

106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：各類科組

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。

1 下列何種案件應由司法院大法官組成憲法法庭審理？

- (A)關於政黨違憲解散以及解散立法院之案件
- (B)關於政黨違憲解散之案件與關於總統副總統彈劾案之審理案件
- (C)關於憲法解釋之案件
- (D)關於統一解釋法律與命令之案件

2 依憲法、憲法增修條文及司法院釋字第 601 號解釋之意旨，關於司法院大法官之身分與保障，下列敘述何者錯誤？

- (A)大法官亦受憲法第 81 條法官非依法律不得減俸之保障
- (B)並為司法院院長、副院長之大法官，不受任期之保障
- (C)大法官除法官轉任者外，不適用法官終身職待遇之規定
- (D)大法官除法官轉任者外，不屬於憲法第 80 條規定之法官

3 立法院之調查權被大法官定性為何種權力？

- (A)立法權
- (B)行政權
- (C)司法權
- (D)監察權

4 依憲法相關規定及司法院釋字第 461 號解釋之意旨，有義務出席或應邀於立法院委員會備詢者，下列何者錯誤？

- (A)考試院院長
- (B)參謀總長
- (C)司法院秘書長
- (D)行政院原住民族委員會主任委員

5 依憲法第 24 條後段之規定，被害人民得依法律向國家請求賠償。此種憲法要求立法機關制定法律之性質為何？

- (A)訴訟保留
- (B)司法保留
- (C)行政委託
- (D)憲法委託

6 有關總統、副總統候選人資格之敘述，下列何者錯誤？

- (A)須為在中華民國自由地區繼續居住六個月以上且曾設籍十五年以上之選舉人
- (B)須年滿四十歲
- (C)不得為現役軍人
- (D)因歸化取得中華民國國籍者，不得登記為總統候選人，但副總統候選人不在此限

7 行政院公民投票審議委員會之委員，若由各政黨依立法院各黨團席次比例推薦，送交主管機關提請總統任命，問：此委員任命之方式違反下列何原則？

- (A)代議士民主原則
- (B)權力分立原則
- (C)主權在民原則
- (D)憲法保障人民之創制、複決權

8 國軍志願役專業預備軍士官班招生簡章規定，曾受刑之宣告者，不得報考。此為違反下列何者？

- (A)法律保留原則
- (B)平等原則
- (C)信賴保護原則
- (D)保障人民服公職之權利

9 下列何者非屬憲法上所規定的人民義務？

- (A)納稅
- (B)服兵役
- (C)投票
- (D)受國民義務教育

10 依據司法院釋字第 476 號解釋之見解，生命權被定位於下列何種基本權？

- (A)訴訟權
- (B)生存權
- (C)言論自由
- (D)憲法第 22 條之概括基本權

11 人民加入宗教團體，從事慈善服務工作，並擔任該團體之理事職務，並未涉及下列何種基本權？

- (A)宗教自由
- (B)集會自由
- (C)職業自由
- (D)一般行為自由

12 司法院釋字第 708 號、第 710 號解釋之作成，主要因為相關法令之暫予收容與強制出境涉及侵害人民權利，此與何種基本權利較無關聯？

- (A)秘密通訊自由
- (B)正當程序之保障
- (C)遷徙自由權
- (D)人身自由權

- 13 依憲法增修條文規定，下列何種支出或經費無須優先編列？
 (A)社會救助 (B)社會保險 (C)國民教育 (D)國民就業
- 14 原住民族工作權保障法第 12 條第 1 項規定：「依政府採購法得標之廠商，於國內員工總人數逾一百人者，應於履約期間僱用原住民，其人數不得低於總人數百分之一。」關於此規定，下列敘述何者正確？
 (A)係貫徹憲法第 8 條規定，人民身體之自由應予保障之意旨
 (B)係貫徹憲法第 5 條規定，中華民國各民族一律平等之意旨
 (C)係貫徹憲法第 157 條規定，國家應增進民族健康之意旨
 (D)係貫徹憲法第 158 條規定，國家應發展國民之民族精神之意旨
- 15 下列何者不受憲法第 12 條秘密通訊自由之保障？
 (A)打電話 (B)上汽車旅館 (C)寄送電子郵件 (D)傳送簡訊
- 16 性別工作平等法中有關促進工作平等措施規定之敘述，下列何者錯誤？
 (A)女性受僱者每月得請生理假一日
 (B)受僱者於其配偶分娩時，雇主應給予陪產假五日
 (C)子女未滿二歲需受僱者親自哺乳者，除規定之休息時間外，雇主應每日另給哺乳時間 60 分鐘
 (D)受僱於僱用三十人以上雇主之受僱者，為撫育未滿三歲子女，得向雇主請求每天減少工作時間一小時，減少之工作時間工資照給
- 17 下列那一項不屬於全民健康保險安全準備之來源？
 (A)每年度收支之結餘 (B)每年度政府編列預算補助
 (C)保險之滯納金 (D)保險安全準備所運用之收益
- 18 股份有限公司在股東常會開會前三十日內，不得辦理股東名簿記載之變更，該期間稱為「閉鎖期間」。請問股東在閉鎖期間內將其記名股票轉賣給他人，該買賣行為之效力為何？
 (A)無效 (B)有效 (C)得撤銷 (D)效力未定
- 19 依據我國實務見解，有關幫助犯之敘述，下列何者錯誤？
 (A)他人犯罪完成後所為之幫助，不構成幫助犯
 (B)二人以上共同幫助犯罪，應適用刑法第 28 條之規定
 (C)教唆幫助犯為幫助犯
 (D)幫助教唆犯為幫助犯
- 20 甲明知 X 已經死亡，卻告訴 X 的仇人乙，趕緊趁著 X 昏睡，把握機會報仇。於是乙帶著槍遠遠對著坐在椅子上的 X 連開數槍，直到 X 倒在地上。以下有關甲、乙論罪之敘述，何者正確？
 (A)乙認為射擊的對象是人，所以乙應成立故意殺人既遂
 (B)依照客觀狀況，對於屍體開槍的乙構成毀損屍體罪
 (C)甲雖然引起乙殺害 X 的決意，但是欠缺要乙實現殺人的意思，不成立殺人罪之教唆犯
 (D)甲使乙毀損屍體，構成毀損屍體之教唆犯
- 21 甲將其房屋先出賣予乙，於未為交付及移轉所有權之前，即再將該屋出售予丙並交付之；其後，在未移轉所有權予丙之前，又再度將該屋出售予丁並辦理所有權移轉登記。下列敘述何者正確？
 (A)甲、丙間之買賣契約無效
 (B)由於甲已將該屋交付予丙，故丙已取得該屋之所有權
 (C)甲因已將該屋先出賣予乙、丙，故其將所有權移轉予丁之處分行為為無權處分，惟丁可依民法第 759 條之 1 第 2 項主張善意取得該屋所有權
 (D)丁依法取得該屋之所有權，丙雖自甲受讓該屋之占有，但不得對抗丁，故丁可依所有物返還請求權請求丙返還該屋
- 22 甲公司欲向乙銀行融資貸款，乙主張必須有擔保方得放款，且擔保之方式限於設定抵押權，甲檢視其擁有之資產包括下列權利，下列何者可提供抵押貸款？
 (A)甲之 A 土地對丙之 B 土地有不動產役權 (B)甲對丁之 C 屋有典權
 (C)甲對戊之高級進口車有動產質權 (D)甲對「來自月亮的你」此部電視劇有著作權
- 23 甲在乙之土地上有地上權，並建有房屋一幢，下列敘述何者錯誤？
 (A)甲之上地權係依法律行為而取得者，不因房屋之滅失而消滅
 (B)甲之上地權係依民法第 876 條之規定而取得者，因房屋之滅失而消滅
 (C)地上權期間屆滿後，地上權人仍繼續為土地用益，而土地所有人不即表示反對之意思時，成為不定期之上地權
 (D)租用基地建築房屋，經承租人請求出租人為地上權之登記者，地上權期間屆滿後，地上權人仍繼續為土地用益，而土地所有人不即表示反對之意思時，可主張不定期租賃

- 24 傳染病防治法規定，醫師診治病時，應立即採取控制傳染之措施，並報告主管機關。若立法院修改此一規定，將前述醫師義務，改為一般人之義務者，主要違反下列那一原則？
 (A)誠實信用原則 (B)信賴保護原則 (C)裁量擴張原則 (D)期待可能原則
- 25 依司法院釋字第 443 號解釋，有關層級化法律保留之敘述，下列何者錯誤？
 (A)給付行政措施，涉及公共利益之重大事項，不得以法律授權之命令為之
 (B)憲法第 8 條屬於憲法保留之事項者，不得以法律加以變更
 (C)執行法律之細節性、技術性次要事項，得由主管機關發布命令為必要之規範
 (D)人民生命、身體以外其他自由權利之限制者，如以法律授權主管機關發布命令時，其授權應符合明確性原則
- 26 我國現行法規中之「環境基本法」，其性質與地位為何？
 (A)中央法律 (B)地方自治條例 (C)中央法規命令 (D)地方自治規則
- 27 民法第 26 條規定：「法人於法令限制內，有享受權利、負擔義務之能力。但專屬於自然人之權利義務，不在此限。」此但書之規定，其性質為：
 (A)暫時法 (B)特別法 (C)補充法 (D)例外法
- 28 依中央法規標準法之規定，下列何者，非法規之生效方式：
 (A)公布 (B)發布 (C)下達 (D)送達
- 29 關於法律之廢止，下列敘述何者錯誤？
 (A)法律之廢止，應經立法院通過，總統公布
 (B)法律之廢止不得僅公布法律名稱及施行日期；而應將擬廢止之法律全文刊載
 (C)法律定有施行期限者，期滿當然廢止，但應由主管機關公告之
 (D)人民聲請許可案件如在處理程序終結前，其所據以聲請許可之法律已廢止，並由其他法律所替代，但只要已廢止之舊法規有利於當事人而新法規未廢除或禁止所聲請之事項時，已廢止之法規仍可例外適用
- 30 依司法院大法官解釋，保障人民「接近使用媒體」之權利，係對媒體取材自由及編輯自由之限制，因此，人民「接近使用媒體」，應在兼顧下列那一原則，予以尊重？
 (A)媒體取材中立原則 (B)媒體編輯正確原則 (C)媒體取材公益原則 (D)媒體編輯自由原則
- 31 Little Johnny had to redo his homework because his handwriting was so _____ that his teacher could hardly tell what he wrote on the homework he turned in yesterday.
 (A) alternative (B) fraudulent (C) illegible (D) malicious
- 32 Helen's students didn't understand the message she was trying to _____ when she wrote down a big question mark on the white board.
 (A) convey (B) distribute (C) proceed (D) reform
- 33 After explaining the basic diving skills to her students, the swimming instructor was ready to _____ herself how to dive into the water safely.
 (A) demonstrate (B) interfere (C) negotiate (D) overcome
- 34 This company sells its market share at an extremely high price, maintaining formidable _____.
 (A) protests (B) pricks (C) profits (D) pitfalls
- 35 Students who rent an off-campus apartment in Taiwan often have to pay their _____ bill to the landlord along with their monthly rent.
 (A) utility (B) tuition (C) credit card (D) insurance
- 36 The social media website Twitter has announced major _____ to its service. It no longer counts website addresses as characters in tweets, so users have more space to share their thoughts.
 (A) counterparts (B) disturbances (C) statues (D) updates
- 37 Many buildings constructed in the last few years have incorporated energy conservation _____ to reduce energy consumption.
 (A) manuals (B) measures (C) missions (D) momentums
- 38 Leisure time helps people stay healthy and work more efficiently and _____.
 (A) commercially (B) destructively (C) productively (D) restlessly
- 39 Christine has been _____ unreasonable giving everyone in the family a hard time ever since she was fired by her boss last week.
 (A) considerably (B) horizontally (C) permissibly (D) ridiculously
- 40 In the past, people owned fewer things, used things longer, and much of their waste decomposed. But today, trash is made from materials that will still be _____ when we no longer are.
 (A) diverse (B) fragile (C) intact (D) obscure

請依下文回答第 41 至 45 題：

By far some of the most prestigious centers of European learning today stand where they were founded eight hundred years ago: Oxford and Cambridge in England; the University of Paris in France; the University of Bologna in Italy. European universities developed in the late twelfth and early thirteenth centuries 41 the emergence of city life. Earlier medieval schools were most often 42 the monasteries, which were perforce situated in rural areas. As cities grew in importance, schools also developed at urban monasteries or under the 43 of bishops whose cathedrals were in the towns. The cathedral school was a direct 44 of the increasing importance of towns and the increasing power of bishops, the spiritual leaders of town life. In Italy, town life had been relatively strong throughout the early Middle Ages, so there was a tradition of schools which were controlled by the common people. The center of medical studies in Salerno and the law faculty of Bologna had been in 45 hands since the tenth century.

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|-----------------------|---------------------|---------------------|-----------------|
| 41 (A) with regard to | (B) in spite of | (C) except for | (D) along with |
| 42 (A) accustomed to | (B) associated with | (C) consistent with | (D) entitled to |
| 43 (A) escort | (B) aegis | (C) tremor | (D) sway |
| 44 (A) offshoot | (B) initiative | (C) catastrophe | (D) fraud |
| 45 (A) secular | (B) financial | (C) spiritual | (D) mercantile |

請依下文回答第 46 至 50 題：

The word volcano can describe anything from a single opening in the earth a few meters across to a field of connected openings that might be 20 kilometers or more in width. Most researchers consider any set of openings that are connected to a large central core as a single “volcano”. Otherwise, they would have to deal with an endless number of names for each individual opening. Italy’s Stromboli has been almost constantly erupting for over 2400 years, but most eruptions do not last that long. Currently, there are about 15 volcanoes worldwide that have been actively erupting for the last 30 years. On the other end of the scale, about ten percent of volcanoes have eruptions which last for just a single day. The majority of the eruptions lasted three months or less. This means the average time from beginning to end is usually about seven weeks.

From the number of volcanic eruptions detected over the past few hundred years, it would appear that they are becoming much more frequent over time. However, when researchers tracked the growth in reported eruptions along with the growth of the human population, they realized that volcanic activity wasn’t actually becoming more frequent. Instead, as people spread over more areas of the earth’s surface, the monitoring and reporting of volcanic activity inevitably increased with the expanding population.

The highest volcano when measured from sea level to its top is Ojos del Salado in the Andes mountains in South America. It is 6,887 meters above sea level. However, when measured from its base on the surface of the earth to the top, a different set of volcanoes become the highest ones. Some volcanoes in the Mauna Loa zone near Hawaii rise as much as 19 kilometers above their bases at the bottom of the Pacific Ocean.

The first thing to do when caught near a volcanic eruption is to avoid a potentially disastrous situation, listen to the radio and travel only as instructed by the local police or other authorities. Stay away from lava, mud and flying rocks. Avoid river areas and low-lying regions. Before you leave the house, put on a long-sleeved shirt, long pants, and eyeglasses or sunglasses to protect your eyes. Wear an emergency mask or hold a wet cloth over your face if you do not have **one**. Since ash can damage engine parts, refrain from driving if possible. If you decide not to leave the house, close all windows and doors to prevent ash from getting inside.

- 46 What is the purpose of this passage?
(A) To explain the increasing rate of volcanic activities. (B) To explain some facts about volcanoes.
(C) To describe the causes of volcanic eruptions. (D) To analyze the threats of volcanic eruptions.
- 47 Which of the following statements is true about volcanic activities in Paragraph Two?
(A) They have been on the increase over the years.
(B) They are no more frequent than they used to be.
(C) They increase as the human population becomes larger.
(D) They are more frequently observed as a result of increased population.
- 48 In Paragraph Four, what does **one** refer to?
(A) A wet cloth. (B) A volcanic eruption. (C) An emergency mask. (D) A long-sleeved shirt.
- 49 According to the passage, what is the right thing to do when being caught near a volcanic eruption?
(A) Drive to low-lying regions right away.
(B) Walk along river areas as soon as possible.
(C) Wear short-sleeved shirts before leaving the house.
(D) Close all the windows and doors when staying indoors.
- 50 According to the passage, which of the following is true?
(A) Volcanic eruptions can last as long as thirty years.
(B) Most volcanic eruptions last no longer than three months.
(C) Ojos del Salado in South America is the highest volcano on the surface of the earth.
(D) It has been proved by scientists that volcanoes have become more active than ever.