

The Surrogacy (Regulation) Bill, 2019

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Recently the Surrogacy (Regulation) Bill, 2019 was referred to a Rajya Sabha Select Committee. The Bill was introduced and passed by Lok Sabha in August 2019.

Key features of the Bill

- **Definition of surrogacy:** The Bill defines surrogacy as a practice where a woman gives birth to a child for an intending couple and agrees to hand over the child to them after birth.
- **Regulation of surrogacy:** 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. Commercial surrogacy includes surrogacy or its related procedures undertaken for a monetary benefit or reward (in cash or kind) exceeding the basic medical expenses and insurance coverage.
- **Eligibility criteria for intending couple:** The intending couple should have a 'certificate of essentiality' and a 'certificate of eligibility' issued by the appropriate authority. A certificate of essentiality will be issued upon fulfillment of these conditions:
 1. A medical certificate of **proven infertility of one or both members** of the intending couple
 2. An order of parentage and custody of the surrogate child passed by a Magistrate's court, and
 3. Insurance coverage for a period of 16 months covering postpartum delivery complications for the surrogate.

- **The certificate of eligibility to the intending couple is issued upon fulfillment of the following conditions:**
 1. The couple being Indian citizens and married for at least five years
 2. Between 23 to 50 years old (wife) and 26 to 55 years old (husband)
 3. They do not have any surviving child (biological, adopted or surrogate); including a child who is mentally or physically challenged or suffers from life-threatening disorder or fatal illness; and
 4. Other conditions that may be specified by regulations.
- **Eligibility criteria for surrogate mother:** To obtain a certificate of eligibility, the surrogate mother has to be:
 1. A close relative of the intending couple
 2. A married woman having a child of her own
 3. 25 to 35 years old
 4. A surrogate only once in her lifetime; and
 5. Possess a certificate of medical and psychological fitness for surrogacy.

In addition, the surrogate mother cannot provide her own gametes for surrogacy

National and State Surrogacy Boards: 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.

Parentage and abortion of surrogate child: 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 authorization of the appropriate authority. This

authorization 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.