

113年公務人員特種考試警察人員、一般警察人員、國家安全局國家安全情報人員及移民行政人員考試試題

代號：2301  
頁次：6-1

考 試 別：一般警察人員考試、移民行政人員考試

## 等別：三等考試

類科組別：各類別、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：(一)本試題為單一選擇題，請選出一個正確或最適當答案。

(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畫記，於本試題上作簽者，不予計分。

### (三)禁止使用電子計算器。



- 17 祭祀公業條例第 4 條第 1 項前段規定：「本條例施行前已存在之祭祀公業，其派下員依規約定之。」關於該條之合憲性，下列敘述何者最符合大法官解釋之意旨？
- (A) 該規定為性別中立，不違憲  
(B) 該規定構成實質上的性別差別待遇，違憲  
(C) 該規定構成實質上的性別差別待遇，但其目的在於維護法秩序之安定及不溯及既往原則，不違憲  
(D) 該規定為性別中立，但違反國家積極促進性別平等之義務，違憲
- 18 關於法規的失效，下列敘述何者正確？
- (A) 法定施行期間經過後，仍須待主管機關公告，始失其效力  
(B) 法律不得授權以命令訂定失效日期  
(C) 法律之廢止，應經立法院通過，總統公布  
(D) 憲法法庭對於違憲之法規，只能宣告定期失效
- 19 關於信賴保護原則，下列敘述何者錯誤？
- (A) 信賴保護原則為法治國原則的具體實踐，且與法安定性與既得權保障有關  
(B) 行政法規倘預先訂定施行期間，不生信賴保護問題  
(C) 行政法規之變更與廢止，不生信賴保護之問題  
(D) 人民明知行政處分違法，其信賴不值得保護
- 20 有關保安處分之規定，下列敘述何者正確？
- (A) 中華民國國民如具有外國國籍，即得適用驅逐出境規定  
(B) 保安處分於刑之執行完畢後宣告之  
(C) 受緩刑之宣告者，應於緩刑期間付保護管束  
(D) 感化教育、監護、禁戒、強制工作等保安處分，按其情形得以保護管束代之
- 21 消防官員李四對張三之場所執行消防安檢時指出其設備有缺失之處，張三一時氣憤，便對李四怒罵道：「臭官員，有什麼了不起！敢罰我的話，以後出門小心點，看到你一次，打一次！」下列敘述何者正確？
- (A) 張三觸犯刑法第 135 條第 1 項妨害公務罪，因為公務員李四係依法執行職務，且張三的行為屬於脅迫  
(B) 張三觸犯刑法第 135 條第 1 項妨害公務罪，因為李四係公務員，無論其是否依法執行職務，皆不得施以脅迫  
(C) 張三未觸犯刑法第 135 條第 1 項妨害公務罪，因為該罪僅罰強暴行為  
(D) 張三未觸犯刑法第 135 條第 1 項妨害公務罪，因為消防安檢並非國家公權力的運作行為
- 22 依我國著作權法規定，下列何者會侵害他人之著作財產權？
- (A) 國立大學之教師，為學校授課需要而將他人整本教科書上傳至數位教學平台，供選課學生下載閱讀  
(B) 經濟部智慧財產局，因研擬新法所需，認有必要將他人著作列為內部參考資料時，得在合理範圍內，重製他人之學術論文  
(C) 圖書館基於保存資料之必要，而以掃描之方式重製其所收藏的珍稀書籍  
(D) 國家圖書館為製作期刊論文索引系統供公眾查詢，而重製刊載於期刊中的學術論文所附之摘要

- 23 甲因侵權行為而與被害人乙和解，約定甲於 3 日內對乙賠償新臺幣（以下同）20 萬元。嗣後，甲持以 10 元硬幣湊滿的 20 萬元向乙為給付。甲的給付行為違反：  
(A) 權利濫用禁止原則 (B) 私法自治原則 (C) 契約自由原則 (D) 誠實信用原則
- 24 下列何者之性質非屬形成權？  
(A) 抗辯權 (B) 撤銷權 (C) 解除權 (D) 終止權
- 25 甲男自小生活在大家族中，家族親戚往來頻繁。依現行法，甲男不得與何人結婚？  
(A) 甲的堂嫂的妹妹 (B) 甲的堂伯父的女兒  
(C) 甲的表姑媽收養的女兒 (D) 甲的表姑媽收養的兒子
- 26 依民法之規定，下列敘述何者正確？  
(A) 如民眾出示其為不識字之證明者，其指印或十字，與其親自簽名之效力相同  
(B) 關於一定之數量，同時以兩種文字與數字號碼以上表示者，兩者如不符合時，如法院不能決定何者為當事人之原意，應以當事人之母國文字為準  
(C) 民眾於銀行、信用合作社或農漁會進行交易時，如用印鑑章代簽名者，其用印鑑章之效力大於本人親自簽名  
(D) 依法律之規定，有使用文字之必要者，得不由本人自寫，但必須親自簽名
- 27 下列何者非信賴保護原則之要件？  
(A) 信賴基礎 (B) 信賴行為 (C) 值得保護之信賴 (D) 無不當聯結
- 28 法律案經立法院移送總統公布者，曾否踐行其議事應遵循之程序，除明顯牴觸憲法者外，行政、司法或其他國家機關均應予以尊重。學理上稱為何種原則？  
(A) 國會自律原則 (B) 法律保留原則 (C) 法不溯及既往原則 (D) 機關忠誠原則
- 29 關於命令的效力，下列敘述何者正確？  
(A) 總統依憲法增修條文規定所發布之緊急命令，於必要時得暫時停止部分憲法條文之適用  
(B) 行政機關獲法律授權制定命令時，如知母法有缺漏不備之處，得逾越授權意旨逕行補充  
(C) 行政命令縱使獲有法律授權而制定者，依憲法規定依舊不得作為限制人民基本權利之依據  
(D) 普通法院法官於審查個案，認所應適用之行政命令有牴觸母法意旨時，得逕行拒絕適用
- 30 文義解釋是一項重要的法律解釋方法，學者多認為，法官解釋法律應避免任意超過法律文義進行適用，以避免造成法官任意扭曲法律之結果。關於文義解釋的說明，下列何者最為適當？  
(A) 對於刑法的解釋只能依據文義解釋，避免法官類推適用刑法，違反罪刑法定主義  
(B) 基於讓人民理解，文義解釋應該只採取日常生活所使用的文義，法律不能自行定義文義  
(C) 文義解釋可能會產生多種不同的結果，此時須運用其他的解釋方法來協助正確解釋法律  
(D) 為確保能以文義解釋來正確解釋法律，立法時應確保法律都只有單一意義，不可使用不確定法律概念
- 31 Her family didn't \_\_\_\_\_ her marrying this person so they would not attend her wedding.  
(A) look for (B) agree (C) care for (D) assent
- 32 A forest fire has recently \_\_\_\_\_ in California. It has claimed two lives and caused some damage to the natural resources nearby.  
(A) gone through (B) broken out (C) taken off (D) dried up

請依下文回答第 41 題至第 45 題

Recent societal changes have caused a questioning of the relationship between higher education institutions and their hosting state governments. While there have been an increasing number of 41 causes and agencies, such as prisons and health care, funding for higher education institutions has not increased. Some state governments have even challenged institutional 42 of right to funding by providing funding to the student rather than the institution. Most recently, some governments even assigned funding according to certain performance 43 deemed appropriate and necessary to the state. 44, some institutions have openly challenged the state's authority in assigning governing board members. Some have radically increased tuition and become 45 on fundraising. Others have eliminated programs or restricted enrollment of high-cost programs.

- 41 (A) competing (B) confusing (C) complimented (D) contrived

42 (A) complacence (B) claims (C) conceit (D) capabilities

43 (A) magnitude (B) manners (C) measures (D) manifesto

44 (A) In addition (B) In sum (C) In conclusion (D) In response

45 (A) reliant (B) redundant (C) rebellious (D) ruthless

請依下文回答第 46 題至第 50 題

In New Zealand's Westland District the closure of the local indigenous timber industry alongside rapid growth of the dairy and tourism sectors has produced dilemmas for families and communities as they attempt to adjust to the social consequences of rapid industry change. Drawing on a social capital perspective and a case study of 12 Westland families, this project examines how rural families bring balance to aspects of the three actions defined by Arendt as being essential to the human condition: family, work and community life. The findings reveal significant insights into how social capital is effectively reproduced in times of change. These insights are discussed in terms of their social policy implications.

Fifty years ago Hannah Arendt published *The Human Condition*. In this work she contended that there are three types of action required to be “fully human.” The first two of these actions, engagement in family life and paid work, are necessary for human existence in contemporary society. The third action she called *vita activa*, or public life: a life that is actioned within jointly built civil spaces. Within these spaces we are capable of debate, we share actions and we resolve collective dilemmas. Arendt reminds us that the absence of, or over-attention to, any one aspect of the human condition is likely to be problematic.

A half a century on from Arendt's original thesis, public policy continues to debate aspects of *vita activa* and democratic governments still seek to engage *vita activa* in economically and socially productive ways. Working out the shifting balance between family life, paid work and *vita activa* is a crucial aspect of responding effectively to significant social change, be it local issues (such as natural disaster relief) or meeting the challenges that arise as a consequence of external or global forces (such as the loss of a core industry). The concept of social capital has been used as a way to recognise and gauge *vita activa*.

The term “social capital” originated, in part, in an attempt to understand how features of social organisation, such as trust, norms and networks can improve the efficiency of society by facilitating coordinated actions. Voluntary or joint social actions provide the opportunity to resolve collective dilemmas. Individuals achieve this through the development and use of social bonds and networks as resources to facilitate productive activity. By maintaining the social relationships and structures necessary for collective activity, individuals, families and communities are able to realise some of these benefits, and in doing so can resolve some of the issues they face in common.

- 46 Which of the following is the best title of the passage?  
(A) Rural Families, Industry Change and Social Capital.  
(B) *The Human Condition*: A Book Review.  
(C) Governmental Roles in the Face of Social Change.  
(D) The Living Conditions of 12 Westland Families.

47 According to the passage, which of the following statements about Arendt is NOT true?  
(A) Her work has an important theoretical influence on the current study.  
(B) She proposes that to be fully human he/she must have a public life, a salary or wage, and a family.  
(C) She believes that public life is the most important among the three types of action mentioned.  
(D) Her theory suggests that action play a central role in facilitating and maintaining human conditions.

48 According to the passage, what kind of challenge is faced by Westland District?  
(A) Forest fires that destroyed hundreds of houses.  
(B) Loss of the timber industry to agriculture and tourism.  
(C) Lack of capital to provide free education to the community.  
(D) Lack of co-ordination among government agencies in saving the environment.

49 According to the passage, what is the main value of social capital?  
(A) It provides volunteers with crucial funding for social charity work.  
(B) It helps a community to share power and resources more equally.  
(C) It offers a hope for the unemployed people to start their new careers.  
(D) It enables a community to deal with its problems via joint efforts and actions.

50 In what kind of text would the above passage most likely appear?  
(A) A book review in an agriculture magazine.      (B) A letter to the editor in a newspaper.  
(C) A research paper in a social policy journal.      (D) A news report in New Zealand.