

Surrogacy Regulation Bill

May 17, 2020

- The Bill defines surrogacy as a practice where a woman gives birth to a child for an intending couple with the intention to hand over the child after the birth to the intending couple.

Features of the bill

- The Bill prohibits commercial surrogacy, but **allows altruistic surrogacy**. Altruistic surrogacy involves no monetary compensation to the surrogate mother other than the medical expenses and insurance coverage during the pregnancy.
- Surrogacy is permitted when it is: (i) for intending couples who suffer from **proven infertility**; (ii) altruistic; (iii) not for commercial purposes; (iv) not for producing children for sale, prostitution or other forms of exploitation; and (v) for any condition or disease specified through regulations.
- The intending couple should have a '**certificate of essentiality**' [proven infertility, order of parentage and custody of surrogate child, insurance coverage] and a '**certificate of eligibility**' issued by the appropriate authority.
- The functions of the appropriate authority include; (i) granting, suspending or cancelling registration of surrogacy clinics; (ii) enforcing standards for surrogacy clinics; (iii) investigating and taking action against breach of the provisions of the Bill; (iv) recommending modifications to the rules and regulations.
- To obtain a certificate of eligibility from the appropriate authority, the surrogate mother has to be: (i) a close relative of the intending couple; (ii) a married woman having a child of her own; (iii) 25 to 35

years old; (iv) a surrogate only once in her lifetime; and (v) possess a certificate of medical and psychological fitness for surrogacy. Further, the **surrogate mother cannot provide her own gametes for surrogacy.**

- The central and the state governments shall constitute the **National Surrogacy Board (NSB) and the State Surrogacy Boards (SSB)**, respectively. Functions of the NSB include, (i) advising the central government on policy matters relating to surrogacy; (ii) laying down the code of conduct of surrogacy clinics; and (iii) supervising the functioning of SSBs.
- A child born out of a surrogacy procedure will be deemed to be the biological child of the intending couple. An abortion of the surrogate child requires the written consent of the surrogate mother and the authorisation of the appropriate authority. This authorisation must be **compliant with the Medical Termination of Pregnancy Act, 1971.** Further, the surrogate mother will have an option to withdraw from surrogacy before the embryo is implanted in her womb.