

104年公務人員特種考試外交領事人員及外交行政人員、民航人員、原住民族及稅務人員考試試題

考試別：稅務人員特考

等別：四等考試

類科組：各科別

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。

- 關於地方制度之委辦事項，下列敘述何者錯誤？
 - 委辦事項並非地方自治團體之固有事項
 - 地方自治團體辦理中央委辦事項時係以自己名義為之，但仍受中央機關指示之拘束
 - 國家對於地方自治團體辦理委辦事項，能為適法性監督，但不能為適當性監督
 - 國家對於委辦事項得視需要採取事前監督或事後監督措施
- 下列何者非屬考試院掌理之事項？
 - 公務人員之銓敘
 - 公務人員之任免
 - 公務人員之退休
 - 公務人員褒獎之法制事項
- 下列何者非屬終審法院？
 - 最高行政法院
 - 公務員懲戒委員會
 - 最高法院
 - 智慧財產法院
- 下列敘述，何者非屬司法院釋字第 709 號解釋所指都市更新之正當行政程序？
 - 主管機關應設置適當組織，以審議都市更新事業概要
 - 應確保利害關係人知悉相關資訊以及適時陳述意見之機會
 - 對於聽證程序進行，主管機關應斟酌全部聽證紀錄以為決定之基礎
 - 都市更新之所有審核程序皆應舉行聽證
- 關於政府預算及其執行之憲法爭議，下列敘述何者錯誤？
 - 預算案經立法院通過及公布後為法定預算，係屬措施性法律
 - 法定預算通過後有侵害人民基本權利之虞時，即得由司法機關介入解釋
 - 國家重要政策變更涉及法定預算之停止執行，如有關機關缺乏共識，應協商解決方案或依憲法現有機制選擇適當途徑解決僵局
 - 主管機關依職權停止法定預算中部分支出項目之執行，不當然構成違憲
- 關於質詢權之行使，下列敘述何者正確？
 - 依循憲法慣例，司法院院長亦應接受質詢
 - 質詢權是透過政策公開辯論方式，監督行政院
 - 基於責任政治原理，立法委員得對地方行政首長提出質詢
 - 質詢權之行使對象限於政府官員，不得要求民間團體到場接受備詢
- 有關總統刑事豁免權之敘述，下列何者正確？
 - 立法院得決議排除總統之刑事豁免權
 - 總統得基於此一特權，而拒絕於他人刑事案件為證人
 - 只是一種暫時性程序障礙，並非總統享有實體免責權
 - 為證據保全之必要，得限制總統之財產權與人身自由
- 依憲法增修條文之規定及司法院大法官解釋之意旨，關於立法院立法委員之選舉，下列敘述何者正確？
 - 全國不分區及僑居國外國民立法委員之選舉，係將全國及各僑區各劃為單一選區，並由全國及各僑區人民直接選舉之
 - 區域立法委員係將直轄市、縣市分別劃為單一選舉區域，每選區依法各選出立法委員二至三人
 - 單一選區之區域選舉結果與政黨選舉票之選舉結果，應分別計算區域及全國不分區與僑居國外國民立法委員當選人之名額
 - 獲政黨選舉票 5% 以上之政黨始得分配全國不分區及僑居國外國民立法委員席次，已違反民主共和與國民民主權原則
- 依司法院大法官解釋，有關公民投票審議委員會之敘述，下列何者錯誤？
 - 公民投票審議委員會係屬獨立機關
 - 行政院對公民投票審議委員會之決議無審查權
 - 依立法院政黨席位比例分配委員席次應屬違憲
 - 應以行政院名義對外作成行政處分
- 下列何者不屬於憲法言論自由所要保障之對象？
 - 單純追求商業利益之廣告
 - 教師就上課內容提出個人觀點
 - 在戲院影片放映中惡作劇高喊失火
 - 在網路上發表反政府意見

- 11 憲法第 10 條對人民遷徙自由之保護，不包括下列何者？
(A)為選擇工作場所而搬家 (B)為選擇子女就學學區而搬家
(C)為移民國外而搬家 (D)為逃兵役徵集而隱居深山
- 12 依司法院釋字第 514 號解釋，人民營業之自由為憲法上工作權及何種權利所保障？
(A)人身自由權 (B)生存權 (C)勞動基本權 (D)財產權
- 13 依司法院釋字第 639 號解釋，關於人身自由之保障，下列敘述何者錯誤？
(A)憲法第 8 條所定之法院，包括依法獨立行使審判權之法官
(B)允許法官為羈押處分之法律規定，與憲法第 8 條並無牴觸
(C)羈押被告限由法院行使，乃因法院職司獨立審判，在功能組織及程序設計上適於落實憲法對人身自由之保障
(D)受羈押之被告僅得向原法院聲請撤銷或變更該處分，不得提起抗告救濟之法律規定，已逾立法裁量之範疇而屬違憲
- 14 依憲法第 151 條規定，國家對於僑居國外之國民，應扶助並保護其何種事業之發展？
(A)經濟 (B)家庭 (C)政治 (D)人際關係
- 15 依憲法第 143 條規定，下列有關徵收土地增值稅之敘述，何者正確？
(A)歸人民共享之
(B)屬土地買受人之義務
(C)國家得對一切土地徵收土地增值稅
(D)土地增值乃施以勞力資本而增加者，應徵收土地增值稅
- 16 下列有關義務之敘述，何者正確？
(A)道德上之義務構成相對人之權利 (B)反射利益並非權利
(C)違反法律義務之法律效果僅為刑罰或行政罰 (D)義務等於債務
- 17 法規有下列何種情形時，應予修正？
(A)基於政策或事實之需要，有增減內容之必要者
(B)法規規定之事項已執行完畢，或因情勢變遷，無繼續施行之必要者
(C)法規因有關法規之廢止或修正致失其依據，而無單獨施行之必要者
(D)機關裁併，有關法規無保留之必要者
- 18 下列何者應適用行政程序法之程序規定？
(A)國家通訊傳播委員會否准業者申請有線廣播電視營運許可之決定
(B)有關外交行為、軍事行為或國家安全保障事項之行為
(C)考試院有關考選命題及評分之行為
(D)刑事案件犯罪偵查程序
- 19 關於憲法增修條文中所規定之立法委員不受逮捕之特權，下列敘述何者正確？
(A)立法委員雖為現行犯，亦不得逮捕
(B)立法委員雖於非會期之期間，亦不得逮捕
(C)非現行犯之立法委員，於會期中，若經立法院許可，仍可被逮捕
(D)立法委員即使經立法院院會同意，亦不得逮捕
- 20 甲男與乙女結婚，生下一子丙，乙女現又懷孕。丁開車不小心撞死甲男，下列敘述何者正確？
(A)發生車禍時，乙女之胎兒尚未出生，縱使將來出生非死產，亦不得請求丁賠償
(B)丙於發生車禍時，尚屬年幼無知之狀態，故丁可以因此減低對丙之賠償金額
(C)乙女雖係甲男之配偶，但非直接被害人，故不得請求丁損害賠償或慰撫金
(D)乙、丙及乙之胎兒均得請求丁損害賠償，但應承擔甲在車禍時之與有過失
- 21 乙於自己之房屋設定典權於甲，有關典權期限之敘述，下列何者錯誤？
(A)甲之典權如未定期限，自經過 30 年後，甲應先訂 2 年以內之期間催告乙回贖，乙於該期間內不回贖者，甲即取得該房屋之所有權
(B)甲之典權如定有期限，其約定之期限不得逾 30 年。逾 30 年者，縮短為 30 年
(C)甲之典權約定期限如為 10 年，則不得附有到期不贖即作絕賣之條款
(D)乙於典期屆滿後，經過 2 年，不以原典價回贖者，甲即取得典物所有權
- 22 甲向乙承租 A 屋，該屋因失火而毀損，下列敘述何者錯誤？
(A)如失火非因甲之故意或重大過失所引起者，甲無庸負責
(B)如失火為甲之配偶丙之故意或重大過失所引起者，乙得向丙主張侵權行為
(C)如失火為甲之配偶丙之故意或重大過失所引起者，甲始須對乙負賠償責任
(D)無論失火原因是否可歸責於甲，均應由甲負責
- 23 下列何者並非決定我國刑法對於特定案件有無適用的原則？
(A)屬地原則 (B)屬人原則 (C)無罪推定原則 (D)保護原則
- 24 對於未發覺之罪自首而受裁判者，其刑罰效果為：
(A)必減輕其刑 (B)得減輕其刑
(C)僅得於是否宣告緩刑時考量，不再減輕其刑 (D)僅財產犯罪始得減輕其刑

- 25 關於刑法第 126 條凌虐人犯罪之敘述，下列何者錯誤？
 (A)本罪之行為主體包含解送人犯之公務員 (B)本罪所謂之人犯包含依法管收之債務人
 (C)所謂凌虐不包含人犯患病而不予治療 (D)本罪設有結果加重犯之處罰規定
- 26 有關公司因持有他公司有表決權股份總數或資本總額過半數所形成之控制與從屬關係，下列敘述何者正確？
 (A)僅股份有限公司得成為控制公司 (B)所有種類之公司均得成為控制公司
 (C)僅股份有限公司得成為從屬公司 (D)所有種類之公司均得成為從屬公司
- 27 下列關於有限公司之敘述，何者錯誤？
 (A)董事非經其他全體股東同意，不得轉讓其出資予他人
 (B)有限公司之增資，應經股東過半數之同意
 (C)有限公司有關退股之規定，準用無限公司
 (D)不執行業務之股東，均得行使監察權
- 28 有關我國勞動基準法對於勞動契約終止之敘述，下列何者錯誤？
 (A)違反勞動契約或工作規則，情節重大者，雇主得不經預告終止契約
 (B)業務性質變更，有減少勞工之必要，又無適當工作可供安置時，雇主得不經預告終止契約
 (C)無正當理由繼續曠工 3 日，或 1 個月內曠工達 6 日者，雇主得不經預告終止契約
 (D)受有期徒刑以上刑之宣告確定，而未諭知緩刑或未准易科罰金者，雇主得不經預告終止契約
- 29 依全民健康保險法第 48 條之規定，保險對象有下列情形之一者，免依第 43 條及第 47 條規定自行負擔費用（自行負擔門診或急診費用等），下列何者錯誤？
 (A)重大傷病 (B)分娩 (C)山地離島地區之就醫 (D)職業災害
- 30 甲受僱於乙公司，因生產而請產假 8 周，該年度考績因其出席日數少於其他同仁而考績被打乙等，因此減少半個月之考績獎金，甲不服，向乙抗辯；下列敘述何者正確？
 (A)因為請產假者，其當年考績不應受到保障
 (B)因為考績不得因其請產假未出席而受到不利益對待
 (C)因為其出席日數較少，故考績受到影響
 (D)出席日數為考績評估之唯一因素
- 31 The simple plan _____ into a complicated scheme later.
 (A) evolved (B) plunged (C) extended (D) propelled
- 32 Today's young generations have grown up _____ by the immediate access and instant gratification provided by the likes of television and computer games.
 (A) swallowed (B) contaminated (C) flooded (D) conditioned
- 33 She lacked the ability to _____ herself to any new environment. Therefore, however hard she tried, she felt uncomfortable in the new school.
 (A) adopt (B) adapt (C) assort (D) acquire
- 34 No wonder people make money in the real estate market and lose money in the stock market; they spend months choosing their _____, and minutes choosing their stocks.
 (A) spouses (B) gifts (C) careers (D) houses
- 35 You should have the ability to work with minimal _____, have good communication skills, and be reliable and flexible.
 (A) supervision (B) advantage (C) impression (D) splendor
- 36 The man is awkward in words and does not know how to _____ his feelings to the one he loves.
 (A) concern (B) convey (C) convert (D) conserve
- 37 In Michigan, voters will have their ballots _____ if they are found taking a photo of a ballot in a polling place.
 (A) confiscated (B) hospitalized (C) manipulated (D) reimbursed

請依下文回答第 38 題至第 41 題

The National Day Celebrations Organizing Committee is to decide whether the Double Tenth National Day fireworks should be canceled 38 the recent spate of major disasters, including the TransAsia Airways flight that 39 in Penghu and the gas pipeline explosions in Greater Kaohsiung. Members of the committee are currently 40 on the issue, but may be leaning toward canceling the fireworks show, which is to be held this year in Greater Taichung, because of social atmosphere following the disasters. Minister of the Interior said that he would 41 the decision to the organizing committee.

- 38 (A) in light of (B) in addition to (C) as oppose to (D) contrary to
 39 (A) ceased (B) landed (C) delayed (D) crashed
 40 (A) divided (B) united (C) similar (D) familiar
 41 (A) resolve (B) make (C) leave (D) gain

請依下文回答第 42 題至第 45 題

Darrin McMahon still cannot define happiness after spending six years researching and writing a book about it. While that has been a 42, he said it is also what gives happiness its power and attraction. “The book is more about pursuing happiness than actually getting it because in some ways you 43 get there,” McMahon said. “Happiness tends to slip away from you when you think about it too much.”

He acknowledged his story of happiness is rooted in Western culture and wealthier societies. Societies coping with famine, disease, or war are 44 to spend much time thinking about happiness. “The pursuit of happiness is a privilege,” McMahon said. “It’s 45 other things are taken care of—food supply, a minimum of security, and so forth—that you can worry about things like happiness.”

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|----|-----------------|----------------|--------------|-----------------|
| 42 | (A) frustration | (B) treat | (C) comfort | (D) pleasure |
| 43 | (A) only | (B) also | (C) never | (D) finally |
| 44 | (A) ready | (B) determined | (C) inclined | (D) unlikely |
| 45 | (A) not until | (B) in case | (C) even if | (D) only before |

請依下文回答第 46 題至第 50 題

The elevators are the primary means of vertical transportation in most high-rise buildings and potentially can play a vital role in the event of an emergency, such as a fire. The dominant practice around the world, however, is to discourage the use of elevators during a fire. The major reason for this practice is the unpredictability of the condition of the emergency and the danger of entrapping passengers as well as rescue workers (e.g. firefighters) in the elevator.

To safeguard the use of elevators in a fire emergency, the US National Institute of Standard and Technology (NIST) is working with the elevator industry to develop new elevators that function during fires. The new elevators are designed to be used both as a rescue vehicle, carrying firefighters to the site of the blaze, and as a secondary method (after stairwells) for evacuating building occupants. NIST is investigating software and sensing systems that can adapt to changing smoke and heat conditions so that the elevators can maintain safe and reliable operation during fire emergencies. **Such changes** could also allow elevators to be operated with remote control from the ground floor during fires, thus freeing urgently needed firefighters from elevator operation duties. NIST is also testing more reliable elevator-dedicated emergency power systems and waterproof elevator components to be used in the new generation of elevators.

Besides hardware and software improvements, NIST also incorporates its expertise in virtual reality simulation into the making of the new elevators. Virtual reality simulations help test scenarios for coordinating firefighting activities, and for elevator and stairway evacuation. By including elevators into its graphic computer models, NIST will help fire safety experts identify the most effective operational procedures for specific fire conditions. Furthermore, NIST fire researchers hope to collaborate on emergency elevator operations standards with colleagues from around the world. Global standardization should reduce confusion during an emergency, enabling people to take evacuation actions with confidence.

- 46 What is the main reason for NIST to develop the new elevators?
- (A) To secure better cooperation with their colleagues from around the world.
 (B) To relieve firefighters of elevator operation duties in a fire emergency.
 (C) To improve their research in technology by working with the elevator industry.
 (D) To use elevators for rescue and evacuation purposes in a fire safely and effectively.
- 47 What does “**Such changes**” refer to in the second paragraph?
- (A) Having elevator-dedicated emergency power systems.
 (B) Improving the software and sensing systems.
 (C) Installing waterproof elevator components.
 (D) Using remote control operations.
- 48 Which of the following statements is true about the function of virtual reality simulations?
- (A) They help carry firefighters to the fire scene.
 (B) They direct building occupants to leave the fire scene.
 (C) They allow firefighters to better manage their firefighting activities.
 (D) They operate elevators with a remote control.
- 49 Which of the following statements regarding the new elevators is true?
- (A) They are now available for high-rise buildings in the U. S.
 (B) They require global collaborations to develop and construct.
 (C) They can be used as the major means of getting people out of a building on fire.
 (D) They can be sensitive to changing smoke and heat conditions in a fire emergency.
- 50 What can be inferred from the passage?
- (A) Virtual reality simulations help standardize emergency elevator operations.
 (B) The elevators are the safest method for evacuating people in a fire emergency.
 (C) Graphic computer models provide limited representations of real fire scenes.
 (D) Emergency rescue workers need to be trained to operate the new elevators.