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104年特種考試地方政府公務人員考試試題

等 別：四等考試

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。

- A 1 總統發布下列何項命令，須經行政院院長副署？  
(A)發布特赦令 (B)解散立法院 (C)任命審計長 (D)任命監察院院長
- D 2 下列何者不屬於司法院大法官解釋之標的？  
(A)法院決議 (B)判例 (C)行政函釋 (D)職務指令
- D 3 依憲法增修條文規定，關於總統、副總統之罷免及彈劾，下列敘述何者錯誤？  
(A)總統、副總統之罷免，由立法院提案  
(B)罷免案經中華民國自由地區選舉人總額過半數之投票，有效票過半數同意時，即為通過  
(C)總統、副總統之彈劾，由立法院提案  
(D)彈劾案經中華民國自由地區選舉人總額過半數之投票，有效票過半數同意時，即為通過
- B 4 依司法院大法官解釋，下列何種情形，國家無須給予補償？  
(A)依法徵收人民私有土地  
(B)依道路交通管理處罰條例，公告禁止在特定路段之騎樓擺設攤位  
(C)對於既成道路或都市計畫道路用地，在依法徵收或價購以前埋設地下設施物  
(D)受無罪判決確定之受害人，先前係因有故意或重大過失行為致依刑事訴訟法或軍事審判法相關規定受羈押
- A 5 任何國民不得因階級、宗教等因素而被排除為選舉人或被選舉人。此為下列何種選舉原則之要求？  
(A)普通原則 (B)直接原則 (C)自由原則 (D)秘密原則
- A 6 若法律欲規定航空公司駕駛員之體格、技能等資格條件，下列敘述何者錯誤？  
(A)題示資格條件之規定，涉及職業執行之自由  
(B)該駕駛員資格條件之規定，須與所欲維護之公共利益具有實質關聯性  
(C)法律如授權行政機關定期檢查駕駛員之體格，能達成維護重要公益之目的  
(D)該法律得授權行政機關以命令訂定駕駛員體格、技能等資格條件
- D 7 下列何者非屬居住自由保障之範圍？  
(A)甲住家之庭園 (B)乙之露營用旅行車 (C)丙人住之旅館房間 (D)丁過夜之公車候車亭
- C 8 依司法院大法官解釋，關於言論自由，下列敘述何者錯誤？  
(A)以行為或肢體動作表達之象徵性言論，亦受言論自由之保障  
(B)言論自由亦保障消極不表意之自由  
(C)商品標示不屬於言論自由保障之範圍  
(D)對言論之內容進行事前之審查，構成對於言論自由之干預
- D 9 總統對於立法院三讀通過之法律，如認為窒礙難行時，依憲法增修條文之規定，下列敘述何者正確？  
(A)總統得拒絕公布該法律 (B)總統得主動移請立法院覆議  
(C)總統得依職權聲請司法院大法官進行違憲審查 (D)總統得核可由行政院提出覆議
- D 10 依司法院大法官解釋意旨，下列何者並未違反平等原則？  
(A)所得稅法規定，身心失能無力自理生活須長期照護者之醫藥費，限以付與所得稅法所特定之醫療院所，始得列舉扣除  
(B)所得稅法規定，夫妻非薪資所得應由納稅義務人及其配偶合併申報且合併計算其稅額  
(C)身心障礙者權益保障法規定，非視覺功能障礙者，不得從事按摩業  
(D)中央警察大學碩士班入學考試招生簡章規定禁止色盲者入學
- A 11 A 教會於其發行之宗教刊物中宣稱有教友見證神蹟，可證實某藥物之藥效，經主管機關認定違法，要求 A 教會停止刊登並依法處以罰鍰。上開情事，未涉及下列何種基本權利？  
(A)營業自由 (B)宗教自由 (C)言論自由 (D)出版自由

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- C 12 依司法院釋字第 546 號解釋理由書，下列何者非屬憲法第 18 條應考試權所稱之考試？  
 (A)公務人員普通考試 (B)公務人員特種考試稅務人員考試  
 (C)大學入學指定科目考試 (D)專門職業及技術人員普通考試導遊人員考試
- A 13 有關制憲與修憲之相關概念，下列敘述何者正確？  
 (A)制憲為人民統治力之實現，不受法規之控制 (B)憲法為國家根本大法，永久不得修改  
 (C)修憲源之於力，制憲遵循於法 (D)不論修憲與制憲均須依憲法規定為之
- C 14 依司法院大法官之見解，立法者制定法律分配福利資源時，下列敘述何者正確？  
 (A)立法者基於社會政策考量，享有充分形成自由，不受憲法第 7 條平等原則之拘束  
 (B)基於財政負擔考量，得以受益人之特定身分與職業為唯一區分標準，為限定性分配  
 (C)關於給付方式及額度之規定，不得超過受益人基本生活需求給予過度明顯之照顧  
 (D)基於國家資源有限之因素，社會政策立法應以資源有效利用為唯一之考量
- B 15 關於國籍之敘述，下列何者錯誤？  
 (A)有中華民國國籍者，為中華民國國民 (B)雙重國籍為憲法所禁止  
 (C)無中華民國國籍者，無選舉及被選舉權 (D)國籍具有可拋棄性
- C 16 甲撰寫一部科幻小說，下列敘述，何者錯誤？  
 (A)甲於完成小說時享有著作權  
 (B)甲非專屬授權乙利用，嗣後得於相同時間、區域內再非專屬授權丙  
 (C)甲專屬授權乙利用，於相同時間、區域內，甲基於權利人身份仍得於其網頁上提供該小說給民眾下載  
 (D)乙將該小說改寫成劇本，丙如欲將劇本拍成電影，應徵得甲、乙之同意
- C 17 依勞工保險條例之規定，被保險人因失能不能繼續從事工作，而同時具有請領失能給付及老年給付條件者，得如何請領？  
 (A)僅得請領失能給付 (B)僅得請領老年給付  
 (C)應擇一請領失能給付或老年給付 (D)得同時請領失能給付與老年給付
- D 18 勞動基準法關於技術生之規定，下列敘述何者錯誤？  
 (A)雇主不得招收未滿 15 歲之人為技術生，但國民中學畢業者，不在此限  
 (B)雇主招收技術生時，須與技術生簽訂書面訓練契約  
 (C)技術生如為未成年人，其訓練契約，應得法定代理人之允許  
 (D)雇主得向技術生收取有關訓練之必要費用
- A 19 有關普通法與特別法之敘述，下列何者錯誤？  
 (A)刑法為陸海空軍刑法之特別法 (B)商事法為民法特別法  
 (C)同一法典中可能存在特別法與普通法之關係 (D)特別法未規定時仍適用普通法
- A 20 依中央法規標準法規定，下列何者並非機關發布命令之名稱？  
 (A)綱領 (B)細則 (C)標準 (D)辦法
- B 21 下列何種法規，得不以「第某條」之字樣，分點規定順序？  
 (A)通則 (B)行政規則 (C)法規命令 (D)自治條例
- C 22 立法院職權行使法第 61 條第 1 項前段規定：「各委員會審查行政命令，應於院會交付審查後三個月內完成之；逾期未完成者，視為已經審查。」上述認定各委員會審查行政命令是否完竣之規定，係為下列何項確定事實之方式？  
 (A)類推 (B)類比 (C)擬制 (D)推定
- C 23 依司法實務見解，關於特別權力關係之敘述，下列何者錯誤？  
 (A)大學生受非屬退學或類此之處分，侵害受教育權或其他基本權利者，得提起行政爭訟  
 (B)公務員向原服務機關請求核發服務年資或未領退休金之證明，未獲發給者，得提起行政爭訟  
 (C)公務員因年度考績列為乙等者，得提起行政爭訟  
 (D)公務員不服薪俸級之決定，得提起行政爭訟
- C 24 某地方政府之自治條例規定：「行道樹未經主管機關之核准，不得任意修剪或砍伐」，惟未訂有罰則。今有市民某甲，發現其家門前之行道樹生病蟲害，在未經核准之情形下，將該行道樹主要枝幹修剪，主管機關依其行政規則通知某甲陳述意見，該通知之法律性質為何？  
 (A)行政處分 (B)行政強制執行 (C)觀念通知 (D)行政命令
- B 25 對自己的堂伯父，其親系及親等為：  
 (A)直系血親五親等 (B)旁系血親五親等 (C)旁系姻親五親等 (D)旁系血親三親等

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- A 26 下列何種情形，甲乙間之契約已生效？  
 (A)甲向乙購買機車，雙方就標的物及其價金互相同意，但尚未交付標的物及價金  
 (B)甲向乙借用機車，雙方約定甲於無償使用後應返還，但乙尚未將機車交付於甲  
 (C)甲與乙約定，當甲將機車交付於乙時，乙允為保管，但甲尚未將機車交付於乙  
 (D)甲向乙借錢，雙方約定1個月後甲應返還，但乙尚未將錢交付於甲
- D 27 甲有下列法律行為，何者必須起訴請求法院撤銷，不得僅以意思表示撤銷？  
 (A)甲受乙之詐欺，與乙訂立買賣契約 (B)甲受乙之脅迫，與丙訂立保證契約  
 (C)甲誤乙為律師，委任乙為訴訟代理人 (D)甲與乙結婚時，甲係在精神錯亂中
- B 28 下列何者為架構競合（罪數）理論之原則？  
 (A)禁止類推原則 (B)禁止重複評價原則 (C)共犯從屬性原則 (D)罪疑唯輕原則
- C 29 關於自首之實務見解，下列何者錯誤？  
 (A)所謂發覺，係指有偵查犯罪職權之公務員已知悉犯罪事實與犯罪之人而言  
 (B)所謂自首，祇以犯人在其犯罪未發覺前，向該管公務員自承犯罪，而受裁判為已足  
 (C)不得託人代理自首或向非偵查機關請其轉送  
 (D)自首，不問動機如何，亦不以犯罪後即時投案為要件
- B 30 財團法人海峽交流基金會會權代表政府與大陸協商簽訂兩岸事務之協議，係因該基金會為下列何者？  
 (A)行政法人 (B)受委託行使公權力之私法人  
 (C)行政院下級機關 (D)行政助手
- A 31 New headphones, with the ability to \_\_\_\_\_ and record your heart rate whenever you are wearing them, have been invented.  
 (A)measure (B)press (C)stimulate (D)trail
- D 32 Korean Air announced it would suspend air travel to Kenya as a \_\_\_\_\_ to prevent the spread of the Ebola virus.  
 (A)closure (B)pleasure (C)pressure (D)measure
- D 33 Because of his irresponsibility, quite a few members have called for his \_\_\_\_\_.  
 (A)promotion (B)designation (C)convulsion (D)resignation
- A 34 If you are a first-time driver, you are required to obtain a driver \_\_\_\_\_ - especially if you are a teen driver.  
 (A)permit (B)certificate (C)credential (D)record
- B 35 Opposite those people we idolized were those who represented a way of acting, looking, living that we \_\_\_\_\_ and swore we would never imitate.  
 (A)occupied (B)hated (C)created (D)admired
- C 36 People living near the volcano were \_\_\_\_\_ from the area when it started to send out ash and smoke.  
 (A)demanded (B)assaulted (C)evacuated (D)launched
- C 37 Working hard day and night for six months, Deborah finally won a pay raise and \_\_\_\_\_. She is now the sales manager.  
 (A)emphasis (B)guardian (C)promotion (D)discipline

第 38 題為填充題，第 39 題及第 40 題為代換題

Marie had been up on to make some changes in her life for a long time, and she'd been \_\_\_\_\_ (38) an ambition to be the boss. She finally found a job where she could run after herself (39) and do things her way. In her new job, a lot of changes needed to be made, but Marie had a knack (40) for reorganizing. She thought it would be necessary to keep an open mind over other employees' complaints. This would take time and that she'd probably be working into the wee hours of morning for many weeks.

- D 38 (A)heating (B)making (C)running (D)nursing
- A 39 (A)to pursue her dream (B)to push herself away  
(C)to run as fast as she could (D)to be the number one
- B 40 (A)a hunch (B)a way (C)a prize (D)a need

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- A 41 The global financial system remains stagnant especially because reforms \_\_\_\_\_ in the post-recession economic slump.  
(A)bog down (B)peel off (C)move on (D)gear up
- A 42 With the help of \_\_\_\_\_ techniques, scientists explore the possibilities to create life.  
(A)cloning (B)hacking (C)locking (D)copying

## 第 43 題至第 45 題為題組

In different countries and cultures around the world free time is spent in different ways. The results of a 2001 Harris Poll showed that reading was the most popular 43 activity in the United States. This was followed by watching TV, then 44 time with family. In a similar survey 45 in Japan, the most popular free-time activity was eating out. The second most popular activity was driving.

- C 43 (A)part-time (B)work-time (C)spare-time (D)extra-time  
C 44 (A)doing (B)making (C)spending (D)taking  
D 45 (A)wasted (B)abandoned (C)consumed (D)conducted

## 第 46 題至第 50 題為題組

Cleanliness has long been next to godliness for the hygiene-conscious Japanese, but fortune-tellers are now advising those who want to succeed in life to start by scrubbing the smallest room.

Cleaning the Toilet to Attract Luck published this month is the latest in a series of books advising readers on how to attract good fortune using a brush and an array of cleaning fluids. "Don't just wipe the floor, polish it," the book instructs. "It's important to maintain a positive mood while cleaning." The books are inspired by Buddhist teachings and feng shui, a traditional Chinese belief that people's fortunes are determined by their surroundings.

The idea that Lady Luck may be hiding in the lavatory has been taken up by magazines and television programs. "I won the lottery! I married my ideal person! I got pregnant!" read some of the claims on the cover of another book on the topic, published last year.

The idea that a clean toilet can bring good fortune, or even make you more beautiful, has existed in Japan for many years, according to Yuka Soma of Makino Publishing in Tokyo, editor of one of the toilet books. But she is still waiting for a big stroke of luck. "I've always cleaned my toilet every day, so it never really gets dirty," she said. "At least it's easy that way and it probably helps keep my family healthy," she said.

- A 46 What is the best title for the passage?  
(A)A Toilet Cleaning Craze (B)The Recent Popularity of Feng Shui  
(C)The Importance of a Clean Room (D)A Series of Books on Cleanliness in Japan
- B 47 What does "the smallest room" in the first paragraph refer to?  
(A)The guest room. (B)The lavatory. (C)The garage. (D)The kitchen.
- C 48 Why is there a craze for cleaning the toilet in Japan?  
(A)To improve personal hygiene. (B)To show how diligent a woman is.  
(C)To attract good luck. (D)To beautify people's surroundings.
- D 49 Which of the following statements is NOT true?  
(A)The books on cleaning toilets are inspired by Buddhist teachings and feng shui.  
(B)The readers are advised to clean the toilet happily.  
(C)Television programs also touch upon the topic of toilet cleaning.  
(D)The idea of toilet cleaning has been taken up only recently.
- A 50 Which of the following statements is true about Yuka Soma?  
(A)She is the editor of one of the books on cleaning toilets.  
(B)She cleans her toilet only if she is not busy.  
(C)She cleans the toilet mainly to keep her family healthy.  
(D)She has been unlucky since she started writing her book.