



Maternity Leave for Surrogates

Source: TH

Why in News?

Recently, the Government has notified an **amendment to Central Civil Services (Leave) Rules, 1972** to grant **maternity leave** and other benefits to **government employees** in case of children born through [surrogacy](#).

- This move aims to **address the existing gap in the leave policies** for government employees **who opt for surrogacy**.

What are the Provisions of Notified Amended Rules?

- **Maternity Leave for Surrogate and Commissioning Mothers:** It allows women government employees who have children through surrogacy to avail **180 days of maternity leave**.
 - This includes **both the surrogate mother and the commissioning mother** (the intended mother) with less than two surviving children.
- **Paternity Leave for Commissioning Fathers:** The new rules also grant **15 days of paternity leave** to the "**commissioning father**" (**the intended father**) who is a male government servant with less than two surviving children.
 - This leave can be availed within 6 months from the date of delivery of the child.
- **Child Care Leave for Commissioning Mothers:**
 - Additionally, the commissioning mother with less than two surviving children is eligible for childcare leave, as per the existing provisions in the **Central Civil Services (Leave) Rules**.

Understanding Surrogacy and its Regulation

SURROGACY

- Having another woman bear a child for a couple (or single women or men) to raise.
- The surrogate offers to carry a baby through pregnancy and then return the baby to the intended parent(s) once it is born.
- Surrogacy is an option to fulfill the desire to have a child of a couple for whom it is physically or medically impossible or undesirable to carry a baby to term on their own.
- There are two types of surrogacy – traditional surrogacy and gestational surrogacy.
- In Traditional Surrogacy, a surrogate mother is artificially inseminated, either by the intended father or an anonymous donor. The surrogate mother provides the egg and is thus genetically related to the child.

- In Gestational Surrogacy, an embryo is created using an egg and sperm produced by the intended couple and is transferred into the surrogate's uterus. The surrogate has no genetic link to the child. Her eggs cannot be used to conceive the child.

- The Surrogacy (Regulation) Bill seeks to allow and regulate Gestational Surrogacy.

- Surrogacy can be altruistic or commercial. In altruistic surrogacy, the surrogate is not paid for her services, except for medical expenses and insurance. In commercial surrogacy, the surrogate is paid over and above these expenses.

- The Surrogacy (Regulation) Bill seeks to ban commercial surrogacy but protect the altruistic surrogate through enhanced, prescribed payments (for medical expenses, food and care, longer-duration insurance).

INDICATIONS FOR SURROGACY

- Opting for surrogacy is often a choice made when women are unable to carry children on their own.
- This can be for a number of reasons, including an abnormal uterus or a complete absence of a uterus either

congenitally or post-hysterectomy.

- Women may have a hysterectomy due to complications in childbirth, medical diseases such as cervical cancer or endometrial cancer, or heart and renal conditions, etc

WHAT DO OTHER COUNTRIES DO?

- Russia, Georgia, Ukraine, Columbia, Iran, and some states of the US allow commercial surrogacy
- France, Finland, Italy, Japan, Spain, Sweden, Switzerland, Hungary, Ireland, etc. have banned all forms of surrogacy.
- India seeks a middle path between these extremes, by banning

commercial surrogacy (including for foreigners) while allowing and regulating altruistic surrogacy for all persons of Indian origin.

- Australia, Canada, Israel, Netherlands, New Zealand, South Africa, UK, Vietnam, Thailand, Cambodia, Nepal, Mexico have similar surrogacy practices as India seeks to establish.

What is Surrogacy and Related Regulation?

▪ **About:**

- It is a practice where a **woman gives birth to a child for an intended couple** with the intention to **hand it over to them after the birth**.
- It is permitted **only for altruistic purposes** or **for couples who suffer from proven infertility or disease**.
- Surrogacy is **prohibited for commercial purposes** such as sale, prostitution or any other forms of exploitation.
- A child born through surrogacy will be deemed to be the biological child of the couple.
- **Abortion** of such a fetus is allowed **only with the consent of the surrogate mother** and the authorities as per provisions of the [Medical Termination of Pregnancy Act 2021](#).

▪ **Criteria:**

- To avail of surrogacy, a couple should be **married for at least 5 years**, with the wife aged between 25-50 and the husband between 26-55.
- They should **not have any living child** unless the child has disabilities or a life-threatening illness.
- The couple must also have **certificates of eligibility and essentiality**, proving **infertility** and a **court order** for parentage and custody of the surrogate child. Additionally, the intended couple must provide **insurance coverage for the surrogate mother** for 16 months.

▪ **Criteria for Surrogate Mother:**

- She must be a **close relative of the couple**, a **married woman** with her own child, aged 25-35, and have only been a surrogate once.
- She also needs a **certificate of medical and psychological fitness** for surrogacy.

▪ **Regulation:**

- The **National Surrogacy Board** and **State Surrogacy Boards** are responsible for regulating surrogacy clinics and enforcing standards.
- The Act prohibits practices like **commercial surrogacy, embryo selling, and exploitation or abandonment of surrogate mothers or children**. Violations can lead to **imprisonment for up to 10 years and a fine of Rs. 10 lakh**.

Laws Related to Surrogacy:

- [Surrogacy \(Regulation\) Act, 2021](#)
- [Surrogacy \(Regulation\) Rules, 2022](#)
- [Assisted Reproductive Technology \(ART\) \(Regulation\) Act, 2021](#)

Read more: [Assisted Reproductive Technology, Surrogacy \(Regulation\) Act 2021](#)

UPSC Civil Services Examination, Previous Year Question

Q. In the context of recent advances in human reproductive technology, “Pronuclear Transfer” is used for (2020)

- (a) fertilisation of egg in vitro by the donor sperm
- (b) genetic modification of sperm producing cells
- (c) development of stem cells into functional embryos
- (d) prevention of mitochondrial diseases in offspring

Ans: (d)

