)recollections
 - C 41 (A)Some time (B)Some timing (C)Sometime (D)Sometimes
 - D 42 (A)reducing (B)replacing (C)recording (D)representing
 - C 43 (A)fact (B)mistake (C)debate (D)decree
 - B 44 (A)declassified (B)classified (C)catered (D)cared
- D 45 The city council wants traders to sign up to a voluntary code of conduct agreeing not to sell lagers and ciders stronger than 5.5 percent in a bid to stamp out drink-fuelled anti-social behavior.
- (A)The city council wants traders to voluntarily limit the sale of lagers and ciders to 5.5 percent of their daily businesses in order to reduce cases of anti-social behavior in the city.
 - (B)The city council has asked traders in the city to agree to a proposal that no more than 5.5 percent of lagers and ciders can be sold through bidding for the sake of social order.
 - (C)The city council wants traders to sign a voluntary contract limiting the sale of lagers and ciders that are overpriced so as to reduce anti-social behavior.
 - (D)The city council has made a plan with traders to clear higher-strength lagers and ciders from shop shelves around the city so as to curb anti-social behavior.

第 46 題至第 50 題為題組

Are you a Mac user? For many, home computers have become synonymous with Windows and Bill Gates, but there has always been a loyal band of Apple and Macintosh users whose devotion to the Apple brand and its co-founder Steven Jobs is almost religious.

Steven Jobs and Steven Wozniak dropped out of college and got jobs in Silicon Valley, where they founded the Apple Computer company in 1976, the name based on Jobs's favorite fruit. They designed the Apple I computer in Jobs's bedroom, having raised the capital by selling their most valued possessions—an old Volkswagen bus and a scientific calculator. The later model, the Apple Macintosh, introduced the public to point and click graphics. It was the first home computer to be truly user friendly, or as their advertisements put it, "the computer for the rest of us." When IBM released its first PC in 1981, Jobs realized that Apple would have to become a more grown-up company to compete effectively. He brought in John Sculley, the president of Pepsi-Cola, to do the job, asking him, "Do you want to just sell sugared water, or do you want to change the world?" Sculley and Jobs began to argue bitterly, however, and after a power struggle, Jobs was reluctantly forced to resign.

By 1996 Apple was in trouble due to the dominance of Windows software and the increasing number of PC clones that used it. Jobs, having had great success with his animation studio Pixar, was brought back to the failing firm for an annual salary of \$1, and the company gradually returned to profitability.

Apple's computers cost more than most PCs and have a more limited range of software available for them, but their great appeal has been the attention to design, making Apple the cool computer company. The launch of the stunning multicolored iMac in 1997, followed by the sleek new iMac in 2002, marked the end of the computer as an ugly, utilitarian machine and brought the home computer out of the study and into the lounge. As Steve Jobs put it, "Other companies don't care about design. We think it's vitally important."

Apple's fortunes were transformed again with the development of the iPod in 2003 and the iPhone in 2007, which soon became must-have gadgets that brought about a boom in Internet music sales and transformed the cell phone industry. And, of course, they were beautifully stylish.

- C 46 Where did the Apple Computer company begin?
(A)New York (B)Chicago (C)Silicon Valley (D)Seattle
- D 47 According to the article, what best describes Jobs's character?
(A)vengeful (B)forgetful (C)conservative (D)visionary
- A 48 According to the article, what is the main feature that sets Apple computers apart from PCs?
(A)An attention to design (B)A broader range of applicable software
(C)A more manageable filing system (D)A lower price
- C 49 According to the article, why did Jobs leave his job?
(A)Because he was tired of his job.
(B)Because he had a better offer.
(C)Because he could not get along with Sculley.
(D)Because he could not deal with the stress of running a company.
- B 50 According to the article, which statement best describes Jobs's return to the company?
(A)It was welcome by Pepsi-Cola. (B)He came back to save the ailing company.
(C)He came back to found Pixar. (D)It was irresponsible and damaging to his career.