



**Law
Commission**
Reforming the law

New Funerary Methods

Summary of the Consultation Paper

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ABOUT THE LAW COMMISSION

- 1.1 The Law Commission is an independent body that was created by the Law Commissions Act 1965, with a duty to keep the law under review and recommend reform where needed. It is the official law reform body for England and Wales.
- 1.2 We are committed to providing accessible publications. If you require this summary to be made available in a different format, please email: bcnfm@lawcommission.gov.uk.

OUR CONSULTATION ON NEW FUNERARY METHODS

- 1.3 We published a Consultation Paper about new funerary methods on 4 June 2025.
- 1.4 A new funerary method is an alternative to the established funerary methods of burial, cremation and burial at sea. There is currently no specific regulation of new funerary methods in England and Wales. Some new funerary methods are used in other parts of the world.
- 1.5 The focus of the Consultation Paper is a new framework to enable the regulation of new funerary methods. We do not consider whether specific new funerary methods should be regulated under the framework. That will be a question for Government.
- 1.6 Some of our Consultation Questions ask for consultees' views on a provisional proposal, where we think that the evidence is sufficient for us to advocate a particular way forward. Others ask open questions, inviting consultees to share their views where we do not make a provisional proposal. Our ultimate aim, following the consultation and our analysis of responses, is to make recommendations to Government about a new legislative framework for the regulation of new funerary methods in England and Wales. We expect to publish our final Report, with a draft Bill, in spring 2026.

THIS SUMMARY

- 1.7 This summary of the Consultation Paper aims to give you, in concise form, the information you need to participate in the consultation and answer our questions. While we provide some context and an overview of the significant issues, for a comprehensive explanation readers are encouraged to read our full Consultation Paper, or the relevant parts of it. You do not have to respond to all the questions in our consultation.
- 1.8 The Consultation Paper does not make any final recommendations for reform. Rather, it makes provisional proposals. We will analyse the responses we receive and consider what recommendations we make to Government in our final Report. It will then be for Government to decide how to take them forward, and for Parliament to pass any new Acts needed to change the law.

RESPONDING TO OUR CONSULTATION

- 1.9 The full Consultation Paper is available on our website at: <https://lawcom.gov.uk/project/new-funerary-methods/>. The deadline for responses is 4 September 2025.
- 1.10 We encourage you to submit your response using the online form available at the link above. If possible, please use this method.
- 1.11 Alternatively, you can send your comments:
- (1) by email to bcnfm@lawcommission.gov.uk; or
 - (2) by post to New Funerary Methods Team, Law Commission, 1st Floor, 52 Queen Anne's Gate, London SW1H 9AG.
- 1.12 If you send your comments by post, it would be helpful to also send them electronically if possible.
- 1.13 When providing responses, we ask consultees if they could avoid including personal identifying information in the text of their response, particularly where this may reveal other people's identities.

STRUCTURE OF THE CONSULTATION PAPER

- 1.14 The Consultation Paper starts with a **Glossary** of terms. **Chapter 1** is an introductory chapter. **Chapter 2** explains our conception of a new funerary method. We also describe two methods that are in use in other jurisdictions, alkaline hydrolysis and human composting, and consider some other methods that have been, or are being, developed. **Chapter 3** reviews the existing legislation in England and Wales that may be relevant to new funerary methods. **Chapter 4** considers new funerary methods in various other jurisdictions.
- 1.15 **Chapters 5 to 7** set out how a new framework for the regulation of new funerary methods might work. In **Chapter 5** we consider the framework, in overview, including a power to make regulations. In **Chapter 6** we explore issues relating to the nature and scope of the regulatory power. In **Chapter 7** we consider the status of new funerary methods that have not been regulated under the framework.
- 1.16 **Chapter 8** considers the potential impact of our provisional proposals.
- 1.17 Our consultation questions and provisional proposals are listed in **Chapter 9**.

THE OVERALL PROJECT

- 1.18 The Consultation Paper is part of a wider project called **Burial, Cremation and New Funerary Methods**. That project exists because stakeholders told us, in response to an open public consultation as part of our 13th Programme of Law Reform in 2017, that the law which governs how we deal with the bodies of deceased people is out of date and not fit for purpose.

1.19 Because the issues involved are so broad, we have split the project into three parts. In addition to this part, on **New Funerary Methods**, there are two others:

- (1) **Burial and Cremation**, which considers the law of burial and cremation in England and Wales, much of which is piecemeal, complex and outdated. This part is currently in process and we published a Consultation Paper in October 2024; and
- (2) **Rights and Obligations Relating to Funerals, Funerary Methods, and Remains**, which will look at whether decisions you make about your body after death should be binding, and how disputes over funerary methods and remains should be resolved. This part will begin at the end of 2025.

1.20 Some issues which relate to this area of law are outside the scope of the project. These include, among others, death registration, the regulation of funeral directors, and planning and environmental law.

1.21 Burial, cremation and new funerary methods are matters on which the Senedd Cymru, the Welsh devolved legislature, has the power to make new laws.

WHY IS REFORM NEEDED FOR NEW FUNERARY METHODS?

1.22 Burial and cremation are long-established funerary methods. Burial at sea also has a long history although it is not now commonly used in this jurisdiction.

1.23 New funerary methods are alternative ways of dealing with the bodies of deceased people, beyond the established funerary methods. At the time of writing, there are no new funerary methods in use in England and Wales. Alkaline hydrolysis (for an explanation of the process see paragraphs 1.36 to 1.38 below) was used for the bodies of five deceased people in 2019, as part of a study facilitated by Middlesex and Sheffield universities.

1.24 There is no specific regulation of new funerary methods in England and Wales. The use of new funerary methods is not explicitly prohibited in law, although legislation about death registration may have the effect of prohibiting it, as we discuss in **Chapter 3** of the Consultation Paper.

1.25 Stakeholders have told us that they want a system of regulation so that they can operate securely and conscientiously, unlock investment, and offer a greater choice of funerary methods to members of the public. Regulation will help to ensure new funerary methods are carried out safely and appropriately and that those that choose to use new funerary methods feel confident about doing so.

WHAT IS A NEW FUNERARY METHOD?

Our conception of a new funerary method

1.26 In this project, we have carefully considered the language that we use in relation to death and dying. We have sought to avoid forms of language where we are aware they can cause offence or be viewed as problematic. We have tried to avoid using the term “disposal”, as a number of different stakeholders told us that they disliked the term in this context. Where possible, we use alternative wording such as “dealing with

the bodies of deceased people”. However, we use the term when it is necessary to quote from a source that uses it (including legislation), or where it is essential so that our meaning is clear.

- 1.27 In **Consultation Question 1**, we provisionally propose that a new funerary method is (1) a process; (2) other than burial, cremation or burial at sea; (3) that breaks down the body of a deceased person; and (4) which has the purpose of disposing of the body of a deceased person (and not, for example, the purpose of preserving or researching bodies).

Not burial, cremation or burial at sea

- 1.28 A new funerary method must be distinct from the established funerary methods of burial, cremation and burial at sea.
- 1.29 Some processes that may appear to be new funerary methods are simply variations within burial and cremation. For example, natural burial is a form of burial. Open pyre cremation is a form of cremation.

A process that breaks down the body of a deceased person

- 1.30 A new funerary method breaks down the body of a deceased person. Processes that instead preserve bodies are therefore not new funerary methods. Cryonics, or cryogenic freezing, is the process of preserving human bodies at very low temperatures with the intention of reviving them if future technology enables this. According to our conception, this is not a new funerary method. The process of embalming and the practice of public display of human bodies are also excluded.

The purpose

- 1.31 In order to be clear, we found it necessary to state that the purpose of a new funerary method is disposing of the body of a deceased person. The purpose is not, for example, research involving the bodies of deceased people, or the preservation of bodies.
- 1.32 If something went wrong during a process that had the aim of preserving the body of a deceased person, and this caused the body to break down, it would still not be a new funerary method because the purpose was preservation rather than disposal.

Specific new funerary methods

- 1.33 Alkaline hydrolysis and human composting are in use in other jurisdictions. We describe these methods below.
- 1.34 There has been some development of other processes. Various methods involving the freezing of human remains, followed by subsequent treatment to break down the remains, have been suggested. However, none of these appear to have reached the point of viability for use on the bodies of deceased people.
- 1.35 We ask whether consultees are aware of any further developments with the processes mentioned in the Consultation Paper. We also ask whether consultees are aware of any other potential new funerary methods (see **Consultation Question 2**). **Chapter 2** of the Consultation Paper discusses these issues.

Alkaline hydrolysis

- 1.36 The process of alkaline hydrolysis, as a new funerary method, uses water, alkaline chemicals, heat and pressure to break down the tissue of a deceased person into liquid, leaving bone fragments and teeth. The body, usually in a woollen shroud or other organic pouch, is placed into a vessel with a solution of the alkaline chemical, to which heat is applied.
- 1.37 The process may use varying amounts of pressure and heat, which will have an impact on the time taken. Following this stage of the process, the pieces of bone and teeth which remain are dried out and may be ground to a powder. This powder is similar to cremation ashes, although whiter in colour and of greater volume.
- 1.38 In most alkaline hydrolysis systems, the pH value of the resulting liquid is checked and, if necessary, chemically treated, to ensure that it is sterile and an appropriate pH to enter the wastewater treatment system.

Human composting

- 1.39 The body is placed into a sealed chamber, or vessel, with carbon-rich organic matter (such as straw, wood chips and alfalfa) that enables quicker decomposition. Various elements in the vessel are monitored and may be controlled, including temperature and humidity. The vessel is rotated periodically. The process takes approximately two to three months. Pieces of bones that remain after the process may be mechanically reduced to small fragments, or powder, and reincorporated into the soil. The resulting soil, of which there is approximately one cubic metre, may be returned to bereaved people with the remainder placed on land by providers.
- 1.40 We understand that variations on the method described above are being developed, which may differ in substantive ways, such as placing a body into a special type of soil rather than other organic matter.
- 1.41 It has been stated that the process of human composting destroys most pathogens, although not prions.

EXISTING LAW IN ENGLAND AND WALES

- 1.42 There is currently no specific regulation of new funerary methods in England and Wales. However, some elements of existing law are relevant. We explore these in **Chapter 3** of the Consultation Paper.

A limited power to make provision for new funerary methods?

- 1.43 The Public Health (Control of Disease) Act 1984 contains a power for the Secretary of State to make regulations imposing conditions and restrictions “with respect to means of disposal of dead bodies otherwise than by burial or cremation... which may appear to be desirable in the interests of public health or public safety”.
- 1.44 This is a limited power with a complex legislative history. Although its purpose is not entirely clear, the limitations on the power mean that it could not be used to provide a comprehensive framework for the regulation of new funerary methods. When we make our final recommendations to Government, we will need to consider the relationship between this provision and our draft legislation.

Death registration legislation

- 1.45 There is no explicit prohibition on the use of new funerary methods in burial and cremation law or any other legislation. However, it is arguable that the use of new funerary methods is effectively prohibited by death registration legislation.
- 1.46 Under section 1(1) of the Births and Deaths Registration Act 1926, the body of a person may not be “disposed of” unless a certificate or order has been given to “the person effecting the disposal”. It is a criminal offence to breach this prohibition. This provision does not apply to cremation, although the Cremation (England and Wales) Regulations 2008 contain a similar requirement for cremation.
- 1.47 The “person effecting the disposal”, other than in a narrow set of burials, is “the person by whom or whose officer the register of burials in which the disposal is to be registered is kept”. As there is no requirement for a “register of burials” to be kept for a new funerary method, it is likely that if a new funerary method was to be used there would be no person effecting the disposal, as defined in the 1926 Act. If so, it would be impossible for the certificate or order to be delivered as required and using a new funerary method for the body of a deceased person would therefore be a criminal offence.
- 1.48 The position is unclear, which is unsatisfactory, both for potential operators of new funerary methods, and for the public.
- 1.49 The system of death registration is important. If a framework enabling the use of new funerary methods is introduced, provisions relating to death registration will need to be amended. We provisionally propose that, under the new framework, the requirements in legislation relating to death registration should be broadly the same for an approved and regulated new funerary method as for burial and cremation (see **Consultation Question 3**).

DEVELOPMENTS IN OTHER JURISDICTIONS

- 1.50 Worldwide, there are a variety of approaches to the question of how the bodies of deceased people should be dealt with. In some parts of the world burial has traditionally been favoured, whereas in others cremation has been the norm. These preferences have sometimes changed over time. As technology to enable new funerary methods has emerged over the past few decades, different approaches to their regulation have been taken.
- 1.51 In **Chapter 4** of the Consultation Paper, we set out examples of how new funerary methods are legally regulated in other jurisdictions, to inform ideas about how a legislative framework could work in England and Wales. We do not provide a comprehensive account of the regulation of new funerary methods across the world. Instead, we have looked at different ways in which new funerary methods are regulated to inform a possible future legal framework in England and Wales.
- 1.52 Alkaline hydrolysis is available in some parts of Australia, Canada and the US, and in Ireland and South Africa. Human composting is available in some states in the US. Most, although not all, of the jurisdictions in which new funerary methods are available have put a legislative framework in place to regulate the use of either specific methods

or new funerary methods more generally. For example, in the US alkaline hydrolysis is available in many states and human composting is available in a smaller number of states. Some of the relevant state legislation authorises specific methods, whilst other legislation enables the use of new funerary methods more generally. In some jurisdictions the use of new funerary methods has been permitted by legislative changes, although they are not currently available.

- 1.53 Although new funerary methods are currently neither regulated nor available in Scotland, the Netherlands or New Zealand, there have been some notable developments. In Scotland, since 2016 there has been a power in primary legislation for regulations to be made about new funerary methods. The Scottish Government has carried out a consultation about regulating alkaline hydrolysis, but no regulations have been made at the time of publication. In the Netherlands, a report of the Health Council in 2020 set out criteria for assessing a new funerary method and examined alkaline hydrolysis and human composting against these criteria. In New Zealand, a consultation by the Ministry of Health in 2019 set out options for reform in relation to new funerary methods and expressed support for reform, although no further action has been taken at the time of publication of our Consultation Paper.

SHOULD NEW FUNERARY METHODS BE INCLUDED IN THE DEFINITION OF CREMATION?

- 1.54 Different jurisdictions have taken different approaches to regulating new funerary methods. In some, the definition of cremation has been widened to include a specified new funerary method or methods. Similarly, in others, the definition of cremation has been widened, but with the intention of including a range of new funerary methods, now and in future.
- 1.55 We suggest that this would not be a suitable approach for England and Wales and that it would be preferable to have a separate system of regulation for new funerary methods.
- 1.56 The definition of cremation is set out in the Cremation (England and Wales) Regulations 2008 as “the burning of human remains”. A new funerary method will be a different process from cremation. If the definition of cremation was expanded to include new funerary methods, this could create confusion. That confusion could lead to the possibility that methods other than cremation could be used when they may not have been wanted. This may have a detrimental impact, for example on those who belong to certain faiths which favour cremation.
- 1.57 In England and Wales, there are provisions in both primary and secondary legislation that are specific to cremation. If the definition of cremation was broadened to include new funerary methods, some of the regulations about cremation would not be relevant to the new funerary method, whilst new regulations may be needed that are not relevant to cremation. It seems likely that it would be necessary to make further amendments to legislation that would enable different provision to be made for different types of “cremation”. Future new funerary methods may have very few similarities to cremation which would mean that many amendments would need to be made to the legislation to enable appropriate regulation of these methods. This would negate the apparent simplicity of expanding the definition.

- 1.58 Overall, we do not think that expanding the definition of cremation is the right way to regulate new funerary methods. In **Consultation Question 4**, we provisionally propose that new funerary methods should be defined and regulated separately from existing funerary methods. See **Chapter 5** of the Consultation Paper for our discussion of this issue.

A POWER TO MAKE REGULATIONS

- 1.59 In **Chapter 5** of the Consultation Paper, we provisionally propose that new legislation about new funerary methods should contain a power for the Government to make regulations approving the use of specific new funerary methods and setting out how they should be carried out. See **Consultation Question 5**.
- 1.60 The detailed legal provisions about cremations are also found in regulations made by the Government. The Cremation Act 1902 contains a duty for the Secretary of State to make regulations about a broad range of matters relating to cremation including “in what cases and under what conditions the burning of any human remains may take place”.
- 1.61 However, we do not think that legislation should place the Government under a duty to regulate new funerary methods. When the Cremation Act 1902 was passed, cremations were already being carried out. A recent criminal case had established that cremation (the burning of a body), which was not covered by any legislation at the time, was lawful provided it did not go against established laws of the time. Several local Acts of Parliament had subsequently been passed enabling councils or corporations to establish crematoria. It was against this backdrop that the Cremation Act 1902 imposed a duty, rather than a power, to make regulations.
- 1.62 In Scotland, Scottish Ministers have the power to make regulations to extend existing legislation, for example any legislation relating to burial or cremation, to specified new funerary methods, “subject to any specified modifications”. We considered whether a similar power would be suitable for England and Wales. However, we consider that it would be more straightforward and effective to create a power to make regulations about new funerary methods that is not limited to extending the application of existing legislation. We think that such a power, set out in primary legislation about new funerary methods, would be clearer for members of the public to understand.
- 1.63 Primary legislation would not specify the new funerary methods that could be regulated; that would be a decision for Government. As we discuss in more detail below, in the Consultation Paper we explore, and ask about, whether primary legislation should require Government to take account of specified principles when deciding whether, and how, to regulate a new funerary method.

A LICENSING SYSTEM?

- 1.64 Many states in the US and Canada that have explicitly regulated new funerary methods have done so using a system of licensing. For example, in Saskatchewan, Canada, alkaline hydrolysis is included in the definition of cremation. With very limited exceptions, no person may own a crematorium without a licence. In Washington, USA, it is necessary to apply for a licence to run a “reduction facility”, which includes facilities for cremation, alkaline hydrolysis and natural organic reduction (human

composting). A licence is also required to conduct cremation, alkaline hydrolysis or natural organic reduction.

- 1.65 Any system of regulation in England and Wales would need to include appropriate safeguards. A licensing system may assist with this, because no-one would be able to operate a new funerary method without having successfully applied for a licence. However, the effectiveness of safeguards would depend on the terms of the licence and the extent to which inspection of a proposed facility, or a facility that was in use, was carried out. Safeguards could also be provided for in regulations, without the need for a licensing system.
- 1.66 Another possible advantage of a licensing system is flexibility. In future, new funerary methods may emerge that are similar to each other in some ways but different in others. Licences could be tailored to individual methods, without the need to make new regulations for each method. Different licence terms could also be applied to variations within a new funerary method.
- 1.67 Typically, states in which licences are required to operate new funerary methods also have licensing for related services, such as cremation, embalming and funeral services. This is not the case in England and Wales.
- 1.68 If a licensing system was introduced solely for new funerary methods, there would be a clear difference between the regulation of burial and cremation on one hand and new funerary methods on the other. We would like to understand whether this would deter providers of burial or cremation from offering new funerary methods and whether it would deter new providers from entering the market.
- 1.69 There are arguments for and against the introduction of a licensing system for new funerary methods in England and Wales. In **Chapter 5** of the Consultation Paper, we invite views from consultees on whether licensing should be part of the regulation of specific new funerary methods (see **Consultation Question 6**).

PRINCIPLES

- 1.70 In **Chapter 6** of the Consultation Paper, we explore three key principles underpinning the regulation of burial and cremation and how these might be relevant to new funerary methods.

Protection of the environment

- 1.71 New funerary methods have the potential to have an impact on the environment. Burial and cremation are subject to general environmental regulation. It is possible that the existing provisions may apply to new funerary methods, although it is likely that some amendments would be required, for example to the existing environmental permitting regime.
- 1.72 Any assessment of the environmental impact of specific new funerary methods is outside the scope of this project. However, it will be important to ensure that the environmental consequences of new funerary methods are regulated appropriately.
- 1.73 We think it is likely that existing powers in primary legislation would be sufficient to enable the necessary changes to be made. However, although we aim to create a

framework that can encompass future developments, it is possible that new funerary methods might, in time, give rise to environmental considerations that we cannot currently foresee.

Public health and public safety

- 1.74 Measures to address public health concerns have been part of burial law since the nineteenth century. There are numerous existing provisions about public health and public safety in relation to burial and cremation. Many of these relate to specific elements of burial and cremation, such as depth of burial or emissions from crematoria.
- 1.75 There are also provisions that apply to burial, cremation and death care more generally. For example, there is secondary legislation about health and safety at work. There is also guidance from the Health and Safety Executive about managing risks when carrying out work activities that involve handling the bodies of deceased people, and guidance from the Department for Environment, Food and Rural Affairs about crematoria. Where provisions, or guidance, that apply to burial, cremation and death care would not already apply to new funerary methods but ought to, amendments could be made.

Human dignity

- 1.76 Respect for the dead and the dignified treatment of human remains have always been central to how the bodies of deceased people are dealt with. We describe this principle as the preservation of human dignity. This principle is very important in relation to the regulation of funerary methods.
- 1.77 The whole system of regulation of burial and cremation is underpinned by the principle of the preservation of human dignity. However, it is hard to define and is not referred to explicitly in legislation. Yet provisions can be linked to this principle, for example, burial provisions such as those specifying depth of burial, restrictions on exhumation and grave reuse.

The place of the principles in the legislative framework

- 1.78 We see no reason why these three principles would not underpin the regulation of specific new funerary methods, as they do the regulation of burial and cremation.
- 1.79 It would be possible for primary legislation to require the Government to have regard to these, or other, principles when making secondary legislation about new funerary methods. There is no corresponding requirement for the Government to do this when regulating burial and cremation. However, including such a provision for new funerary methods could give members of the public more confidence that new funerary methods are being regulated in an appropriate way. It could also help to ensure that these factors are taken into account, by providing a potential route for legal challenge if they are not.
- 1.80 We invite consultees' views on whether the law should require the Government to have regard to these principles, or any others, when making secondary legislation about specific new funerary methods (see **Consultation Question 7**).

CRIMINAL OFFENCES

Non-regulated new funerary methods

- 1.81 There is currently no explicit prohibition on the use of new funerary methods. Although current death registration legislation may criminalise the use of new funerary methods, this is unclear and there is no case law on this.
- 1.82 The position could be resolved by making clear in primary legislation that only those new funerary methods that are regulated under the new power are lawful, and that the use of other methods is prohibited. Such a prohibition could be enforced by means of a criminal offence or a civil penalty. We do not think a civil penalty would be an appropriate sanction.
- 1.83 We provisionally propose that there should be a prohibition on the use of non-regulated new funerary methods and that breach of the prohibition should be a criminal offence. We provisionally propose that the maximum penalty for this offence should be more severe than for the existing offence of carrying out, procuring or taking part in a cremation except in accordance with cremation legislation (a fine at level 3 on the standard scale, currently £1,000). We also invite consultees' views on whether the maximum penalty for the new offence should include a period of imprisonment (see **Consultation Question 13**, **Consultation Question 14** and **Consultation Question 15**. These issues are discussed in **Chapter 7** of the Consultation Paper.

Regulated new funerary methods

- 1.84 The Cremation Act 1902 sets out criminal offences in relation to cremation. These include making false representations for the purpose of procuring a cremation and procuring, or attempting to procure, a cremation with the intention of concealing the commission of an offence or impeding a prosecution. We provisionally propose that there should be similar offences relating to the use of regulated new funerary methods (see **Consultation Question 8**).
- 1.85 It is also a criminal offence knowingly to carry out, procure or take part in a cremation except in accordance with the provisions of the Cremation Act 1902 and the Cremation (England and Wales) Regulations 2008. A similar offence could be created, relating to the use of a new funerary method in breach of primary legislation and any regulations made about that new funerary method. However, this offence would be created before we knew which new funerary methods will be regulated or the content of those regulations. There would be no way of setting out different sanctions, or different maximum penalties, for breaching different provisions.
- 1.86 Instead of setting out the criminal offence in primary legislation, the legislation could instead include a power for Government to make regulations about criminal offences, with Parliament being required to approve the creation of any criminal offence and its penalty. This would provide more flexibility, so that different sanctions and different penalties could apply to breach of different provisions in regulations. However, some commentators have criticised the use of secondary legislation to create criminal offences.
- 1.87 We invite views from consultees on whether primary legislation should set out the offence, or the Government should be given the power to create offences in

secondary legislation (see **Consultation Question 9**). We discuss these issues in **Chapter 6** of the Consultation Paper.

REGISTRATION OF THE USE OF A NEW FUNERARY METHOD

- 1.88 All burials and cremations must be registered. This is distinct from registration of a death, although the two systems of registration interact. We discuss death registration and its relevance to new funerary methods in **Chapter 3** of the Consultation Paper.
- 1.89 A comprehensive system of registration of burials and cremations is very important. It ensures a record is kept which may be of value in relation to the investigation of crime. It may also be of practical and emotional significance to those tracing their family history.
- 1.90 If this was not extended to new funerary methods, it would undermine the system of registration and create an unnecessary and unhelpful divergence in the law. There is therefore a very strong rationale for ensuring that each use of a new funerary method must be registered in broadly the same way as a burial or cremation. We think that legislation should require that each use of a new funerary method on the body of a deceased person be registered, as well as how, and by whom, this should be done.
- 1.91 We provisionally propose that the requirement for registration should be set out in primary legislation. This will ensure that it is clear and in an obvious place.
- 1.92 However, we consider that the details of how and by whom the registration must be carried out should be contained in secondary legislation at a later stage. It might be difficult to identify who must carry out the registration before detailed regulation of individual methods has been set out. This approach would also ensure parity with cremation. If the Government wanted to change the detailed registration requirements for cremation and for new funerary methods, it could make both these changes by an amending secondary legislation. We therefore provisionally propose that primary legislation should state that where the Government makes regulations about the use of a new funerary method, these must include provision about how and by whom each use should be registered.
- 1.93 See **Consultation Question 10**. **Chapter 6** of the Consultation Paper addresses this issue.

THE SCOPE OF THE REGULATION-MAKING POWER

- 1.94 In **Chapter 6** of the Consultation Paper, we set out matters that we think may need to be covered by detailed regulation. Although it will be for the Government to decide which new funerary methods should be regulated and the content of detailed regulation, a regulation-making power would need to be broad enough to cover all the aspects of detailed regulation that might be needed.
- 1.95 We mention the following areas:
- opening and closing facilities;
 - location of facilities;

- operation and maintenance of facilities;
- elements of the process;
- inspection of facilities;
- appointments;
- medical devices;
- application procedures on behalf of a deceased person;
- circumstances in which a specific new funerary method may not be used;
- remains;
- new funerary methods and fetal remains; and
- rights and obligations.

1.96 We invite consultees' views on any matters that may need to be covered by detailed regulation, other than those we set out (see **Consultation Question 11**). This will assist us in considering the scope of the regulation-making power in primary legislation. We note that responses to this question may include views on the potential content of detailed regulation of specific new funerary methods, although whether and how specific new funerary methods should be regulated will be a question for Government to address in future.

1.97 We also invite views from consultees on whether there should be a power to make provision for trials, or tests, of emerging new funerary methods (see **Consultation Question 12**). If the use of non-regulated new funerary methods is criminalised, legislation may be needed to enable the use of trials of potential new funerary methods that are being developed. The regulation-making power in the framework could include a power to make provision about trials in secondary legislation. We think that each trial would need to be approved in advance. It may be appropriate for this to be done by the Government.

IMPACTS

1.98 Throughout the drafting of the Consultation Paper, we have considered the likely effect of some of our provisional proposals. Some factors make it difficult to assess impact. As our work is forward-looking, when we publish our final Report, we will not know which new funerary methods might be regulated under the framework, or the future content of any detailed regulation. Also, some of the positive impacts of our reforms will not be as easily measurable as financial impacts.

1.99 In **Consultation Question 16**, we invite consultees to provide data and evidence-based views on the likely impacts (economic and social) of our provisional proposals.

1.100 We must also specifically consider whether any of the proposed changes would adversely affect groups or individuals with a protected characteristic. These

characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation. We do not envisage that the provisional proposals in the Consultation Paper will have adverse equality impacts. However, in **Consultation Question 17**, we ask consultees to tell us whether any of our provisional proposals could result in advantages or disadvantages to certain groups, whether or not these groups are protected under the Equality Act 2010.

1.101 In **Consultation Question 18**, we ask for views on any impacts (economic, social and equality) that are specific to Wales.

1.102 **Chapter 8** of the Consultation Paper addresses impacts.

