

106年公務人員特種考試警察人員、一般警察人員考試及106年特種考試交通事業鐵路人員、退除役軍人轉任公務人員考試試題

代號：2801
頁次：6-1

考試別：鐵路人員考試、退除役軍人轉任公務人員考試

等別：員級考試、四等考試

類科別：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。

- 關於行政權與立法權互動關係之敘述，下列何者錯誤？
(A)預算制度乃行政部門實現其施政方針並經立法部門參與決策之憲法建制
(B)經由預算之審議可使立法機關實現參與國家政策及施政計畫之形成
(C)立法院通過之法定預算屬於對國家機關歲出、歲入之授權規範
(D)執行法定預算屬於行政權之核心領域，行政機關執行與否有自由形成之空間
- 依據憲法增修條文規定，考試院設院長一人、副院長幾人？
(A)三人 (B)一人 (C)二人 (D)不設副院長
- 下列何者非屬司法院大法官違憲審查之客體？
(A)最高法院庭長法官聯席會議之決議 (B)臺灣電力公司營業規則
(C)國防部預備軍官班招生簡章 (D)臺北市政府組織自治條例
- 若有政黨主張將中華民國改變為「共產國家」，並積極從事相關活動，依憲法增修條文及相關法律之規定，得採取何種處理方式？
(A)檢察官應檢具該政黨相關違憲之事證，聲請司法院憲法法庭解散之
(B)主管機關應轉知監察院，由監察院對該政黨提出糾舉案
(C)由主管機關逕以行政處分撤銷該政黨之設立登記
(D)由主管機關聲請司法院憲法法庭解散之
- 依憲法增修條文規定，下列何者係由行政院院長提請總統逕行任命？
(A)國家安全局局長 (B)銓敘部部長 (C)省政府主席 (D)審計長
- 依憲法及憲法增修條文之規定，關於立法委員之言論免責權及不受逮捕特權，下列敘述何者正確？
(A)立法委員言論免責權之免責範圍，僅限於刑事法律責任
(B)經立法院之許可，立法委員即喪失言論免責權
(C)立法委員除現行犯外，在任期內不受逮捕或拘禁
(D)立法委員經立法院之許可，仍得受逮捕或拘禁
- 立法委員得兼任下列何種職務？
(A)南投縣議員 (B)臺灣電力公司董事長 (C)行政院之政務委員 (D)政黨副主席
- 總統如於任職期間有貪污之違法情事，下列敘述何者錯誤？
(A)於卸任後，依法開始刑事追訴、審判
(B)於就職一年後，始得依法定程序罷免之
(C)於最高法院判決彈劾案成立後立即解職
(D)刑事偵查機關得至總統府勘驗物件

- 9 依憲法、憲法增修條文之規定及司法院大法官解釋意旨，關於副總統之敘述，下列何者錯誤？
(A)副總統兼任行政院院長非屬我國之憲政慣例
(B)副總統兼任行政院院長，於總統不能視事時，將影響憲法代行職權之設計而與憲法本旨不符
(C)副總統缺位時，總統應於3個月內提名候選人，由立法院補選後，繼任至原任期屆滿為止
(D)總統缺位時，由副總統繼任，其任期並重新計算之
- 10 有關請願之敘述，下列何者錯誤？
(A)請願包含人民對國家機關就特定公共議題表示其希望之行為
(B)對於機關處理請願之結果有所不服者，得提起司法救濟
(C)人民請願事項不得牴觸憲法或干預審判
(D)人民除得向職權所屬之民意機關外，亦得向主管行政機關請願
- 11 從憲法之觀點，下列何者關於基本權侵害之主張，並不成立？
(A)國立大學主張大學自治因教育部之課程導航計畫而受侵害
(B)某電視台主張新聞自由因國家通訊傳播委員會之節目管制而受侵害
(C)財政部國有財產署主張國有土地財產權因國防部之占有而受侵害
(D)某電信股份有限公司主張契約自由因國家通訊傳播委員會之電信普及服務管制而受侵害
- 12 依司法院大法官解釋意旨，下列何者未違反憲法第7條之平等原則？
(A)夫妻非薪資所得應合併計算申報稅額
(B)扣繳義務人無論違反申報扣繳憑單義務或扣繳稅款義務，皆處稅額1.5倍罰鍰
(C)內政部以是否設籍、實際居住作為發放921地震慰助金之標準
(D)就業服務法限制外國受僱人領取喪葬津貼
- 13 下列何者非屬憲法第二章列舉之基本權利？
(A)財產權 (B)家庭權 (C)工作權 (D)生存權
- 14 依據憲法規定，行政院應於何時，須將下年度預算提出於立法院？
(A)會計年度開始一個月前 (B)會計年度開始二個月前
(C)會計年度開始三個月前 (D)會計年度開始四個月前
- 15 依憲法之規定，中央為謀省與省間之經濟平衡發展，對於貧瘠之省，應如何處理？
(A)免其稅負 (B)許可其特別徵稅 (C)酌予補助 (D)納為中央直接管轄
- 16 各機關基於法律授權訂定之命令，通常應以何種方式使其生效？
(A)公布 (B)告示 (C)發布 (D)佈告
- 17 有關明確性原則之敘述，下列何者正確？
(A)明確性原則要求行政處分之內容應明確，其目的意義及內容均應清楚可辨，違反者一律無效
(B)行政程序法第5條規定：「行政行為之內容應明確」，其規範之目的在於行政責任之明確化
(C)法律明確性原則所稱「法律」，僅限於憲法與立法院通過之法律
(D)法規內容必須明確，亦屬於明確性原則之內涵
- 18 下列何者不屬於憲法第10條規定保障之人民遷徙自由？
(A)人民有任意旅行各地之權利 (B)人民有在各地經商之權利
(C)人民有移民外國之權利 (D)人民有出境或入境之權利
- 19 下列關於代理之敘述，何者正確？
(A)限制行為能力人不得為代理人
(B)代理人可以代理為事實行為
(C)意定代理人可以代理為身分行為
(D)傳達他人之意思表示者，乃「使者」而非「代理人」

- 20 依民法規定，下列契約，何者不屬於「要式契約」？
(A)旅遊契約 (B)終身定期金契約 (C)合會契約 (D)人事保證契約
- 21 下列何者非屬民法推定之規定？
(A)地上權經登記者，推定登記權利人適法有此地上權
(B)占有已登記不動產而行使地上權者，推定其適法有該地上權
(C)土地及土地上之建築物同屬一人所有，而僅以土地設定典權者，典權人與建築物所有人間，推定在典權或建築物存續中，有租賃關係存在
(D)占有人推定其為以所有之意思，善意、和平及公然占有；經證明前後兩時為占有者，推定前後兩時之間，繼續占有
- 22 依民法規定，有關共有物之敘述，下列何者錯誤？
(A)各共有人得自由就其應有部分設定抵押權
(B)共有物之設定抵押權，除契約另有規定外，共有人得以過半數及其應有部分合計過半數之同意行之。但其應有部分合計逾三分之二者，其人數不予計算
(C)共有物之出租，除契約另有規定外，共有人得以過半數及其應有部分合計過半數之同意行之。但其應有部分合計逾三分之二者，其人數不予計算
(D)共有物的保存行為，各共有人得單獨為之
- 23 關於承攬運送人之敘述，下列何者錯誤？
(A)原則上承攬運送人應自行運送物品
(B)承攬運送人為保全其報酬之清償，得按其比例對運送物有留置權
(C)原則上承攬運送人對託運物之毀損或遲到應負責任
(D)承攬運送人填發提單給委託人者，視為承攬人自行運送，不得另行請求報酬
- 24 有關民法所定子女之姓氏，下列敘述何者正確？
(A)父母於子女出生登記前，應以口頭約定子女從父姓或母姓
(B)子女出生登記後，於未成年前，得由父母以書面約定變更為父姓或母姓
(C)子女已成年者，經父母之書面同意得變更為父姓或母姓，其變更以二次為限
(D)非婚生子女從父姓
- 25 刑法第 28 條將「實施」改為「實行」後，依據修法理由，現行法不再處罰以下何種共同正犯？
(A)既遂共同正犯 (B)未遂共同正犯 (C)預備共同正犯 (D)共謀共同正犯
- 26 下列何者非為法院以未成年子女最佳利益作為判斷之標準？
(A)為未成年子女收養之認可
(B)酌定未成年子女之住所地
(C)離婚後未成年子女親權之酌定
(D)為未成年子女為終止收養之宣告
- 27 最高法院 25 年上字第 2253 號判例要旨表示「現行刑法關於正犯、從犯之區別，本院所採見解……凡以自己犯罪之意思而參與犯罪，無論其所參與者是否犯罪構成要件之行為，皆為正犯。其以幫助他人犯罪之意思而參與犯罪，其所參與者，苟係犯罪構成要件之行為，亦為正犯；其所參與者又為犯罪構成要件以外之行為，始為從犯。」係採取下述何種見解？
(A)主觀說 (B)形式客觀說 (C)犯罪支配說 (D)主觀客觀擇一標準說
- 28 在不考慮經濟或信用狀況下，罰金原則上應於裁判確定後多長期限內完納？
(A)一個月 (B)二個月 (C)三個月 (D)六個月

- 29 依消費者保護法規定，從事設計、生產、製造商品或提供服務之企業經營者應確保其提供之商品或服務無安全或衛生上之危險，亦即應確保該商品於其流通進入市場，或服務於其提供時，應符合下列那一項標準？
- (A)符合當時科技或專業水準可合理期待之美觀性
(B)符合當時科技或專業水準可合理期待之容易性
(C)符合當時科技或專業水準可合理期待之安全性
(D)符合當時科技或專業水準可合理期待之便利性
- 30 性別工作平等法有關育嬰留職停薪規定之敘述，下列何者正確？
- (A)受僱者任職滿一年後，於每一子女滿三歲前，得申請育嬰留職停薪，最長不得逾三年
(B)受僱者於育嬰留職停薪期滿後，申請復職時，即使經主管機關同意，雇主亦不得以任何原因拒絕
(C)同時撫育子女二人以上者，其育嬰留職停薪期間應分開計算
(D)受僱者之配偶未就業者，除有正當理由者外，不得申請育嬰留職停薪
- 31 Easy things may become difficult if you don't like to do them or do them ____.
- (A)critically (B)reluctantly (C)reflectively (D)mysteriously
- 32 Without the president's consent, we cannot _____ to do the project.
- (A)deceive (B)conclude (C)succeed (D)proceed
- 33 The old apartments are being _____ to make room for new stores.
- (A)called off (B)held up (C)torn down (D)dropped off
- 34 Family or career—it is a _____ that many working mothers still face in today's world.
- (A)conceit (B)dilemma (C)feedback (D)precaution

請依下文回答第 35 題至第 42 題：

Legend tells of a strange event in one Japanese town's history. It says that around 250 years ago, a Japanese lord gave the village leader of Shirone a giant kite. Over time, it became the custom of the villagers to settle 35 by flying kites. If one villager could snag the other kite and force it to the ground, then the villager would win the argument. Eventually, this tradition of kite battling 36 a festival that takes place every June and has created a town full of people who are so passionate about kite flying that they have been 37 "kite crazy."

For most of the year, the people of Shirone are hardworking, sensible farmers. Once the spring planting is done, though, thoughts turn toward the sky and the kites that will soon 38 it. Before the flying occurs, though, kite construction is on everyone's mind. Shirone becomes a giant kite factory, and all 39 surfaces seem covered by kite making materials. All of these kites are made by hand in a traditional manner that requires 40 and teamwork. When the festival comes and kites are in the sky, each team's goal is to capture the other team's kite by wrapping its rope around the rival's rope. Once the initial maneuvering is done, brute strength 41 and it becomes a tug of war. The team whose rope snaps or kite drops loses the battling. The team whose rope stays 42 wins the game, but both kites usually end up destroyed.

- 35 (A)disputes (B)diseases (C)disasters (D)discounts
- 36 (A)has made for (B)has taken after (C)has resulted from (D)has turned into
- 37 (A)dubbed (B)doubled (C)doubted (D)dumped
- 38 (A)circulate (B)operate (C)populate (D)participate
- 39 (A)sensible (B)incredible (C)reliable (D)available
- 40 (A)precision (B)description (C)prescription (D)decision
- 41 (A)takes it the wrong way (B)runs into trouble (C)gets in the way (D)comes into play
- 42 (A)instant (B)contact (C)intact (D)contrast

請依下文回答第 43 題至第 47 題：

To many, it is insane for an athlete to do a backflip while driving a 450-pound snowmobile. But for Caleb Moore and other freestyle snowmobilers, it's just another trick. Moore performed his failed stunt during the Winter X Games on January 24, 2013 and died a week later. The stunt was difficult but apparently doable. He had done it many times before. So what do we make of this?

By definition, "extreme" sports are difficult or dangerous, performed in a hazardous environment. The very essence of these sports is to push things as far as possible and then try to take them farther. Part of their massive appeal is that these sports constantly walk on the thin edge between brilliance and disaster. The fans, corporate sponsors, and especially the athletes know this. It's just a part of what they do, but the death of a 25-year-old isn't supposed to be the result of a sporting contest for our entertainment.

In the 18-year history of ESPN's X Games, Moore was the first to die in competition. But why is my initial reaction, "Geez, I can't believe there have not been more." I mean, really, who thinks someone can survive attempting a backflip on a 450-pound snowmobile? But one person does it, then another and the one after that until it ultimately becomes a routine trick. And then it is time to develop the next one that will be even more insane. I am not saying that the people involved with extreme sports trying to perform some seemingly impossible stunt are not concerned with the utmost in safety standards. Maybe it's because these extreme sports haven't yet reached their final frontier of possibility. However, I can't help wondering if they ever set the limit: How far should they push the envelope?

So I say it's insane when I see some teenager shoot 30 feet into the air out of a halfpipe to do twists and flips on a skateboard or a snowboard, or when I see some free climber risk a fatal drop just to reach a summit. And when they have turned what I had previously considered the impossible into the probable, I ask myself: "What will they try next? And how far will they go before somebody kills himself?"

- 43 What is most likely the purpose of this passage?
- (A) To voice the concern about the safety of extreme sports athletes.
 - (B) To report on the death of the extreme sports athlete Caleb Moore.
 - (C) To point out the edge between brilliance and disaster in extreme sports.
 - (D) To question about the roles of extreme sports fans and corporate sponsors.
- 44 What is the last paragraph mainly about?
- (A) Moore's death in competition shown on ESPN's X Games.
 - (B) The danger in doing a backflip on a 450-pound snowmobile.
 - (C) Extreme sports athletes' constant attempts to push their limits.
 - (D) The difference between an impossible stunt and a routine trick.
- 45 According to the passage, which of the following statements is NOT true?
- (A) No one died in the 18-year history of ESPN's X Games until Moore's death.
 - (B) Extreme sports athletes need to set safety standards before performing a stunt.
 - (C) Extreme sports keeping pushing things farther haven't reached their final limit.
 - (D) The author is surprised that there has been only one death in ESPN's X Games.
- 46 What does "hazardous" in the second paragraph mean?
- (A) Massive. (B) Complex. (C) Sporting. (D) Dangerous.
- 47 What is most likely the author's attitude towards extreme sports?
- (A) Passive and doubtful. (B) Hopeful but uncertain.
 - (C) Supportive but worried. (D) Objective and optimistic.

請依下文回答第 48 題至第 50 題：

Beth and Tony are a couple who like to go mountain hiking. One day, they decided to do it again on a sunny day. But by the time they started the hike, it was already in the afternoon. Enjoying themselves all the way through, they both reached the top of the mountain before the sunset. Yet, instead of taking the same route, Beth suggested to take another trail down, and it turned out to be an unexplored one. The trail was rather hidden by the grass and trees. Not being able to see the road ahead most of the time, they slipped a couple of times.

They became nervous when it started to get dark, and had to hold on to each other tightly. Walking totally in the dark, they carefully watched over every step they made and moved even slower than they did before. Suddenly seeing a light, they began to walk faster. Eventually, they found their car in the lot. After driving back home safely, they made up their mind not to make any attempt for something unknown or uncertain.

- 48 What is the main reason for the delay when they went down the mountain?
- (A) They stayed too long watching the beautiful scenery.
 - (B) They parked their car at an unknown place.
 - (C) They took an unknown road on their way back.
 - (D) One of them fell and was injured.
- 49 Why couldn't they speed up when going down the mountain?
- (A) Because they enjoyed the sunset and lost their way.
 - (B) Because it was already dark and they couldn't see anything at all.
 - (C) Because they came across a cruel bear that tried to attack them.
 - (D) Because it started to rain and the road became slippery.
- 50 What decision did this couple make after this mountain-climbing experience?
- (A) They were determined not to do anything unsure in the future.
 - (B) They decided not to take any challenge by climbing the mountain.
 - (C) They chose never to walk in the dark on the mountain in the future.
 - (D) They resolved to bring with them a flashlight for mountain hiking.