105年公務人員特種考試司法人員、法務部調查局調查人員、國家安全局國家安全情報人員、海岸巡防人員及移民行政人員考試試題

考 試 別：司法人員、海岸巡防人員、移民行政人員
等　　　別：三等考試
類 科 組：各類科、各科別、移民行政
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：㈠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。
　　　　㈡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。
　　　　㈢禁止使用電子計算器。

1 總統於下列何種情形，得宣告解散立法院？
　⒜宣布戒嚴時
　⒝發布緊急命令時
　⒞立法院提出總統彈劾案時
　⒟立法院通過對行政院院長之不信任案時

2 下列何種事項可能產生國家賠償責任？
　⒜臺北市立高級中學教師之教學活動
　⒝有關政府公開招標工程採購案之履約爭議
　⒞公營銀行之放款業務
　⒟民營化後之電信業務

3 依司法院大法官解釋意旨，下列有關憲法第 23 條比例原則之敘述，何者錯誤？
　⒜行政法中有關罰鍰之規定，不論法定裁罰額度高低，如已預留視違規情節輕重而予處罰之裁量範圍，即與憲法第 23 條之比例原則無違
　⒝刑罰對人身自由之限制與其所欲維護之法益，須合乎比例之關係，尤其法定刑度之高低應與行為所生之危害、行為人責任之輕重相符，始與憲法第 23 條比例原則無違
　⒞教師因行為不檢遭解聘者，一律禁止終身再任教職之規定，對人民工作權之限制實已逾越必要之程度，有違憲法第 23 條之比例原則
　⒟法律規定菸品應標示特定成分含量多寡，相較於課予各機關學校辦理菸害防制教育，後者雖屬較小侵害手段，但於目的之達成，尚非屬相同有效手段，故課予標示義務並未違反必要原則

4 下列何者屬職業選擇自由之主觀條件限制？
　⒜限制營業小客車年度申請之件數
　⒝限制錄取小學教師之人數
　⒞規定計程車車身應漆成黃色
　⒟規定中餐技術士證照條件

5 依司法院大法官解釋之意旨，有關居住、遷徙自由之敘述，下列何者錯誤？
　⒜憲法保障居住、遷徙自由係指人民在法律規定範圍內有選擇其居住處所，營私人生活不受干預之自由，且有得依個人意願自由遷徙或旅居各地之權利
　⒝大陸地區人民須經主管機關許可，方得進入臺灣地區。大陸地區人民既無自由進入臺灣地區之權利，其合法入境後，也不得主張居住遷徙自由之保護
　⒞國家不得將國民排斥於國家疆域之外，亦屬居住、遷徙自由保障之範圍
　⒟行政機關為維護水庫水質水量，訂定集水區內村落遷村計畫，涉及對人民居住、遷徙自由之限制，除不得逾憲法第 23 條所定之必要程度外，且須有法律之明文依據

6 下列何者不屬於憲法第 8 條所保障人身自由之範疇？
　⒜外國人受驅逐出境前，內政部移民署所為之暫時收容
　⒝衛生主管機關對於曾與傳染病病人接觸者之強制隔離措施
　⒞將經常逃家或逃學之少年施以收容處置
　⒟限制役男出境

7 有關秘密投票原則之敘述，下列何者正確？
　⒜投票為個人選舉權利，故選舉權人得放棄秘密投票
　⒝在投票圈選確定後，選舉權人得將圈選內容出示他人後投入票箱
　⒞選舉人於投票後離開投票所，得主動告知他人投票內容
　⒟連署制度公開連署人投票內容，違反秘密投票原則

8 下列何者不隸屬於行政院？
　⒜國家通訊傳播委員會　⒝審計部　　　　⒞客家委員會　　　　⒟臺灣省政府

9 下列何者非地方制度法所稱自治法規？
　⒜自治條例　　　　　⒝委辦條例　　　　⒞自治規則　　　　⒟委辦規則

10 依憲法增修條文第 3 條第 2 項行政院對立法院負責之規定，下列敘述何者錯誤？
　⒜立法院得經全體立法委員三分之一以上連署，對行政院院長提出不信任案
　⒝行政院對於立法院決議之法律案、預算案、條約案，如認為有窒礙難行時，得經總統之核可，於該決議案送達行政院 10 日內，移請立法院覆議
　⒞行政院有向立法院提出施政方針及施政報告之責。立法委員在開會時，有向行政院院長及行政院各部會首長質詢之權
　⒟立法院對於行政院之重要政策不贊同時，得以決議移請行政院變更之。行政院對於立法院之決議，得經總統之核可，移請立法院覆議

11 依立法院職權行使法第 7 條規定，立法院依憲法規定所議決之議案，下列何者應經三讀會議決？
(A)條約案　　　　　　　(B)戒嚴案　　　　　　　(C)預算案　　　　　　　(D)大赦案

12 關於立法院常會之召開，下列敘述何者正確？
(A)自行集會
(B)由總統咨請集會
(C)行政院院長召集開會
(D)立法委員四分之一以上之請求召開

13 下列關於法官身分保障之敘述，何者錯誤？
(A)法官因為具有終身職之保障，不得因職務行為受到刑事處分
(B)候補、試署法官除法官法之特別排除規定外，原則上與實任法官受到相同之身分保障
(C)實任法官除經本人同意，並該當法定要件外，不得為審級調動
(D)法官非依法律不得減俸

14 依據現行釋憲實務，在人民聲請之釋憲案，下列何者不屬於大法官得審查之客體？
(A)行政處分　　　　　(B)判例　　　　　　　(C)最高法院之決議　　(D)法律

15 下列何者為監察權行使之對象？
(A)立法委員　　　　　(B)直轄市議會議員　　(C)縣議會議員　　　　(D)考試委員

16 下列有關強行法與任意法之敘述，何者錯誤？
(A)公法多為強行法，私法多為任意法
(B)民事訴訟法之規定並非皆屬強行法
(C)刑法為強行法
(D)民法通常為任意法，所規範內容均得由當事人合意約定加以改變

17 有關法律優位原則之敘述，下列何者錯誤？
(A)行政行為或其他一切行政活動，均不得與法律相牴觸
(B)為依法行政原則之下位原則
(C)不適用於給付行政行為
(D)違反法律優位原則之行政處分，相對人得於法定要件下請求撤銷之

18 關於公法與私法之敘述，下列何者正確？
(A)國家與私人之間，不能締結私法契約
(B)公、私法區別實益主要在於法律救濟途徑不同
(C)私人相互間之法律關係皆不可能為公法關係
(D)私法之規定皆為任意性質

19 以法之淵源為標準，可分為：
(A)成文法與不成文法　(B)一般法與特別法　　(C)固有法與繼受法　　(D)國內法與國際法

20 下列法規何者位階最低？
(A)法律　　　　　　　(B)中央機關之法規命令　(C)自治條例　　　　(D)自治規則

21 下列債務，何者可得互相抵銷？
(A)相互不得競業之不作為債務
(B)相互提供勞務之單純作為債務
(C)互負清償地不同之金錢債務
(D)因故意侵權行為而負擔之債務

22 甲男乙女結婚之後，得收養下列何人為養子女？
(A)甲男姊姊之女兒
(B)乙女舅舅之兒子
(C)乙女同父異母之小弟
(D)甲男與前妻所生兒子之太太

23 下列何者非屬有權解釋之範疇？
(A)行政解釋　　　　　(B)立法解釋　　　　　(C)司法解釋　　　　　(D)學理解釋

24 依地方制度法之規定，下列何者非自治規則之法定名稱？
(A)通則　　　　　　　(B)規則　　　　　　　(C)細則　　　　　　　(D)準則

25 關於法律制定之敘述，下列何者錯誤？
(A)所謂經立法院通過，總統公布之法律，係指在立法院院會三讀通過者
(B)立法院會議，須有立法委員總額二分之一出席，始得開會
(C)法律案之決議，除法令別有規定外，原則上以出席委員過半數之同意行之
(D)法律案之決議，若出席委員之可否同數時，取決於主席

26 有關共有物分割，下列敘述何者錯誤？
(A)區分所有建築物之共有部分不能分割
(B)約定共有物不分割之期限，不得逾 5 年，但共有不動產有管理之約定時，不得逾 10 年
(C)於分割協議決定後因消滅時效完成經共有人拒絕履行者，共有人仍得請求裁判分割
(D)不動產共有人間就共有物為分割之協議，於登記後，對於應有部分之受讓人，具有效力

27 甲為社會局公務員，於某日至乙的住家進行家訪執行公務時，竊取乙的手機。關於刑法第 134 條準瀆職罪，下列敘述何者錯誤？
(A)準瀆職罪係假借利用職務上之權力、機會或方法而犯罪
(B)所犯之罪限於刑法瀆職罪章以外的犯罪
(C)甲利用職務出勤之時機竊盜，可成立準瀆職罪
(D)若甲是在前往乙宅的路上拾獲手機，亦屬本罪之利用機會

28 下列有關著作權之敘述，何者錯誤？
(A)著作權內容包含著作人格權與著作財產權
(B)著作人格權不得讓與或繼承
(C)著作財產權得讓與他人，而與著作人格權分屬二人
(D)著作權保護至著作人死亡後 50 年

29 依據勞動基準法規定，雇主因歇業、清算或宣告破產，本於勞動契約所積欠之工資未滿 6 個月部分，經勞工請求未獲清償者，勞工得向下列何者請求墊償？
(A)勞資會議　　　　　　(B)勞工退休基金　　　　　(C)職工福利金　　　　　(D)積欠工資墊償基金

30 根據性別工作平等法第 23 條之規定，僱用受僱者 100 人以上之雇主，應設置托兒設施，如果未能遵守，下列有關法律效果之敘述何者錯誤？
(A)既然是「應」作為而未能遵守，主管機關自得根據本法第 6 章罰則規定科處罰鍰
(B)目前國內都會區寸土寸金，即使大型事業單位亦難遵守，故只能視為是它們之「努力義務」
(C)如能提供適當之托兒措施，例如與鄰近之育兒園簽約，給予員工相關之優惠措施亦可
(D)可以視情形設置托兒設施或措施，並向主管機關申請經費補助

31 Studies have shown that individuals tend to evaluate the implementation of testing programs as less _____ when fair procedures have been used.
(A)objectified　　　　　(B)objective　　　　　(C)ostensible　　　　　(D)objectionable

32 The two governments organized forums to _____ the possibility of establishing energy efficiency measures.
(A)extract　　　　　(B)exhibit　　　　　(C)explore　　　　　(D)extort

33 Unlike most other members of the crow family, the magpie is relatively fearless and _____.
(A)excessive　　　　　(B)erroneous　　　　　(C)invasive　　　　　(D)progressive

34 Some scientists fear that there won't be enough oil in the future to meet global _____.
(A)protection　　　　　(B)warming　　　　　(C)commission　　　　　(D)demand

35 I always try hard to imprint features of a new acquaintance on my memory. Yet chances are the next time when I _____ into him, I won't know who he is.
(A)knock　　　　　(B)slam　　　　　(C)bump　　　　　(D)smash

請依下文回答第 36 題至第 39 題

The American computer company IBM says it has developed a microprocessor – a computer chip – that works much like the human brain. IBM calls the chip True North. It is the __36__ of a postage stamp. The chip has 5.4 billion tiny parts that work like the human brain's neurons and synapses. Neurons and synapses are the cells and electric forces that carry messages __37__ the brain. True North has 1 million neurons and 256 million synapses. The human brain has 100 billion neurons and up to 150 trillion synapses. IBM says it can program the new chip to understand difficult problems and then solve them as humans would. The company says the True North chip could be used as a brain for __38__ robots. It can also be used for controlling new kinds of wheel chairs or for recording conversations __39__ several people and then making a printed record of those conversations. True North is still being tested. But IBM says it could be available for public use in two to three years. The chip is just one example of machines becoming more and more like humans. This field of study is called artificial intelligence, or AI. Some experts believe computers will someday become more intelligent than humans.

36 (A)sign　　　　　(B)size　　　　　(C)search　　　　　(D)sample
37 (A)come and go　　　(B)left and right　　　(C)good and bad　　　(D)to and from
38 (A)black and white　　(B)lost and found　　(C)search-and-rescue　　(D)life-and-death
39 (A)involving　　　　(B)neglecting　　　　(C)bypassing　　　　(D)excluding

第 40 題至第 43 題為篇章結構，各題請依文意從四個選項中選出最合適者，答案選用不能重複

Research shows that smiling has many positive effects on our health. This might explain why the people in the studies with bigger smiles had longer lives. __40__ It also lowers blood pressure. Smiling can affect the brain in the same way as exercise. For example, it increases the amount of feel-good hormones such as serotonin and endorphins. __41__ Furthermore, recent brain research shows that just the act of smiling can actually make us happier. __42__ But then, our smiles send a message back to the brain that makes us feel even happier. Smiling is clearly good for us. __43__ It is easy to see that smiling is much more than just an expression of happiness. It's a powerful tool for maintaining both emotional and physical health.

40 (A)Endorphins not only make us feel better, but reduce pain as well.
(B)Studies show that smiling reduces stress and stress-related hormones.
(C)We can even get the benefits of smiling just by making ourselves smile.
(D)In other words, we smile because something happens that makes us happy.

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請依下文回答第 44 題至第 47 題

　　Some 66m years ago Earth was hit by a space rock reckoned to have been 10km across. The resulting chaos caused the extinction of dinosaurs and many other species, opening the way for the age of mammals－and ultimately humans. It also left a big hole in what is now southern Mexico. That hole is one of only three known of similar dimensions (the other two are Vredefort in South Africa and Sudbury in Canada). And this is odd. For, during the billions of years that Earth has had a solid crust, many more than three big asteroids might have been expected to have hit it.

　　That thought led Brandon Johnson of the MIT and Timothy Bowling of Purdue University in Indiana, to wonder how many other craters have vanished, either by erosion or by being swallowed into Earth's interior as its crust moves around, and therefore whether it is likely that some have survived and been overlooked. They have just published their analysis in *Geology*.

　　Earth's crust formed more than 4 billion years ago, but the oldest surviving blocks of it large enough to harbor craters date back only 3.5 billion years. What is known of the sizes and orbits of modern asteroids suggests that, if things have not changed over the aeons, about 14 big asteroids (defined as having a diameter of more than 7.4km, which would cause a crater at least 85km in diameter) should hit Earth every billion years. That means 49, give or take seven, over the past 3.5 billion years. Such impacts may have been more common in the past, when more big asteroids were around. Allowing for this, Earth would have been hit by 113, give or take 11, of them. Either way, a lot of craters are missing.

44 How large is the crater created in southern Mexico by the asteroid 66m years ago?
　(A)10km across in diameter. 　　　　　　(B)85km in diameter.
　(C)7.4km in diameter. 　　　　　　(D)Not mentioned in the article.
45 Over the past 3.5 billion years, roughly how many asteroids may have hit Earth?
　(A)14 　　　　　(B)85 　　　　　(C)113 　　　　　(D)11
46 How many other craters of a dimension similar to the one in southern Mexico are known to people?
　(A)3 　　　　　(B)2 　　　　　(C)1 　　　　　(D)4
47 What can we infer about the missing craters?
　(A)They never left any impact on Earth. 　　　　　(B)They have not been completely eroded.
　(C)They were far more than the surviving ones. 　　　　　(D)They were hit by more than one asteroid.

請依下文回答第 48 題至第 50 題

In 1881 a young woman named Mabel Loomis Todd wrote her parents about "the *character* of Amherst…a lady whom the people call the 'Myth': she has not been outside of her own house in fifteen years…. She dresses wholly in white, and her mind is said to be perfectly wonderful." So began the legend of Emily Dickinson, one of the greatest poets of the nineteenth century, who was for years portrayed by biographers and critics as an eccentric recluse, a "little home-keeping person,"a mad spinster who had been disappointed in love. For, four years after this New England woman in white died in 1886, the same Mabel Loomis Todd brought out a volume containing selections from 1,776 strange and passionate poems, which had been found, neatly sewed into booklets, in her bureau drawers, and the imagination of the pubic was immediately seized by the mysterious discrepancy between what seemed to be the isolation of Dickinson's life and the intensity of her art. To many, indeed, the "case" of Emily Dickinson－only eight of whose poems had been published in her lifetime－seemed to offer a crucial model for the situation of the woman poet. Eccentricity, reclusiveness, and most of all, thwarted romance－these appeared to be the conditions that might drive a woman to what was, for women, the perversity of writing verses.

48 According to the passage, what was the relationship between Mabel Loomis Todd and Emily Dickinson?
　(A)They are mother and daughter. 　　　　　(B)They are sisters.
　(C)They are a lesbian couple. 　　　　　(D)It is not clearly mentioned.
49 According to the passage, which of the following statements is true about Emily Dickinson?
　(A)She was very popular when she was still alive. 　　　　　(B)She was colorblind and could only see white color.
　(C)Her poetry has a very unique style. 　　　　　(D)Besides poems, she also wrote novels.
50 When did Mabel Loomis Todd find Dickinson's poems?
　(A)1886 　　　　　(B)1890 　　　　　(C)1776 　　　　　(D)1881