

# Chinese Permanent Cemeteries (Amendment) Ordinance 2016

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**HONG KONG SPECIAL ADMINISTRATIVE REGION**

**ORDINANCE NO. 11 OF 2016**



C. Y. LEUNG  
Chief Executive  
2 June 2016

An Ordinance to amend the Chinese Permanent Cemeteries Ordinance and the Chinese Permanent Cemeteries Rules to broaden the scope of eligible deceased persons to be interred, buried or deposited in a cemetery specified in the First Schedule to the Rules; to allow the burials of human ashes in an exhumable lot; to provide for the power to cremate unclaimed human remains; to amend the purposes and powers of the Board of Management of the Chinese Permanent Cemeteries; to provide for related matters; and to make technical amendments.

[ ]

Enacted by the Legislative Council.

**Part 1**

**Preliminary**

**1. Short title and commencement**

- (1) This Ordinance may be cited as the Chinese Permanent Cemeteries (Amendment) Ordinance 2016.
- (2) This Ordinance comes into operation on a day to be appointed by the Secretary for Home Affairs by notice published in the Gazette.

## Part 2

### Amendments to Chinese Permanent Cemeteries Ordinance

2. **Chinese Permanent Cemeteries Ordinance amended**

The Chinese Permanent Cemeteries Ordinance (Cap. 1112) is amended as set out in sections 3 to 8.

3. **Long title amended**

The long title, after “Hong Kong”—

**Add**

“and their relatives.”.

4. **Preamble amended**

(1) Preamble, paragraph (f)—

**Repeal the colon**

**Substitute a semicolon.**

(2) Preamble, after paragraph (f)—

**Add**

“(g) subsequent to the events mentioned in paragraphs (a), (d) and (f), the pieces or parcels of land referred to in paragraphs (a) and (d) and other pieces or parcels of land were appropriated or granted to the Board established under section 3 (*Board*) for use as cemeteries;

- (h) after modifications to the documents effecting the appropriation or grant of all of the pieces or parcels of land appropriated or granted to the Board, all those pieces or parcels of land are now permitted to be used in accordance with this Ordinance and the rules made under it.”

**5. Section 2 amended (interpretation)**

- (1) Section 2, definition of *Chinese Permanent Cemetery*—

**Repeal**

“or burial ground”.

- (2) Section 2, English text, definition of *permanently resident in Hong Kong*—

**Repeal the full stop**

**Substitute a semicolon.**

- (3) Section 2—

**Add in alphabetical order**

“*relative* (親屬) has the meaning given by rule 3(1) of the Chinese Permanent Cemeteries Rules (Cap. 1112 sub. leg. A).”.

**6. Section 6 amended (purposes of the Board)**

Section 6—

**Repeal**

everything after “Board”

**Substitute**

“are to provide, maintain and administer cemeteries for persons of the Chinese race permanently resident in Hong Kong and their relatives.”.

**7. Section 7 amended (powers of the Board)**

Section 7(2)—

**Repeal**

“persons of the Chinese race in Hong Kong”

**Substitute**

“the community of Hong Kong or any sector of that community”.

**8. Section 8 amended (power of the Board to make rules)**

(1) Section 8(2)(a)—

**Repeal**

everything after “grave space”

**Substitute**

“, an urn lot or a niche;”.

(2) Section 8(2)(c)—

**Repeal**

“spaces”

**Substitute**

“spaces, urn lots and niches”.

(3) Section 8(2)(d)—

**Repeal**

“; and”

**Substitute a semicolon.**

(4) Section 8(2)(e)—

**Repeal**

“and removal of human remains.”

**Substitute**



“, removal and cremation of human remains; and”.

(5) After section 8(2)(e)—

**Add**

“(f) provide for the disinterment and removal of human ashes.”.

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## Part 3

### Amendments to Chinese Permanent Cemeteries Rules

#### 9. Chinese Permanent Cemeteries Rules amended

The Chinese Permanent Cemeteries Rules (Cap. 1112 sub. leg. A) are amended as set out in sections 10 to 33.

#### 10. Rule 3 amended (interpretation)

(1) Rule 3—

**Renumber the rule as rule 3(1).**

(2) Rule 3(1), definition of *Board*—

**Repeal**

everything after “Management of”

**Substitute**

“the Chinese Permanent Cemeteries established by section 3 of the Ordinance;”.

(3) Rule 3(1), definition of *cemetery*—

**Repeal**

everything after “any”

**Substitute**

“of the cemeteries specified in the First Schedule;”.

(4) Rule 3(1), definition of *exhumable lot*—

**Repeal**

everything after “allocated”

**Substitute**

“under rule 13;”.

(5) Rule 3(1), definition of *family niche*—

**Repeal**

everything after “a niche”

**Substitute**

“for the deposit of ashes allocated under rule 21A;”.

- (6) Rule 3(1), definition of *human remains*—

**Repeal**

everything after “being”

**Substitute**

“at any stage of decomposition, including parts of the dead body or skeletal remains, but does not include ashes;”.

- (7) Rule 3(1), definition of *ordinary niche*—

**Repeal**

everything after “a niche”

**Substitute**

“for the deposit of ashes allocated under rule 20A;”.

- (8) Rule 3(1), definition of *permittee*—

**Repeal**

“urn space, or niche”

**Substitute**

“an urn lot, or a niche”.

- (9) Rule 3(1)—

**Repeal the definition of *relative***

**Substitute**

“*relative* (親屬), in relation to a person (*relevant person*) (whether deceased or not), means—

- (a) the relevant person’s spouse;

- (b) a father, mother, grandfather, grandmother, great-grandfather or great-grandmother of the relevant person or of the relevant person's spouse;
- (c) a brother or sister of—
  - (i) the relevant person;
  - (ii) the relevant person's spouse; or
  - (iii) a person referred to in paragraph (b);
- (d) a spouse of a person referred to in paragraph (c);
- (e) a descendant of—
  - (i) the relevant person;
  - (ii) a person referred to in paragraph (a), (c) or (d); or
  - (iii) a person referred to in paragraph (b), other than the relevant person; or
- (f) a spouse of a person referred to in paragraph (e);”.

(10) Rule 3(1), English text, definition of *subscriber lot*—

**Repeal the full stop**

**Substitute a semicolon.**

(11) Rule 3(1)—

**Repeal the definition of *close relative*.**

(12) Rule 3(1)—

**Add in alphabetical order**

“*allocated place* (獲分配位置) includes a grave space, an urn lot and a niche that may be allocated by the Board under these rules;

*ashes* (骨灰) means ashes resulting from the cremation of human remains;

**eligible deceased** (合資格死者) has the meaning given by rule 4(2);

**expiry of the term** (年期屆滿), in relation to an exhumable lot, means—

- (a) if the initial term of an allocation of the lot is not extended—the expiry of the initial term of 10 years; or
- (b) if the initial term of an allocation of the lot is extended—the termination or expiry of the extended term;

**first** (首次), in relation to an interment, a burial or a deposit of human remains or ashes in an allocated place, means the first interment, burial or deposit in the place after the most recent allocation of the place by the Board;

**grave space** (墳墓用地) means a space for the burial of human remains and ashes, whether allocated as an exhumable lot, an ordinary lot or a subscriber lot;

**ossuary niche** (骨殖龕位) means a niche for the deposit of skeletal remains and ashes allocated under rule 20;

**spouse** (配偶) includes a concubine taken by a person before 7 October 1971;

**urn lot** (金塔墓地) means a lot for the burial of skeletal remains and ashes allocated under rule 18A.”.

(13) After rule 3(1)—

**Add**

“(2) In determining a relationship between 2 persons for the purposes of these rules—

- (a) a child of a person includes—
  - (i) a child of the person born out of wedlock;

- (ii) an adopted child of the person; and
- (iii) a step-child of the person; and
- (b) a half-blood brother or sister of a person is to be treated as a brother or sister of the person.”.

**11. Rule 4 substituted**

Rule 4—

**Repeal the rule**

**Substitute**

**“4. Eligibility**

- (1) The first interment, burial or deposit in an allocated place must only be that of the human remains or ashes of an eligible deceased.
- (2) An eligible deceased is a deceased person who, immediately before the person’s death, was—
  - (a) a person of Chinese race permanently resident in Hong Kong;
  - (b) a spouse of the person referred to in paragraph (a); or
  - (c) a child of the person referred to in paragraph (a).
- (3) The Board’s decision on whether a deceased person met the description in subrule (2)(a), (b) or (c) is final.”.

**12. Rule 5 amended (consent of Board for burials, deposits and removals)**

- (1) Rule 5, Chinese text, heading—

**Repeal**

“存放”

**Substitute**

“安放”.

- (2) Rule 5, English text—

**Repeal**

“Board no person shall”

**Substitute**

“Board, no person may”.

- (3) Rule 5—

**Repeal**

“or human”

**Substitute**

“or”.

- (4) Rule 5, Chinese text—

**Repeal**

“存放”

**Substitute**

“安放”.

**13. Rule 7 amended (allocation use and dimension of grave spaces)**

- (1) Rule 7, heading—

**Repeal**

“use”.

- (2) Rule 7(1)—

**Repeal**

“Not more than one grave space shall be allocated”

**Substitute**

“Only 1 grave space may be allocated by the Board”.

- (3) Rule 7(2)—

**Repeal**

“shall not exceed an area of 1 200 mm by 2 400 mm and there shall not be provision for”

**Substitute**

“must not exceed an area of 900 mm by 2 400 mm and there must be at least 300 mm”.

- (4) Rule 7(2), English text, proviso—

**Repeal**

“shall”

**Substitute**

“may”.

- (5) Rule 7(3), English text—

**Repeal**

“shall”

**Substitute**

“must”.

- (6) Rule 7(3)—

**Repeal**

“the grave”

**Substitute**

“the space”.

- (7) Rule 7(4), English text—

**Repeal**

“shall”

**Substitute**

“must”.



(8) Rule 7(4)—

**Repeal**

“the grave”

**Substitute**

“a grave space”.

**14. Rule 7A added**

After rule 7—

**Add**

**“7A. Use of grave spaces**

- (1) The first interment in a grave space must only be that of the encoffined human remains of an eligible deceased.
- (2) Not more than one set of encoffined human remains can be interred in a grave space unless written consent has been given by the Board.
- (3) After exhumation, the Board may permit the skeletal remains, or ashes, derived from the exhumed human remains to be reburied in a container in the grave space.
- (4) After the first interment referred to in subrule (1), the Board may permit subsequent interments of encoffined human remains, or subsequent burials in containers of skeletal remains or ashes, of other deceased persons in the grave space if—
  - (a) the human remains, skeletal remains or ashes for a subsequent interment or burial are those of a relative of the eligible deceased;

- (b) for an exhumable lot, the unexpired term of the lot is not less than 6 years;
- (c) the human remains, skeletal remains or ashes of the eligible deceased are interred or buried in the space; and
- (d) the prescribed fee has been paid.”.

**15. Rule 14 substituted**

Rule 14—

**Repeal the rule**

**Substitute**

**“14. Disinterment and removal of human remains and ashes from exhumable lot on expiry of the term**

- (1) On the expiry of the term of an exhumable lot, the permittee of the lot must disinter the human remains and ashes buried in the lot and remove them from the lot.
- (2) The Board may disinter the human remains and ashes and remove them from the lot if all of the following conditions are met—
  - (a) subrule (1) is not complied with;
  - (b) the Board has published a notice in the Gazette and in at least 2 local Chinese newspapers and at least 1 local English newspaper stating that the Board intends to disinter the human remains and ashes and remove them from the lot;
  - (c) 6 months after the publication of the notice, the permittee still has not disinterred the human remains and ashes and removed them from the lot.”.

**16. Rule 14A added**

After rule 14—

**Add**

**“14A. Cremation of human remains removed from exhumable lot**

The Board may cremate the human remains removed from an exhumable lot under rule 14(2) if all of the following conditions are met—

- (a) the permittee of the lot has not arranged with the Board for their disposal within 6 years from the expiry of the term of the lot;
- (b) the Board has published a notice in the Gazette and in at least 2 local Chinese newspapers and at least 1 local English newspaper stating that the Board intends to cremate the human remains;
- (c) 6 months after the publication of the notice, the permittee still has not arranged with the Board for the disposal of the human remains.”.

**17. Rule 15 amended (reversion of exhumable lot)**

Rule 15—

**Repeal**

everything after “remains”

**Substitute**

“and ashes under rule 14, an exhumable lot immediately reverts to the Board, and the Board may make any further allocation of the lot.”.

**18. Rule 16 repealed (several interments in one grave space)**

Rule 16—

**Repeal the rule.**

**19. Rule 17 repealed (burial in urn of skeletal or cremated remains)**

Rule 17—

**Repeal the rule.**

**20. Rule 18 amended (reversion of vacant ordinary or subscriber lot after exhumation)**

Rule 18—

**Repeal**

everything after “subscriber lot”

**Substitute**

“that remains vacant for a period of 3 months after exhumation immediately reverts to the Board, and the Board may make any further allocation of the lot.”.

**21. Rule 18A added**

After rule 18—

**Add**

**“18A. Dimension, allocation and use of urn lots**

- (1) An urn lot must not exceed an area of 900 mm by 900 mm.
- (2) An urn lot may be allocated by the Board on payment of the prescribed fee.
- (3) The first burial in an urn lot must only be that of the skeletal remains of an eligible deceased.

- (4) After exhumation, the Board may permit the ashes derived from the exhumed skeletal remains to be reburied in a container in the urn lot.
- (5) After the first burial referred to in subrule (3), the Board may permit subsequent burials in containers of skeletal remains or ashes of other deceased persons in the urn lot if—
  - (a) the skeletal remains or ashes for a subsequent burial are those of a relative of the eligible deceased;
  - (b) the skeletal remains or ashes of the eligible deceased are buried in the lot; and
  - (c) the prescribed fee has been paid.”.

**22. Rule 19 substituted**

Rule 19—

**Repeal the rule**

**Substitute**

**“19. Reversion of vacant urn lot after removal**

- (1) An urn lot previously allocated that remains vacant for a period of 3 months after the removal of skeletal remains or ashes from the lot immediately reverts to the Board.
- (2) The Board may make any further allocation of an urn lot reverted to the Board under subrule (1).”.

**23. Rule 20 substituted**

Rule 20—

**Repeal the rule**

## **Substitute**

### **“20. Allocation and use of ossuary niches**

- (1) The Board may designate a niche to be an ossuary niche—
  - (a) for allocation under subrule (2), (3) or (4); or
  - (b) for the deposit of human remains disinterred and removed under rule 14(2).
- (2) On the application of a permittee of an exhumable lot, the Board must allocate an ossuary niche, if available, free of charge, for each set of skeletal remains removed from the lot on reversion of the lot to the Board.
- (3) On the application of a permittee of an ordinary lot or a subscriber lot, the Board must allocate an ossuary niche, if available, free of charge, for each set of skeletal remains removed on exhumation for surrender of the lot to the Board.
- (4) An ossuary niche may be allocated by the Board on payment of the prescribed fee, for the immediate deposit of a set of skeletal remains.
- (5) The first deposit in an ossuary niche allocated by the Board under subrule (4) must only be that of the skeletal remains of an eligible deceased.
- (6) The Board may permit the ashes derived from the skeletal remains of the eligible deceased to be redeposited in a container in the ossuary niche.
- (7) After the first deposit referred to in subrule (5), the Board may permit subsequent deposits of skeletal remains or ashes of other deceased persons in the ossuary niche if—

- (a) the skeletal remains or ashes for a subsequent deposit are those of a relative of the eligible deceased;
  - (b) the skeletal remains or ashes of the eligible deceased are deposited in the niche; and
  - (c) the prescribed fee has been paid.
- (8) The Board may determine the maximum numbers of sets of skeletal remains and ashes to be deposited in an ossuary niche.”.

**24. Rule 20A added**

After rule 20—

**Add**

**“20A. Allocation and use of ordinary niches**

- (1) The Board may designate a niche to be an ordinary niche.
- (2) An ordinary niche may be allocated by the Board on payment of the prescribed fee, for the immediate deposit of a set of ashes.
- (3) The first deposit in an ordinary niche must only be that of the ashes of an eligible deceased.
- (4) After the first deposit referred to in subrule (3), the Board may permit subsequent deposits of ashes of other deceased persons in the ordinary niche if—
  - (a) the ashes of the eligible deceased are deposited in the niche; and
  - (b) the prescribed fee has been paid.
- (5) The Board may determine the maximum number of sets of ashes to be deposited in an ordinary niche.”.

**25. Rule 21 substituted**

Rule 21—

**Repeal the rule**

**Substitute**

**“21. Reversion of vacant ossuary niche and ordinary niche**

- (1) An ossuary niche or ordinary niche that remains vacant for a period of 3 months after the allocation or removal of skeletal remains or ashes from the niche immediately reverts to the Board.
- (2) The Board may make any further allocation of the niche reverted to the Board under subrule (1).”.

**26. Rule 21A substituted**

Rule 21A—

**Repeal the rule**

**Substitute**

**“21A. Allocation and use of family niches**

- (1) The Board may designate a niche to be a family niche at the time of the allocation of the niche.
- (2) A family niche may be allocated by the Board on payment of the prescribed fee.
- (3) The Board may allocate more than one family niche to the same permittee.
- (4) The first family niche allocated to a permittee must be used immediately for the deposit of a set of ashes.
- (5) The first deposit in a family niche must only be that of the ashes of an eligible deceased.



- (6) After the first deposit referred to in subrule (5), the Board may permit subsequent deposits of ashes of other deceased persons in the family niche if—
  - (a) the ashes for a subsequent deposit are those of a relative of the eligible deceased;
  - (b) the ashes of the eligible deceased are deposited in the niche; and
  - (c) the prescribed fee has been paid.
- (7) The Board may determine the maximum number of sets of ashes to be deposited in a family niche.”.

**27. Rule 21B amended (reversion of family niches allocated)**

- (1) Rule 21B(1)—

**Repeal**

everything after “one time”

**Substitute**

“remain vacant for a period of 3 months after the allocation or removal of ashes, the Board may, at its absolute discretion, revoke the allocation and designation by notice in writing addressed to the permittee at the permittee’s last known address and by posting the notice at a conspicuous place of the niche or niches.”.

- (2) Rule 21B(2)—

**Repeal**

everything before “to the Board”

**Substitute**

- “(2) On the expiry of 14 days of the notice being sent and posted as prescribed in subrule (1), the niche or niches immediately revert”.

- (3) Rule 21B(3), English text—

**Repeal**

“Upon”

**Substitute**

“On”.

- (4) Rule 21B(3)—

**Repeal**

everything after “used for” and before “after deduction”

**Substitute**

“depositing ashes pursuant to this rule, all fees paid for the allocation of the niche or niches must,”.

- (5) Rule 21B(3), English text, proviso—

**Repeal**

“shall”

**Substitute**

“must”.

- (6) Rule 21B(4)—

**Repeal**

“Any family”

**Substitute**

“A family”.

- (7) Rule 21B(4), English text—

**Repeal**

“shall be”

**Substitute**

“is”.

**28. Rule 22 amended (digging, paving, monuments and headstones etc.)**

(1) Rule 22(1), English text—

**Repeal**

“Save where”

**Substitute**

“Unless”.

(2) Rule 22(1)—

**Repeal**

“urn space”

**Substitute**

“urn lot”.

(3) Rule 22(1), English text—

**Repeal**

“shall be”

**Substitute**

“are to be”.

(4) Rule 22(2), English text—

**Repeal**

“Save”

**Substitute**

“Except”.

(5) Rule 22(2), English text—

**Repeal**

“the grant thereof, no person shall”

**Substitute**

“giving the consent, no person may”.

- (6) Rule 22(2)—

**Repeal**

“grave or urn space”

**Substitute**

“grave space or urn lot”.

- (7) Rule 22(3), English text—

**Repeal**

“article whatsoever”

**Substitute**

“article”.

- (8) Rule 22(3)—

**Repeal**

“any grave or urn space”

**Substitute**

“any grave space, urn lot”.

- (9) Rule 22(3), English text—

**Repeal**

“shall be placed”

**Substitute**

“is to be placed”.

- (10) Rule 22(3), English text—

**Repeal**

“Board shall not be”

**Substitute**

“Board is not”.

(11) Rule 22(3)—

**Repeal**

“damage thereto arising from any cause whatsoever.”

**Substitute**

“damage to it.”.

**29. Rule 23 substituted**

Rule 23—

**Repeal the rule**

**Substitute**

**“23. No liability against damage**

The Board is not liable for any damage to any part of a cemetery in the event of subsidence, natural disaster, civil commotion, war or terrorist act as defined by section 2(1) of the United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575).”.

**30. Rule 23A substituted**

Rule 23A—

**Repeal the rule**

**Substitute**

**“23A. Power of Board to repair and recover expenses**

The Board has the power to—

- (a) carry out for the protection of public safety any repairs to a grave space, an urn lot or a niche on behalf of the permittee who failed to carry out the repairs as requested by the Board; and

- (b) recover from the permittee any expenses incurred for the repairs.”.

**31. Rule 28 added**

After rule 27—

**Add**

**“28. Saving**

- (1) Rule 7(2), as in force immediately before the appointed date, continues to apply to a grave space allocated by the Board before that date, as if the amending Ordinance had not been enacted.
- (2) Rule 14A does not apply to an exhumable lot—
- (a) allocated by the Board before the appointed date; and
- (b) whose term is not extended after the appointed date.
- (3) Rule 18A(1) does not apply to an urn lot allocated by the Board before the appointed date.
- (4) In this rule—

*amending Ordinance* (《修訂條例》) means the Chinese Permanent Cemeteries (Amendment) Ordinance 2016 (11 of 2016);

*appointed date* (指定日期) means the date on which the amending Ordinance comes into operation.”.

**32. First Schedule amended (cemeteries)**

First Schedule—

**Repeal**

“[rule 2]”

**Substitute**

“[rules 2 & 3]”.

**33. Third Schedule amended (fees)**

- (1) Third Schedule, item 5—

**Repeal**

“burial (rules 16 and 17)—for the second and any subsequent burial”

**Substitute**

“interments or burials (rules 7A and 18A)—for the second and each of the subsequent interments or burials”.

- (2) Third Schedule, item 5(a)—

**Repeal**

“each coffin burial”

**Substitute**

“(for an interment of encoffined human remains) each set of human remains”.

- (3) Third Schedule, item 5(b)—

**Repeal**

“each burial or reburial in urn”

**Substitute**

“(for a burial or reburial in containers of skeletal remains or ashes) each set of skeletal remains or ashes”.

- (4) Third Schedule, item 6—

**Repeal**

“in columbarium (each space)”

**Substitute**

“(each niche)”.

- (5) Third Schedule, item 6A—

**Repeal**

“in columbarium (each space)”

**Substitute**

“(each niche)”.

- (6) Third Schedule, item 7—

**Repeal**

“niche in ossuary or a columbarium (rule 20(3)) (each space)”

**Substitute**

“ossuary niche (rule 20(4)) (each niche)”.

- (7) Third Schedule, item 10—

**Repeal**

“each area 2.4 metres × 1.2 metres or part thereof”.

- (8) Third Schedule, item 13—

**Repeal**

“niche of columbarium (each set of cremated human remains)”

**Substitute**

“ordinary niche, family niche or ossuary niche (each set of skeletal remains or ashes)”.

- (9) Third Schedule, item 14—

**Repeal**

“space (each space)”

**Substitute**

“lot (each lot)”.

- (10) Third Schedule, item 16(b), after “remains”—



**Add**

“or ashes”.

- (11) Third Schedule, English text, item 16(b)—

**Repeal**

“thereof”

**Substitute**

“of a month”.

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## **Part 4**

### **Amendments Relating to Headings of Provisions**

#### **34. Amendments relating to headings of provisions**

- (1) The amendments relating to headings of provisions as specified in the Schedule have effect.
  - (2) The Chinese Permanent Cemeteries Rules (Cap. 1112 sub. leg. A) are amended as set out in the Schedule.
-

**Schedule**

[s. 34]

**Amendments Relating to Headings of Provisions of  
Chinese Permanent Cemeteries Rules**

**1. Part 1 heading added**

Before rule 1—

**Add**

**“Part 1**

**General Provisions”.**

**2. Part 2 heading added**

Before rule 6—

**Add**

**“Part 2**

**Grave Spaces”.**

**3. Part 3 heading added**

After rule 18—

**Add**

**“Part 3**

**Urn Lots”.**

**4. Part 4 heading added**

Before rule 20—

**Add**

**“Part 4**

**Niches”.**

**5. Part 5 heading added**

Before rule 22—

**Add**

**“Part 5**

**Miscellaneous Provisions”.**