

U.11019/255/2022-HR
Government of India
Ministry of Health and Family Welfare
(Department of Health Research)

2nd Floor, IRCS Building,
New Delhi, the 06th January, 2023

To,

Principal Secretary (Health)/ Secretary (Health)
[All States/UTs]

Sub: Instructions regarding filling application for getting certificates of medical Indication and Essentiality, Parentage order before approaching clinic for surrogacy services in India under Section 4 of the Surrogacy (Regulation) Act, 2021.

Sir/Madam,

I am directed to draw attention to the above noted subject and to say that action for submitting applications for the purposes as mentioned in the subject above as per Section 4 of the Surrogacy (Regulation) Act, 2021 shall be as under:-

(i) For the issuance of Certificate of medical indication necessitating gestational surrogacy as per Section 4 (iii) (a) (I), the applicant(s) may approach the District Medical Board under the jurisdiction of the State of his/her place of residence or the place where residing due to employment.


(ii) For Issuance of Certificate of Essentiality, as per Section 4 (iii) (a), the applicant(s) may approach the Appropriate Authority having jurisdiction over the District Medical Board.

(iii) For the issuance of the Order concerning the parentage and custody of the child to be born through surrogacy, as per Section 4 (iii) (a) (II), the applicant(s) may approach the court of the State from where the Certificate of Essentiality has been issued.

3. After completing the above formalities/ procedures/ documents and other required formalities/ procedures/ documents as per the applicable provisions of Surrogacy (Regulation) Act, 2021 the applicant(s) may approach the clinics of his/ her choice located anywhere in India for availing required services.

4. This issues with the approval of Competent Authority.

Yours sincerely,



(S.N. Jasra)

Director (Coordination)

Tel.: 011-23736218

Copy to: All Nodal Officers – ART/Surrogacy (States/UTs)

U.11019/255/2022-HR (Part I)
भारत सरकार/ Government of India
स्वास्थ्य और परिवार कल्याण मंत्रालय/ Ministry of Health & Family Welfare
स्वास्थ्य अनुसंधान विभाग/ Department of Health Research
(समन्वय अनुभाग/ Coordination Section)

2nd Floor, IRCS Building,
New Delhi, the 13th May, 2025

To,

Principal Secretary (Health)/Secretary (Health)
[All States/UTs]

Subject: Instructions regarding issuance of certificates as required u/s 4 of the Surrogacy Act, 2021 by the States/UTs to the "Couple of Indian Origin (OCI cardholders)" for the purpose of availing surrogacy services in India who do not have residential address in India.

Sir/Madam,

I am directed to refer to the above noted subject and to draw your attention to the following provision of Surrogacy (Regulation) Act, 2021:

Section 4 (ii): no surrogacy or surrogacy procedures shall be conducted, undertaken, performed or availed of, except for the following purposes, namely: —

(a) when an intending couple has a medical indication necessitating gestational surrogacy:

Provided that a couple of Indian origin or an intending woman who intends to avail surrogacy, shall obtain a certificate of recommendation from the Board on an application made by the said persons in such form and manner as may be prescribed

2. Further, attention is drawn to the definition of Couple of Indian Origin vide notification [F. No. U.11019/15/2022-HR] dated 8.06.2023 which reads as under:

(aa) "Couple of Indian Origin means the couple where both husband (male) and wife (female) are Overseas Citizens of India cardholders in accordance with the Acts/Rules/Instructions/Guidelines being followed by the Ministry of Home Affairs from time to time subject to fulfillment of various criteria as per the Surrogacy (Regulation) Act, 2021".

A copy of aforesaid notification dated 8.06.2023 is enclosed for your reference.

3. Accordingly, as per above provisions Couples of Indian Origin (OCI cardholders) are eligible to avail surrogacy services in India subject to obtaining certificate of recommendation from the National Board, essential certificates from the States/UTs and upon fulfilment of eligibility criteria prescribed under Surrogacy (Regulation) Act, 2021 and Rules made thereunder.

4. This Department is in receipt of queries from few States requesting to specify as to where a Couple of Indian Origin (OCI cardholder) has to apply for issuance of certificates as required u/s 4 of SR Act, 2021 such as certificate of medical indication, essentiality and eligibility certificates, parentage order for the purpose of availing surrogacy services in India, if they do not have any address in India.

5. In this regard, in continuation to Department's earlier Instructions vide Letter No. U.11019/255/2022-HR (Part I) dated 06.01.2023 (copy enclosed) regarding filing of application for getting certificates of Medical Indication, essentiality, parentage order before approaching the clinic for surrogacy services u/s 4 of Surrogacy (Regulation) Act, 2021 it is clarified that the action for submitting application by the couple of Indian Origin (OCI cardholders) for the purpose as mentioned in the subject noted above shall be as under:

(i) As regards issuance of certificate of essentiality, eligibility certificate, and certificate of medical indication for purpose of availing surrogacy services in India u/s 4(ii) (a) of Surrogacy Act, 2021, a Couple of Indian Origin (OCI Cardholder) may approach the Appropriate Authority of the State/District or UT where they intend to avail surrogacy treatment in India subject to fulfilment of criteria prescribed under Surrogacy (Regulation) Act, 2021 and Rules made there under.

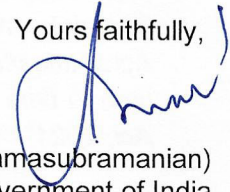
(ii) As regards the Order concerning parentage of the child to be born through surrogacy, a Couple of Indian Origin (OCI Cardholder) may approach the Court of the Magistrate of the first class or above of the State/District or UT from where the certificate of essentiality has been issued.

6. It is also mentioned after obtaining the above essential certificates from the concerned State/UT, a couple of Indian Origin (OCI Cardholder) may apply to Department of Health Research, Ministry of Health and Family Welfare for obtaining certificate of recommendation on an application as prescribed in Form 1 under Rule 4 of the Surrogacy (Regulation) Rules, 2022 before initiating surrogacy treatment in India. For the said purpose the original copy of application along with supporting documents may be submitted by the aforesaid couple to this Department in physical copy (by speed post or courier) or by email to support-artsurrogacy@gov.in

7. This issues with the approval of competent authority.

Encl: as above

Yours faithfully,



(N Sriramasubramanian)

Under Secretary to the Government of India

Tel: 011-23736085

Copy to: All Nodal Officers – ART/Surrogacy (States/UTs)



भारत का राजपत्र The Gazette of India

सी.जी.-डी.एल.-अ.-08062023-246400
CG-DL-E-08062023-246400

असाधारण
EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (i)
PART II—Section 3—Sub-section (i)

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं. 341]
No. 341]

नई दिल्ली, बृहस्पतिवार, जून 8, 2023/ज्येष्ठ 18, 1945
NEW DELHI, THURSDAY, JUNE 8, 2023/JYAISHTHA 18, 1945

स्वास्थ्य और परिवार कल्याण मंत्रालय

(स्वास्थ्य अनुसंधान विभाग)

अधिसूचना

नई दिल्ली, 8 जून, 2023

सा.का.नि. 415(अ).—सरोगेसी (विनियमन) अधिनियम, 2021 (2021 का 47) की धारा 50 द्वारा प्रदत्त शक्ति का प्रयोग करते हुए, केंद्र सरकार सरोगेसी (विनियमन) नियम, 2022 में और संशोधन करने के लिए निम्नलिखित नियम बनाती है: -

1. (1) इन नियमों को सरोगेसी (विनियमन) संशोधन नियमावली 2023 कहा जाएगा।

(2) ये राजपत्र में इनके प्रकाशन की तारीख से प्रवृत्त होंगे।

2. सरोगेसी (विनियमन) नियमावली, 2022 के नियम 2 में खंड (क) के बाद निम्नलिखित खंड जोड़ा जाएगा, अर्थात्:-

(क क) “भारतीय मूल के जोड़े से वह दंपति अभिप्रेत है जहां पति (पुरुष) और पत्नी (महिला) दोनों ही सरोगेसी (विनियमन) अधिनियम, 2021 के अनुसार विभिन्न मानदंडों को पूरा करने के अधीन गृह मंत्रालय (एमएचए) द्वारा समय-समय पर पालन किए जा रहे अनुदेशों/ नियमों/ दिशानिर्देशों/ अधिनियमों के अनुसार भारत के प्रवासी नागरिक (ओसीआई) कार्डधारक हैं”।

[फा. सं. यू.11019/15/2022-एचआर]

अनु नागर, संयुक्त सचिव

टिप्पणः सरोगेसी (विनियमन) नियम, 2022 को भारत के राजपत्र, असाधारण, भाग II, खंड 3, उपखंड (i) में दिनांक 21 जून 2022 की अधिसूचना संख्या सा.का.नि. 460 (अ) द्वारा प्रकाशित किया गया था और बाद में दिनांक 10 अक्टूबर 2022 की अधिसूचना संख्या सा.का.नि. 772 (अ) और सा.का.नि. 179 (अ), दिनांक 14 मार्च 2023 द्वारा संशोधित किया गया था।

MINISTRY OF HEALTH AND FAMILY WELFARE

(Department of Health Research)

NOTIFICATION

New Delhi, the 8th June, 2023

G.S.R. 415(E).—In exercise of the power conferred by section 50 of the Surrogacy (Regulation) Act, 2021 (47 of 2021), The Central Government hereby makes the following rules further to amend the Surrogacy (Regulation) Rules, 2022 namely:-

1. (1) These rules may be called the Surrogacy (Regulation) Amendment Rules, 2023.
(2) They shall come into force from the date of their final publication in the Official Gazette.
2. In the Surrogacy (Regulation) Rules, 2022, in rule 2, after clause (a), the following clause shall be inserted, namely: -
(aa) “Couple of Indian Origin means the couple where both husband (male) and wife (female) are Overseas Citizens of India cardholders in accordance with the Acts/Rules/Instructions/Guidelines being followed by the Ministry of Home Affairs from time to time subject to fulfillment of various criteria as per the Surrogacy (Regulation) Act, 2021”.

[F. No. U.11019/15/2022-HR]

ANU NAGAR, Jt. Secy.

Note: The Surrogacy (Regulation) Rules, 2022 were published in the Gazette of India, Extraordinary, Part II, Section-3, Sub-section (i) *vide* notification number G.S.R. 460 (E), dated the 21st June, 2022 and subsequently amended *vide* notification number G.S.R. 772 (E), dated the 10th October, 2022 and *vide* notification number G.S.R. 179(E), dated 14.03.2023.



भारत का राजपत्र The Gazette of India

सी.जी.-डी.एल.-अ.-25122021-232118
CG-DL-E-25122021-232118

असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 64] नई दिल्ली, शनिवार, दिसम्बर 25, 2021/पौष 4, 1943 (शक)
No. 64] NEW DELHI, SATURDAY, DECEMBER 25, 2021/PAUSA 4, 1943 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 25th December, 2021/Pausa 4, 1943 (Saka)

The following Act of Parliament received the assent of the President on the 25th December, 2021 and is hereby published for general information:—

THE SURROGACY (REGULATION) ACT, 2021 (No. 47 OF 2021)

[25th December, 2021.]

An Act to constitute National Assisted Reproductive Technology and Surrogacy Board, State Assisted Reproductive Technology and Surrogacy Boards and appointment of appropriate authorities for regulation of the practice and process of surrogacy and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventy-second Year of the Republic of India as follows:—

CHAPTER I PRELIMINARY

- (1) This Act may be called the Surrogacy (Regulation) Act, 2021.
(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
- (1) In this Act, unless the context otherwise requires,—
(a) “abandoned child” means a child born out of surrogacy procedure who has been deserted by his intending parents or guardians and declared as abandoned by the appropriate authority after due enquiry;

Short title and
commencement.

Definitions.

(b) “altruistic surrogacy” means the surrogacy in which no charges, expenses, fees, remuneration or monetary incentive of whatever nature, except the medical expenses and such other prescribed expenses incurred on surrogate mother and the insurance coverage for the surrogate mother, are given to the surrogate mother or her dependents or her representative;

(c) “appropriate authority” means the appropriate authority appointed under section 35;

(d) “Assisted Reproductive Technology Act” means the Assisted Reproductive Technology (Regulation) Act, 2021;

(e) “Board” means the National Assisted Reproductive Technology and Surrogacy Board constituted under section 17;

(f) “clinical establishment” shall have the same meaning as assigned to it in the Clinical Establishments (Registration and Regulation) Act, 2010;

23 of 2010.

(g) “commercial surrogacy” means commercialisation of surrogacy services or procedures or its component services or component procedures including selling or buying of human embryo or trading in the sale or purchase of human embryo or gametes or selling or buying or trading the services of surrogate motherhood by way of giving payment, reward, benefit, fees, remuneration or monetary incentive in cash or kind, to the surrogate mother or her dependents or her representative, except the medical expenses and such other prescribed expenses incurred on the surrogate mother and the insurance coverage for the surrogate mother;

(h) “couple” means the legally married Indian man and woman above the age of 21 years and 18 years respectively;

(i) “egg” includes the female gamete;

(j) “embryo” means a developing or developed organism after fertilisation till the end of fifty-six days;

(k) “embryologist” means a person who possesses any post-graduate medical qualification or doctoral degree in the field of embryology or clinical embryology from a recognised university with not less than two years of clinical experience;

(l) “fertilisation” means the penetration of the ovum by the spermatozoan and fusion of genetic materials resulting in the development of a zygote;

(m) “foetus” means a human organism during the period of its development beginning on the fifty-seventh day following fertilisation or creation (excluding any time in which its development has been suspended) and ending at the birth;

(n) “gamete” means sperm and oocyte;

(o) “gynaecologist” shall have the same meaning as assigned to it in the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994;

57 of 1994.

(p) “implantation” means the attachment and subsequent penetration by the zona-free blastocyst, which starts five to seven days following fertilisation;

(q) “insurance” means an arrangement by which a company, individual or intending couple undertake to provide a guarantee of compensation for medical expenses, health issues, specified loss, damage, illness or death of surrogate mother and such other prescribed expenses incurred on such surrogate mother during the process of surrogacy;

(*r*) “intending couple” means a couple who have a medical indication necessitating gestational surrogacy and who intend to become parents through surrogacy;

(*s*) “intending woman” means an Indian woman who is a widow or divorcee between the age of 35 to 45 years and who intends to avail the surrogacy;

(*t*) “Member” means a Member of the National Assisted Reproductive Technology and Surrogacy Board or a State Assisted Reproductive Technology and Surrogacy Board, as the case may be;

(*u*) “notification” means a notification published in the Official Gazette;

(*v*) “oocyte” means naturally ovulating oocyte in the female genetic tract;

102 of 1956. (*w*) “Paediatrician” means a person who possesses a post-graduate qualification in paediatrics as recognised under the Indian Medical Council Act, 1956;

(*x*) “prescribed” means prescribed by rules made under this Act;

102 of 1956. (*y*) “registered medical practitioner” means a medical practitioner who possesses any recognised medical qualification as defined in clause (*h*) of section 2 of the Indian Medical Council Act, 1956 and whose name has been entered in a State Medical Register;

(*z*) “regulation” means regulations made by the Board under this Act;

57 of 1994. (*za*) “sex selection” shall have the same meaning as assigned to it in clause (*o*) of section 2 of the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994;

(*zb*) “State Board” means the State Assisted Reproductive Technology and Surrogacy Board constituted under section 26;

(*zc*) “State Government” in relation to Union territory with Legislature, means the Administrator of the Union territory appointed by the President under article 239 of the Constitution;

(*zd*) “surrogacy” means a practice whereby one woman bears and gives birth to a child for an intending couple with the intention of handing over such child to the intending couple after the birth;

(*ze*) “surrogacy clinic” means surrogacy clinic, centre or laboratory, conducting assisted reproductive technology services, invitro fertilisation services, genetic counselling centre, genetic laboratory, Assisted Reproductive Technology Banks conducting surrogacy procedure or any clinical establishment, by whatsoever name called, conducting surrogacy procedures in any form;

(*zf*) “surrogacy procedures” means all gynaecological, obstetrical or medical procedures, techniques, tests, practices or services involving handling of human gametes and human embryo in surrogacy;

(*zg*) “surrogate mother” means a woman who agrees to bear a child (who is genetically related to the intending couple or intending woman) through surrogacy from the implantation of embryo in her womb and fulfils the conditions as provided in sub-clause (*b*) of clause (*iii*) of section 4;

(*zh*) “zygote” means the fertilised oocyte prior to the first cell division.

(2) Words and expressions used herein and not defined in this Act but defined in the Assisted Reproductive Technology Act shall have the meanings respectively assigned to them in that Act.

CHAPTER II

REGULATION OF SURROGACY CLINICS

Prohibition
and regulation
of surrogacy
clinics.

3. On and from the date of commencement of this Act,—

(i) no surrogacy clinic, unless registered under this Act, shall conduct or associate with, or help in any manner, in conducting activities relating to surrogacy and surrogacy procedures;

(ii) no surrogacy clinic, paediatrician, gynaecologist, embryologist, registered medical practitioner or any person shall conduct, offer, undertake, promote or associate with or avail of commercial surrogacy in any form;

(iii) no surrogacy clinic shall employ or cause to be employed or take services of any person, whether on honorary basis or on payment, who does not possess such qualifications as may be prescribed;

(iv) no registered medical practitioner, gynaecologist, paediatrician, embryologist or any other person shall conduct or cause to be conducted or aid in conducting by himself or through any other person surrogacy or surrogacy procedures at a place other than a place registered under this Act;

(v) no surrogacy clinic, registered medical practitioner, gynaecologist, paediatrician, embryologist or any other person shall promote, publish, canvass, propagate or advertise or cause to be promoted, published, canvassed, propagated or advertised which—

(a) is aimed at inducing or is likely to induce a woman to act as a surrogate mother;

(b) is aimed at promoting a surrogacy clinic for commercial surrogacy or promoting commercial surrogacy in general;

(c) seeks or aimed at seeking a woman to act as a surrogate mother;

(d) states or implies that a woman is willing to become a surrogate mother;
or

(e) advertises commercial surrogacy in print or electronic media or in any other form;

(vi) no surrogacy clinic, registered medical practitioner, gynaecologist, paediatrician, embryologist, intending couple or any other person shall conduct or cause abortion during the period of surrogacy without the written consent of the surrogate mother and on authorisation of the same by the appropriate authority concerned:

Provided that the authorisation of the appropriate authority shall be subject to, and in compliance with, the provisions of the Medical Termination of Pregnancy Act, 1971;

34 of 1971.

(vii) no surrogacy clinic, registered medical practitioner, gynaecologist, paediatrician, embryologist, intending couple or any other person shall store a human embryo or gamete for the purpose of surrogacy:

Provided that nothing contained in this clause shall affect such storage for other legal purposes like sperm banks, IVF and medical research for such period and in such manner as may be prescribed;

(viii) no surrogacy clinic, registered medical practitioner, gynaecologist, paediatrician, embryologist, intending couple or any other person shall in any form conduct or cause to be conducted sex selection for surrogacy.

CHAPTER III

REGULATION OF SURROGACY AND SURROGACY PROCEDURES

4. On and from the date of commencement of this Act,—

Regulation of
surrogacy and
surrogacy
procedures.

(i) no place including a surrogacy clinic shall be used or cause to be used by any person for conducting surrogacy or surrogacy procedures, except for the purposes specified in clause (ii) and after satisfying all the conditions specified in clause (iii);

(ii) no surrogacy or surrogacy procedures shall be conducted, undertaken, performed or availed of, except for the following purposes, namely:—

(a) when an intending couple has a medical indication necessitating gestational surrogacy:

Provided that a couple of Indian origin or an intending woman who intends to avail surrogacy, shall obtain a certificate of recommendation from the Board on an application made by the said persons in such form and manner as may be prescribed.

Explanation.—For the purposes of this sub-clause and item (I) of sub-clause (a) of clause (iii) the expression “gestational surrogacy” means a practice whereby a surrogate mother carries a child for the intending couple through implantation of embryo in her womb and the child is not genetically related to the surrogate mother;

(b) when it is only for altruistic surrogacy purposes;

(c) when it is not for commercial purposes or for commercialisation of surrogacy or surrogacy procedures;

(d) when it is not for producing children for sale, prostitution or any other form of exploitation; and

(e) any other condition or disease as may be specified by regulations made by the Board;

(iii) no surrogacy or surrogacy procedures shall be conducted, undertaken, performed or initiated, unless the Director or in-charge of the surrogacy clinic and the person qualified to do so are satisfied, for reasons to be recorded in writing, that the following conditions have been fulfilled, namely:—

(a) the intending couple is in possession of a certificate of essentiality issued by the appropriate authority, after satisfying itself, for the reasons to be recorded in writing, about the fulfilment of the following conditions, namely:—

(I) a certificate of a medical indication in favour of either or both members of the intending couple or intending woman necessitating gestational surrogacy from a District Medical Board.

Explanation.—For the purposes of this item, the expression “District Medical Board” means a medical board under the Chairpersonship of Chief Medical Officer or Chief Civil Surgeon or Joint Director of Health Services of the district and comprising of at least two other specialists, namely, the chief gynaecologist or obstetrician and chief paediatrician of the district;

(II) an order concerning the parentage and custody of the child to be born through surrogacy, has been passed by a court of the Magistrate

of the first class or above on an application made by the intending couple or the intending woman and the surrogate mother, which shall be the birth affidavit after the surrogate child is born; and

(III) an insurance coverage of such amount and in such manner as may be prescribed in favour of the surrogate mother for a period of thirty-six months covering postpartum delivery complications from an insurance company or an agent recognised by the Insurance Regulatory and Development Authority established under the Insurance Regulatory and Development Authority Act, 1999;

41 of 1999.

(b) the surrogate mother is in possession of an eligibility certificate issued by the appropriate authority on fulfilment of the following conditions, namely:—

(I) no woman, other than an ever married woman having a child of her own and between the age of 25 to 35 years on the day of implantation, shall be a surrogate mother or help in surrogacy by donating her egg or oocyte or otherwise;

(II) a willing woman shall act as a surrogate mother and be permitted to undergo surrogacy procedures as per the provisions of this Act:

Provided that the intending couple or the intending woman shall approach the appropriate authority with a willing woman who agrees to act as a surrogate mother;

(III) no woman shall act as a surrogate mother by providing her own gametes;

(IV) no woman shall act as a surrogate mother more than once in her lifetime:

Provided that the number of attempts for surrogacy procedures on the surrogate mother shall be such as may be prescribed; and

(V) a certificate of medical and psychological fitness for surrogacy and surrogacy procedures from a registered medical practitioner;

(c) an eligibility certificate for intending couple is issued separately by the appropriate authority on fulfilment of the following conditions, namely:—

(I) the intending couple are married and between the age of 23 to 50 years in case of female and between 26 to 55 years in case of male on the day of certification;

(II) the intending couple have not had any surviving child biologically or through adoption or through surrogacy earlier:

Provided that nothing contained in this item shall affect the intending couple who have a child and who is mentally or physically challenged or suffers from life threatening disorder or fatal illness with no permanent cure and approved by the appropriate authority with due medical certificate from a District Medical Board; and

(III) such other conditions as may be specified by the regulations.

Prohibition of
conducting
surrogacy.

5. No person including a relative or husband of a surrogate mother or intending couple or intending woman shall seek or encourage to conduct any surrogacy or surrogacy procedures on her except for the purpose specified in clause (ii) of section 4.

- 6.** (1) No person shall seek or conduct surrogacy procedures unless he has—
- (i) explained all known side effects and after effects of such procedures to the surrogate mother concerned; and
- (ii) obtained in the prescribed form, the written informed consent of the surrogate mother to undergo such procedures in the language she understands.
- (2) Notwithstanding anything contained in sub-section (1), the surrogate mother shall have an option to withdraw her consent for surrogacy before the implantation of human embryo in her womb.
- 7.** The intending couple or intending woman shall not abandon the child, born out of a surrogacy procedure, whether within India or outside, for any reason whatsoever, including but not restricted to, any genetic defect, birth defect, any other medical condition, the defects developing subsequently, sex of the child or conception of more than one baby and the like.
- 8.** A child born out of surrogacy procedure, shall be deemed to be a biological child of the intending couple or intending woman and the said child shall be entitled to all the rights and privileges available to a natural child under any law for time being in force.
- 9.** The number of oocytes or human embryos to be implanted in the uterus of the surrogate mother for the purpose of surrogacy, shall be such as may be prescribed.
- 10.** No person, organisation, surrogacy clinic, laboratory or clinical establishment of any kind shall force the surrogate mother to abort at any stage of surrogacy except in such conditions as may be prescribed.

Written informed consent of surrogate mother.

Prohibition to abandon child born through surrogacy.

Rights of surrogate child.

Number of oocytes or human embryos to be implanted.

Prohibition of abortion.

CHAPTER IV

REGISTRATION OF SURROGACY CLINICS

- 11.** (1) No person shall establish any surrogacy clinic for undertaking surrogacy or to render surrogacy procedures in any form unless such clinic is duly registered under this Act.
- (2) Every application for registration under sub-section (1) shall be made to the appropriate authority in such form, manner and shall be accompanied by such fees as may be prescribed.
- (3) Every surrogacy clinic which is conducting surrogacy or surrogacy procedures, partly or exclusively, referred to in clause (ii) of section 4 shall, within a period of sixty days from the date of appointment of appropriate authority, apply for registration:
- Provided that such clinic shall cease to conduct any such counselling or procedures on the expiry of six months from the date of commencement of this Act, unless such clinic has applied for registration and is so registered separately or till such application is disposed of, whichever is earlier.
- (4) No surrogacy clinic shall be registered under this Act, unless the appropriate authority is satisfied that such clinic is in a position to provide such facilities and maintain such equipment and standards including specialised manpower, physical infrastructure and diagnostic facilities as may be prescribed.
- 12.** (1) The appropriate authority shall after holding an enquiry and after satisfying itself that the applicant has complied with all the requirements of this Act and the rules and regulations made thereunder, grant a certificate of registration to the surrogacy clinic, within a period of ninety days from the date of application received by it, in such form, on payment of such fees and in such manner, as may be prescribed.

Registration of surrogacy clinics.

Certificate of registration.

(2) Where, after the inquiry and after giving an opportunity of being heard to the applicant, the appropriate authority is satisfied that the applicant has not complied with the requirements of this Act or the rules or regulations made thereunder, it shall, for reasons to be recorded in writing, reject the application for registration.

(3) Every certificate of registration shall be valid for a period of three years and shall be renewed in such manner and on payment of such fees as may be prescribed.

(4) The certificate of registration shall be displayed by the surrogacy clinic at a conspicuous place.

Cancellation
or suspension
of registra-
tion.

13. (1) The appropriate authority may, *suo motu* or on receipt of a complaint, issue a notice to the surrogacy clinic to show cause as to why its registration should not be suspended or cancelled for the reasons mentioned in the notice.

(2) If after giving a reasonable opportunity of being heard to the surrogacy clinic, the appropriate authority is satisfied that there has been a breach of the provisions of the Act or the rules or regulations made thereunder, it may, without prejudice to any criminal action that it may take against such clinic, suspend its registration for such period as it may think fit or cancel its registration, as the case may be.

(3) Notwithstanding anything contained in sub-sections (1) and (2), if the appropriate authority is of the opinion that it is necessary or expedient to do so in the public interest, it may, for reasons to be recorded in writing, suspend the registration of any surrogacy clinic without issuing any notice under sub-section (1).

Appeal.

14. The surrogacy clinic or the intending couple or the intending woman may, within a period of thirty days from the date of receipt of the communication relating to order of rejection of application, suspension or cancellation of registration passed by the appropriate authority under section 13 and communication relating to rejection of the certificates under section 4, prefer an appeal against such order to—

(a) the State Government, where the appeal is against the order of the appropriate authority of a State;

(b) the Central Government, where the appeal is against the order of the appropriate authority of a Union territory,

in such manner as may be prescribed.

Establishment
of National
Assisted
Reproductive
Technology
and Surrogacy
Registry.

15. There shall be established a Registry to be called the National Assisted Reproductive Technology and Surrogacy Registry for the purposes of registration of surrogacy clinics under this Act.

Application of
provisions of
Assisted
Reproductive
Technology
Act with
respect to
National
Registry.

16. The National Assisted Reproductive Technology and Surrogacy Registry referred to in section 15 and to be established under section 9 of the Assisted Reproductive Technology Act shall be the National Registry for the purposes of this Act and the functions to be discharged by the said Registry under the Assisted Reproductive Technology Act shall, *mutatis mutandis*, apply.

CHAPTER V

NATIONAL ASSISTED REPRODUCTIVE TECHNOLOGY AND SURROGACY BOARD AND STATE ASSISTED REPRODUCTIVE TECHNOLOGY AND SURROGACY BOARDS

17. (1) The Central Government shall, by notification, constitute a Board to be known as the National Assisted Reproductive Technology and Surrogacy Board to exercise the powers and perform the functions conferred on the Board under this Act.

Constitution of National Assisted Reproductive Technology and Surrogacy Board.

(2) The Board shall consist of—

(a) the Minister in-charge of the Ministry of Health and Family Welfare, the Chairperson, *ex officio*;

(b) the Secretary to the Government of India in-charge of the Department dealing with the surrogacy matter, Vice-Chairperson, *ex officio*;

(c) three women Members of Parliament, of whom two shall be elected by the House of the People and one by the Council of States, Members, *ex officio*;

(d) three Members of the Ministries of the Central Government in-charge of Women and Child Development, Legislative Department in the Ministry of Law and Justice and the Ministry of Home Affairs, not below the rank of Joint Secretary, Members, *ex officio*;

(e) the Director General of Health Services of the Central Government, Member, *ex officio*;

(f) ten expert Members to be appointed by the Central Government in such manner as may be prescribed and two each from amongst—

(i) eminent medical geneticists or embryologists;

(ii) eminent gynaecologists and obstetricians;

(iii) eminent social scientists;

(iv) representatives of women welfare organisations; and

(v) representatives from civil society working on women's health and child issues,

possessing such qualifications and experience as may be prescribed;

(g) four Chairpersons of the State Boards to be nominated by the Central Government by rotation to represent the States and the Union territories, two in the alphabetical order and two in the reverse alphabetical order, Member, *ex officio*; and

(h) an officer, not below the rank of a Joint Secretary to the Central Government, in-charge of Surrogacy Division in the Ministry of Health and Family Welfare, who shall be the Member-Secretary, *ex officio*.

18. (1) The term of office of a Member, other than an *ex officio* Member, shall be—

Term of office of Members.

(a) in case of nomination under clause (c) of sub-section (2) of section 14, three years:

Provided that the term of such Member shall come to an end as soon as the Member becomes a Minister or Minister of State or Deputy Minister, or the Speaker or the Deputy Speaker of the House of the People, or the Deputy Chairman of the Council of States or ceases to be a Member of the House from which she was elected; and

(b) in case of appointment under clause (f) of sub-section (2) of section 17, three years:

Provided that the person to be appointed as Member under this clause shall be of such age as may be prescribed.

(2) Any vacancy occurring in the office whether by reason of his death, resignation or inability to discharge his functions owing to illness or other incapacity, shall be filled by the Central Government by making a fresh appointment within a period of one month from the date on which such vacancy occurs and the Member so appointed shall hold office for the remainder of the term of office of the person in whose place he is so appointed.

(3) The Vice-Chairperson shall perform such functions as may be assigned to him by the Chairperson from time to time.

Meetings of Board.

19. (1) The Board shall meet at such places and times and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at its meetings) as may be determined by the regulations:

Provided that the Board shall meet at least once in six months.

(2) The Chairperson shall preside at the meeting of the Board and if for any reason the Chairperson is unable to attend the meeting of the Board, the Vice-Chairperson shall preside at the meetings of the Board.

(3) All questions which come up before any meeting of the Board shall be decided by a majority of the votes of the members present and voting, and in the event of an equality of votes, the Chairperson, or in his absence, the Vice-Chairperson shall have a second or casting vote.

(4) The Members, other than *ex officio* Members, shall receive only compensatory travelling expenses for attending the meetings of the Board.

Vacancies, etc., not to invalidate proceedings of Board.

20. No act or proceeding of the Board shall be invalid merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the Board; or

(b) any defect in the appointment of a person acting as a Member of the Board; or

(c) any irregularity in the procedure of the Board not affecting the merits of the case.

Disqualifications for appointment as Member.

21. (1) A person shall be disqualified for being appointed and continued as a Member if, he—

(a) has been adjudged as an insolvent; or

(b) has been convicted of an offence, which in the opinion of the Central Government, involves moral turpitude; or

(c) has become physically or mentally incapable of acting as a Member; or

(d) has acquired such financial or other interest, as is likely to affect prejudicially his functions as a Member; or

(e) has so abused his position, as to render his continuance in office prejudicial to the public interest; or

(f) is a practicing member or an office-bearer of any association representing surrogacy clinics, having financial or other interest likely to affect prejudicially, his function as a Member; or

(g) is an office-bearer, heading or representing, any of the professional bodies having commercial interest in surrogacy or infertility.

(2) The Members referred to in clause (f) of section 17 shall not be removed from their office except by an order of the Central Government on the ground of their proved misbehaviour or incapacity after the Central Government, has, on an inquiry, held in accordance with the procedure prescribed in this behalf by the Central Government, come to the conclusion that the Member ought on any such ground to be removed.

(3) The Central Government may suspend any Member against whom an inquiry under sub-section (2) is being initiated or pending until the Central Government has passed an order on receipt of the report of the inquiry.

22. (1) The Board may associate with itself, in such manner and for such purposes as may be determined by the regulations, any person whose assistance or advice it may desire in carrying out any of the provisions of this Act.

Temporary association of persons with Board for particular purposes.

(2) A person associated with the Board under sub-section (1) shall have a right to take part in the discussions relevant to that purpose, but shall not have a right to vote at a meeting of the Board and shall not be a Member for any other purpose.

23. All orders and decisions of the Board shall be authenticated by the signature of the Chairperson and all other instruments issued by the Board shall be authenticated by the signature of the Member-Secretary of the Board.

Authentication of orders and other instruments of Board.

24. Subject to other terms and conditions of service as may be prescribed, any person ceasing to be a Member shall be eligible for re-appointment as such Member:

Eligibility of Member for re-appointment.

Provided that no Member other than an *ex officio* Member shall be appointed for more than two consecutive terms.

25. The Board shall discharge the following functions, namely:—

Functions of Board.

(a) to advise the Central Government on policy matters relating to surrogacy;

(b) to review and monitor the implementation of the Act, and the rules and regulations made thereunder and recommend to the Central Government, changes therein;

(c) to lay down the code of conduct to be observed by persons working at surrogacy clinics;

(d) to set the minimum standards of physical infrastructure, laboratory and diagnostic equipment and expert manpower to be employed by the surrogacy clinics;

(e) to oversee the performance of various bodies constituted under the Act and take appropriate steps to ensure their effective performance;

(f) to supervise the functioning of State Assisted Reproductive Technology and Surrogacy Boards; and

(g) such other functions as may be prescribed.

26. Each State and Union territory having Legislature shall constitute a Board to be known as the State Assisted Reproductive Technology and Surrogacy Board or the Union territory Assisted Reproductive Technology and Surrogacy Board, as the case may be, which shall discharge the following functions, namely:—

Constitution of State Assisted Reproductive Technology and Surrogacy Board.

(i) to review the activities of the appropriate authorities functioning in the State or Union territory and recommend appropriate action against them;

(ii) to monitor the implementation of the provisions of the Act, and the rules and regulations made thereunder and make suitable recommendations relating thereto, to the Board;

(iii) to send such consolidated reports as may be prescribed, in respect of the various activities undertaken in the State under the Act, to the Board and the Central Government; and

(iv) such other functions as may be prescribed.

27. The State Board shall consist of—

Composition of State Board.

(a) the Minister in-charge of Health and Family Welfare in the State, Chairperson, *ex officio*;

(b) the Secretary in-charge of the Department of Health and Family Welfare, Vice-Chairperson, *ex officio*;

(c) Secretaries or Commissioners in-charge of the Departments of Women and Child Development, Social Welfare, Law and Justice and Home Affairs or their nominees, members, *ex officio*;

(d) Director-General of Health and Family Welfare of the State Government, member, *ex officio*;

(e) three women members of the State Legislative Assembly or Union territory Legislative Council, members, *ex officio*;

(f) ten expert members to be appointed by the State Government in such manner as may be prescribed, two each from amongst—

(i) eminent medical geneticists or embryologists;

(ii) eminent gynaecologists and obstetricians;

(iii) eminent social scientists;

(iv) representatives of women welfare organisations; and

(v) representatives from civil society working on women's health and child issues,

possessing such qualifications and experiences as may be prescribed;

(g) an officer not below the rank of Joint Secretary to the State Government in-charge of Family Welfare, who shall be the Member-Secretary, *ex officio*.

28. (1) The term of office of a member, other than an *ex officio* member, shall be—

(a) in case of nomination under clause (e) of section 27, three years:

Provided that the term of such member shall come to an end as soon as the member becomes a Minister or Minister of State or Deputy Minister, or the Speaker or the Deputy Speaker of the Legislative Assembly, or the Deputy Chairman of the Legislative Council or ceases to be a member of the House from which she was elected; and

(b) in case of appointment under clause (f) of section 27, three years:

Provided that the person to be appointed as member under this clause shall be of such age, as may be prescribed.

(2) Any vacancy occurring in the office whether by reason of his death, resignation or inability to discharge his functions owing to illness or other incapacity, shall be filled within a period of one month from the date on which such vacancy occurs by the State Government by making a fresh appointment and the member so appointed shall hold office for the remainder of the term of office of the person in whose place he is so appointed.

(3) The Vice-Chairperson shall perform such functions as may be assigned to him by the Chairperson from time to time.

29. (1) The State Board shall meet at such places and times and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at its meetings) as may be specified by the regulations:

Provided that the State Board shall meet at least once in four months.

(2) The Chairperson shall preside at the meetings of the Board and if for any reason the Chairman is unable to attend the meeting of the State Board, the Vice-Chairperson shall preside at the meetings of the State Board.

Term of
office of
members.

Meetings of
State Board.

(3) All questions which come up before any meeting of the State Board shall be decided by a majority of the votes of the members present and voting, and in the event of an equality of votes, the Chairperson, or in his absence, the Vice-Chairperson shall have a second or casting vote.

(4) The members, other than *ex officio* members, shall receive only compensatory travelling expenses for attending the meetings of the State Board.

30. No act or proceeding of the State Board shall be invalid merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the State Board; or

(b) any defect in the appointment of a person acting as a member of the State Board; or

(c) any irregularity in the procedure of the State Board not affecting the merits of the case.

Vacancies, etc., not to invalidate proceedings of State Board.

31. (1) A person shall be disqualified for being appointed and continued as a member if, he—

(a) has been adjudged as an insolvent; or

(b) has been convicted of an offence, which in the opinion of the State Government, involves moral turpitude; or

(c) has become physically or mentally incapable of acting as a member; or

(d) has acquired such financial or other interest, as is likely to affect prejudicially his functions as a member; or

(e) has so abused his position, as to render his continuance in office prejudicial to the public interest; or

(f) is a practicing member or an office-bearer of any association representing surrogacy clinics, having financial or other interest likely to affect prejudicially, his functions as a member; or

(g) is an office-bearer, heading or representing, any of the professional bodies having commercial interest in surrogacy or infertility.

Disqualifications for appointment as member.

(2) The members referred to in clause (f) of section 27 shall not be removed from their office except by an order of the State Government on the ground of their proved misbehaviour or incapacity after the State Government, has, on an inquiry, held in accordance with the procedure prescribed in this behalf by the State Government, come to the conclusion that the member ought on any such ground to be removed.

(3) The State Government may suspend any member against whom an inquiry under sub-section (2) is being initiated or pending until the State Government has passed an order on receipt of the report of the inquiry.

32. (1) The State Board may associate with itself, in such manner and for such purposes as may be determined by the regulations, any person whose assistance or advice it may desire in carrying out any of the provisions of this Act.

(2) A person associated with it by the State Board under sub-section (1) shall have a right to take part in the discussions relevant to that purpose, but shall not have a right to vote at a meeting of the State Board and shall not be a member for any other purpose.

Temporary association of persons with State Board for particular purposes.

33. All orders and decisions of the State Board shall be authenticated by the signature of the Chairperson and all other instruments issued by the State Board shall be authenticated by the signature of the Member-Secretary of the State Board.

Authentication of orders and other instruments of State Board.

Eligibility of member for re-appointment.

34. Subject to the other terms and conditions of service as may be prescribed, any person ceasing to be a member shall be eligible for re-appointment as such member:

Provided that no member other than an *ex officio* member shall be appointed for more than two consecutive terms.

CHAPTER VI

APPROPRIATE AUTHORITY

Appointment of appropriate authority.

35. (1) The Central Government shall, within a period of ninety days from the date of commencement of this Act, by notification, appoint one or more appropriate authorities for each of the Union territories for the purposes of this Act and the Assisted Reproductive Technology Act.

(2) The State Government shall, within a period of ninety days from the date of commencement of this Act, by notification, appoint one or more appropriate authorities for the whole or any part of the State for the purposes of this Act and the Assisted Reproductive Technology Act.

(3) The appropriate authority, under sub-section (1) or sub-section (2), shall,—

(a) when appointed for the whole of the State or the Union territory, consist of—

(i) an officer of or above the rank of the Joint Secretary of the Health and Family Welfare Department—Chairperson, *ex officio*;

(ii) an officer of or above the rank of the Joint Director of the Health and Family Welfare Department—Vice Chairperson, *ex officio*;

(iii) an eminent woman representing women's organisation—member;

(iv) an officer of Law Department of the State or the Union territory concerned not below the rank of a Deputy Secretary—member; and

(v) an eminent registered medical practitioner—member:

Provided that any vacancy occurring therein shall be filled within one month of the occurrence of such vacancy;

(b) when appointed for any part of the State or the Union territory, be officers of such other rank as the State Government or the Central Government, as the case may be, may deem fit.

Functions of appropriate authority.

36. The appropriate authority shall discharge the following functions, namely:—

(a) to grant, suspend or cancel registration of a surrogacy clinic;

(b) to enforce the standards to be fulfilled by the surrogacy clinics;

(c) to investigate complaints of breach of the provisions of this Act, rules and regulations made thereunder and take legal action as per provision of this Act;

(d) to take appropriate legal action against the use of surrogacy by any person at any place other than prescribed, *suo motu* or brought to its notice, and also to initiate independent investigations in such matter;

(e) to supervise the implementation of the provisions of this Act and rules and regulations made thereunder;

(f) to recommend to the Board and State Boards about the modifications required in the rules and regulations in accordance with changes in technology or social conditions;

(g) to take action after investigation of complaints received by it against the surrogacy clinics; and

(h) to consider and grant or reject any application under clause (vi) of section 3 and sub-clauses (a) to (c) of clause (iii) of section 4 within a period of ninety days.

37. (1) The appropriate authority shall exercise the powers in respect of the following matters, namely:—

Powers of appropriate authorities.

- (a) summoning of any person who is in possession of any information relating to violation of the provisions of this Act, and rules and regulations made thereunder;
- (b) production of any document or material object relating to clause (a);
- (c) search any place suspected to be violating the provisions of this Act, and the rules and regulations made thereunder; and
- (d) such other powers as may be prescribed.

(2) The appropriate authority shall maintain the details of registration of surrogacy clinics, cancellation of registration, renewal of registration, grant of certificates to the intending couple and surrogate mothers or any other matter pertaining to grant of license, etc., of the surrogacy clinics in such format as may be prescribed and submit the same to the National Assisted Reproductive Technology and Surrogacy Board.

CHAPTER VII

OFFENCES AND PENALTIES

38. (1) No person, organisation, surrogacy clinic, laboratory or clinical establishment of any kind shall—

Prohibition of commercial surrogacy, exploitation of surrogate mothers and children born through surrogacy.

- (a) undertake commercial surrogacy, provide commercial surrogacy or its related component procedures or services in any form or run a racket or an organised group to empanel or select surrogate mothers or use individual brokers or intermediaries to arrange for surrogate mothers and for surrogacy procedures, at such clinics, laboratories or at any other place;
- (b) issue, publish, distribute, communicate or cause to be issued, published, distributed or communicated, any advertisement in any manner regarding commercial surrogacy by any means whatsoever, scientific or otherwise;
- (c) abandon or disown or exploit or cause to be abandoned, disowned or exploited in any form, the child or children born through surrogacy;
- (d) exploit or cause to be exploited the surrogate mother or the child born through surrogacy in any manner whatsoever;
- (e) sell human embryo or gametes for the purpose of surrogacy and run an agency, a racket or an organisation for selling, purchasing or trading in human embryos or gametes for the purpose of surrogacy;
- (f) import or shall help in getting imported in, whatsoever manner, the human embryo or human gametes for surrogacy or for surrogacy procedures; and
- (g) conduct sex selection in any form for surrogacy.

45 of 1860.

(2) Notwithstanding anything contained in the Indian Penal Code, contraventions of the provisions of clauses (a) to (g) of sub-section (1) by any person shall be an offence punishable with imprisonment for a term which may extend to ten years and with fine which may extend to ten lakh rupees.

(3) For the purposes of this section, the expression “advertisement” includes any notice, circular, label, wrapper or any other document including advertisement through internet or any other media, in electronic or print form and also includes any visible representation made by means of any hoarding, wall-painting, signal light, sound, smoke or gas.

39. (1) Any registered medical practitioner, gynaecologists, paediatrician, embryologists or any person who owns a surrogacy clinic or employed with such a clinic or centre or laboratory and renders his professional or technical services to or at such clinic or centre or laboratory, whether on an honorary basis or otherwise, and who contravenes any

Punishment for contravention of provisions of Act.

of the provisions of this Act (other than the provisions referred to in section 38) and rules and regulations made thereunder shall be punishable with imprisonment for a term which may extend to five years and with fine which may extend to ten lakh rupees.

(2) In case of subsequent or continuation of the offence referred to in sub-section (1), the name of the registered medical practitioner shall be reported by the appropriate authority to the State Medical Council concerned for taking necessary action including suspension of registration for a period of five years.

Punishment for not following altruistic surrogacy.

40. Any intending couple or intending woman or any person who seeks the aid of any surrogacy clinic, laboratory or of a registered medical practitioner, gynaecologist, paediatrician, embryologist or any other person for not following the altruistic surrogacy or for conducting surrogacy procedures for commercial purposes shall be punishable with imprisonment for a term which may extend to five years and with fine which may extend to five lakh rupees for the first offence and for any subsequent offence with imprisonment which may extend to ten years and with fine which may extend to ten lakh rupees.

Penalty for contravention of provisions of Act or rules for which no specific punishment is provided.

41. Whoever contravenes any of the provisions of this Act, rules or regulations made thereunder for which no penalty has been provided in this Act, shall be punishable with imprisonment for a term which may extend to three years and with fine which may extend to five lakh rupees and in the case of continuing contravention with an additional fine which may extend to ten thousand rupees for every day during which such contravention continues after conviction for the first such contravention.

Presumption in the case of surrogacy.

42. Notwithstanding anything contained in the Indian Evidence Act, 1872, the court shall presume, unless the contrary is proved, that the woman or surrogate mother was compelled by her husband, the intending couple or any other relative, as the case may be, to render surrogacy services, procedures or to donate gametes for the purpose other than those specified in clause (ii) of section 4 and such person shall be liable for abetment of such offence under section 40 and shall be punishable for the offence specified under that section. 1 of 1872.

Offence to be cognizable, non-bailable and non-compoundable.

43. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, every offence under this Act shall be cognizable, non-bailable and non-compoundable. 2 of 1974.

Cognizance of offences.

44. (1) No court shall take cognizance of any offence punishable under this Act except on a complaint in writing made by—

(a) the appropriate authority concerned, or any officer or an agency authorised in this behalf by the Central Government or the State Government, as the case may be, or the appropriate authority; or

(b) a person including a social organisation who has given notice of not less than fifteen days in the manner prescribed, to the appropriate authority, of the alleged offence and of his intention to make a complaint to the court.

(2) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.

Certain provisions of Code of Criminal Procedure, 1973 not to apply.

45. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, Chapter XXI A of the said Code relating to plea bargaining shall not apply to the offences under this Act. 2 of 1974.

CHAPTER VIII

MISCELLANEOUS

46. (1) The surrogacy clinic shall maintain all records, charts, forms, reports, consent letters, agreements and all the documents under this Act and they shall be preserved for a period of twenty-five years or such period as may be prescribed:

Maintenance of records.

Provided that, if any criminal or other proceedings are instituted against any surrogacy clinic, the records and all other documents of such clinic shall be preserved till the final disposal of such proceedings.

(2) All such records shall, at all reasonable times, be made available for inspection to the appropriate authority or to any other person authorised by the appropriate authority in this behalf.

47. (1) If the appropriate authority has reason to believe that an offence under this Act has been or is being committed at any surrogacy clinic or any other place, such authority or any officer authorised in this behalf may, subject to such rules as may be prescribed, enter and search at all reasonable times with such assistance, if any, as such authority or officers considers necessary, such surrogacy clinic or any other place and examine any record, register, document, book, pamphlet, advertisement or any other material object found therein and seize and seal the same if such authority or officer has reason to believe that it may furnish evidence of the commission of an offence punishable under this Act.

Power to search and seize records, etc.

2 of 1974.

(2) The provisions of the Code of Criminal Procedure, 1973 relating to search and seizure shall apply, as far as may be, to all action taken by the appropriate authority or any officer authorised by it under this Act.

48. No suit, prosecution or other legal proceeding shall lie against the Central Government or the State Government or the appropriate authority or any officer authorised by the Central Government or the State Government or by the appropriate authority for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act.

Protection of action taken in good faith.

49. The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.

Application of other laws not barred.

50. (1) The Central Government may, by notification and subject to the condition of pre-publication, make rules for carrying out the provisions of this Act.

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the prescribed expenses under clauses (b), (f) and (g) of sub-section (1) of section 2;

(b) the minimum qualifications for persons employed at a registered surrogacy clinic under clause (iii) of section 3;

(c) the period and manner in which a person shall store human embryo or gamete under clause (vii) of section 3;

(d) the form and manner of application for obtaining certificate of recommendation from the Board under proviso to sub-clause (a) of clause (ii) of section 4;

(e) the insurance coverage in favour of the surrogate mother from an insurance company and the manner of such coverage under item (III) of sub-clause (a) of clause (iii) of section 4;

(f) the number of attempts of surrogacy or providing of gametes under the proviso to item (III) of sub-clause (b) of clause (iii) of section 4;

(g) the form in which consent of a surrogate mother has to be obtained under clause (ii) of section 6;

(h) the number of oocytes or embryos to be implanted in the uterus of the surrogate mother under section 9;

- (i) the conditions under which the surrogate mother may be allowed for abortion during the process of surrogacy under section 10;
- (j) the form and manner in which an application shall be made for registration and the fee payable thereof under sub-section (2) of section 11;
- (k) the facilities to be provided, equipment and other standards to be maintained by the surrogacy clinics under sub-section (4) of section 11;
- (l) the period, manner and form in which a certificate of registration shall be issued under sub-section (1) of section 12;
- (m) the manner in which the certificate of registration shall be renewed and the fee payable for such renewal under sub-section (3) of section 12;
- (n) the manner in which an appeal may be preferred under section 14;
- (o) the qualifications and experiences of the Members as admissible under clause (f) of sub-section (2) of section 17;
- (p) the procedures for conducting an inquiry against the Members under sub-section (2) of section 21;
- (q) the conditions under which a Member of the Board eligible for re-appointment under section 24;
- (r) the other functions of the Board under clause (g) of section 25;
- (s) the manner in which reports shall be furnished by the State Assisted Reproductive Technology and Surrogacy Board and the Union territory Assisted Reproductive Technology and Surrogacy Board to the Board and the Central Government under clause (iii) of section 26;
- (t) the other functions of the State Board under clause (iv) of section 26;
- (u) the qualifications and experiences of the members as admissible under clause (f) of section 27;
- (v) the age of the person to be appointed as a member, referred to in clause (f) of section 27, under the proviso to clause (b) of sub-section (1) of section 28;
- (w) the procedures for conducting an inquiry against the members under sub-section (2) of section 31;
- (x) the conditions under which the members of State Board eligible for re-appointment under section 34;
- (y) empowering the appropriate authority in any other matter under clause (d) of section 36;
- (z) the other powers of appropriate authority under clause (d) of sub-section (1) of section 37;
- (za) the particulars of the details of registration of surrogacy clinics, cancellation of registration, etc., in such format under sub-section (2) of section 37;
- (zb) the manner of giving notice by a person under clause (b) of sub-section (1) of section 44;
- (zc) the period up to which records, charts, etc., shall be preserved under sub-section (1) of section 46;
- (zd) the manner in which the seizure of documents, records, objects, etc., shall be made and the manner in which seizure list shall be prepared and delivered under sub-section (1) of section 47; and
- (ze) any other matter which is to be, or may be, or in respect of which provision is to be made by rules.

51. The Board may, with the prior approval of the Central Government, by notification, make regulations not inconsistent with the provisions of this Act and the rules made thereunder to provide for—

Power to make regulations.

(a) the fulfilment of any other condition under which eligibility certificate to be issued by the appropriate authority under sub-clause (d) of clause (v) of section 4;

(b) the time and place of the meetings of the Board and the procedure to be followed for the transaction of business at such meetings and the number of Members which shall form the quorum under sub-section (1) of section 19;

(c) the manner in which a person may be temporarily associated with the Board under sub-section (1) of section 22;

(d) the time and place of the meetings of the State Board and the procedure to be followed for the transaction of business at such meetings and the number of members which shall form the quorum under sub-section (1) of section 29;

(e) the manner in which a person may be temporarily associated with the Board under sub-section (1) of section 32; and

(f) any other matter which is required to be, or may be, specified by regulations.

52. Every rule made by the Central Government and every regulation made by the Board under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation or notification.

Rules and regulations to be laid before Parliament.

53. Subject to the provisions of this Act, there shall be provided a gestation period of ten months from the date of coming into force of this Act to existing surrogate mothers' to protect their well being.

Transitional provision.

54. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of the said Act as appear to it to be necessary or expedient for removing the difficulty:

Power to remove difficulties.

Provided that no order shall be made under this section after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

DR. REETA VASISHTA,
Secretary to the Govt. of India.



भारत का राजपत्र The Gazette of India

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EXTRAORDINARY

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PART II—Section 3—Sub-section (i)

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स्वास्थ्य और परिवार कल्याण मंत्रालय

(स्वास्थ्य अनुसंधान विभाग)

अधिसूचना

नई दिल्ली, 21 जून 2022

सा.का.नि. 460(अ).—केंद्रीय सरकार सरोगेसी (विनियमन) अधिनियम 2021 (2021 का 47) की धारा 50 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, निम्नलिखित नियम बनाती है, अर्थात्:-

- संक्षिप्त नाम और प्रारंभ- (1) इन नियमों का संक्षिप्त नाम सरोगेसी (विनियमन) नियम, 2022 है। (2) ये राजपत्र में अपने प्रकाशन की तारीख से लागू होंगे।
- परिभाषाएं-इन नियमों में, जब तक कि संदर्भ से अन्यथा अपेक्षित न हो-
 - 'अधिनियम' से सरोगेसी (विनियमन) अधिनियम, 2021 (2021 का 47) अभिप्रेत है;
 - 'प्ररूप' से इन नियमों के साथ संलग्न प्ररूप अभिप्रेत है;
 - 'धारा' से अधिनियम की धारा अभिप्रेत है;
 - उन शब्दों और पदों के, जो इसमें प्रयुक्त हैं और परिभाषित नहीं हैं किन्तु अधिनियम में परिभाषित हैं, वही अर्थ होंगे जो उस अधिनियम में हैं।
- रजिस्ट्री सरोगेसी क्लिनिक में नियोजित व्यक्तियों के लिए आवश्यकताएं और अर्हताएं - सरोगेसी क्लिनिक के लिए कर्मचारियों की न्यूनतम अपेक्षा और उनकी अर्हता अनुसूची I, भाग-1 में यथा निर्दिष्ट होगी।
- सरोगेसी क्लिनिक के लिए उपकरणों की न्यूनतम अपेक्षा अनुसूची I, भाग 2 में यथा निर्दिष्ट होगी।

- (4) बोर्ड के सिफ़ारिश के प्रमाण पत्र प्राप्त करने के लिए आवेदन की रीति प्ररूप 1 में यथा विनिर्दिष्ट होगा।
- (5) बीमा कवरेज.- (1) आशयित महिला या दंपति एक बीमा कंपनी से या बीमा नियामक और विकास प्राधिकरण अधिनियम, (1999 का 41) के उपबंधों के अधीन स्थापित बीमा नियामक और विकास प्राधिकरण द्वारा मान्यता प्राप्त किसी अभिकर्ता से छत्तीस महीने की अवधि के लिए सरोगेट माता के पक्ष में, उतनी राशि जो गर्भावस्था से उत्पन्न होने वाली सभी जटिलताओं के लिए सभी खर्चों को कवर करने के लिए पर्याप्त है और प्रसवोत्तर जटिलताओं को भी कवर करती है, का एक सामान्य स्वास्थ्य बीमा कवरेज खरीदेंगे।
- (2) आशयित दंपति/महिला सरोगेसी (विनियमन) अधिनियम, (2021 का 47) की धारा 2 की उप धारा (1) के खंड (थ) के अनुसार गारंटी देते हुए मेट्रोपॉलिटन मजिस्ट्रेट या प्रथम श्रेणी के न्यायिक मजिस्ट्रेट के समक्ष शपथ पत्र पर हस्ताक्षर करेंगे।
- (6) सरोगेसी प्रक्रियाओं के प्रयासों की संख्या- सरोगेट माता पर किसी भी सरोगेसी प्रक्रिया के प्रयासों की संख्या तीन बार से अधिक नहीं होगी।
- (7) सरोगेट माता की सहमति- सरोगेट माता के सहमति प्ररूप 2 में यथा निर्दिष्ट होगी।
- (8) सरोगेट माता के गर्भाशय में आरोपित किए जाने वाले भ्रूणों की संख्या -स्त्री रोग विशेषज्ञ उपचार चक्र के दौरान एक सरोगेट माता के गर्भाशय में एक भ्रूण को स्थानांतरित करेंगी।
परंतु केवल विशेष परिस्थितियों में ही तीन भ्रूणों को स्थानांतरित किया जा सकता है।
- (9) वे शर्तें जिनके अधीन सरोगेसी की प्रक्रिया के दौरान सरोगेट माता को गर्भपात की अनुमति दी जा सकती हैं - सरोगेट माता को गर्भ का चिकित्सकीय समापन अधिनियम, 1971 (1971 का 34) के अनुसार सरोगेसी की प्रक्रिया के दौरान गर्भपात की अनुमति दी जा सकती है।
- (10) सरोगेसी क्लिनिक के लिए रजिस्ट्री और शुल्क के लिए प्ररूप और रीति -(1) रजिस्ट्री के लिए एक आवेदन उन सरोगेसी क्लिनिक द्वारा प्ररूप 3 में उपयुक्त प्राधिकारी को किया जाएगा जो अधिनियम में परिभाषित सरोगेसी से संबंधित प्रक्रियाओं को कर रहे हैं।
(2) रजिस्ट्री के लिए प्रत्येक आवेदन के साथ सरोगेसी क्लिनिक के लिए दो लाख रुपये का आवेदन शुल्क देना होगा। एक बार भुगतान किया गया आवेदन शुल्क वापस नहीं किया जाएगा।
परंतु यदि किसी सरोगेसी क्लिनिक आदि के रजिस्ट्री के लिए आवेदन उपयुक्त प्राधिकारी द्वारा अस्वीकार कर दिया गया है, तो आवेदक द्वारा उसी क्लिनिक के लिए आवेदन पुनः प्रस्तुत करने पर किसी शुल्क का भुगतान करने की आवश्यकता नहीं होगी।
परंतु कि सरकार द्वारा संचालित संस्थानों में ऐसे प्रतिष्ठान आवेदन के लिए भुगतान नहीं करेंगे।
- (11) रजिस्ट्री प्रमाण पत्र की अवधि, रीति और प्ररूप - (1) उपयुक्त प्राधिकारी, ऐसी जांच-पड़ताल करने के पश्चात और स्वयं का समाधान होने के पश्चात कि आवेदक ने सभी आवश्यकताओं का अनुपालन किया है, आवेदक को प्ररूप 4 में रजिस्ट्री का प्रमाण पत्र प्रदान करेगा।
(2) रजिस्ट्री प्रमाण पत्र की एक प्रति रजिस्ट्री सरोगेसी क्लिनिक द्वारा अपने व्यवसाय के स्थान पर एक ध्यानाकर्षी स्थान पर प्रदर्शित की जाएगी।
- (12) अपील - (1) सरोगेसी क्लिनिक, या आशयित महिला, या दंपति, धारा 13 के अधीन उपयुक्त प्राधिकारी द्वारा आवेदन को अस्वीकार करने, निलंबन या रजिस्ट्री रद्द करने के आदेश से संबंधित संप्रेषण और धारा 14 के अधीन प्रमाणपत्रों की अस्वीकृति से संबंधित संप्रेषण, प्राप्त होने की तारीख से तीस दिनों की अवधि के भीतर ऐसे आदेश के विरुद्ध अपील कर सकते हैं।
(2) अपील का प्ररूप प्ररूप 5 में यथा निर्दिष्ट होगा।
- (13) वह रीति जिससे दस्तावेजों, अभिलेखों, वस्तुओं आदि को जब्त किया जाएगा और जब्ती सूची तैयार की जाएगी और दी जाएगी - (1) प्रत्येक सरोगेसी क्लिनिक, राष्ट्रीय बोर्ड या राष्ट्रीय रजिस्ट्री या राज्य बोर्ड या उपयुक्त प्राधिकरण या इस संबंध में अधिकृत किसी अन्य व्यक्ति को स्थान, उपकरण और रिकॉर्ड का निरीक्षण करने की अनुमति देगा।

- (2) पहले से रजिस्ट्री क्लिनिक का ऐसा निरीक्षण बिना किसी सूचना के, क्लिनिक के काम के घंटों के दौरान किया जा सकता है।
- (3) उपधारा (1) में निर्दिष्ट अधिकारी यह सुनिश्चित करेंगे कि प्रवेश और खोज प्रक्रिया सुविधा में संग्रहीत युग्मकों या भ्रूणों को जोखिम में न डालें।
- (14) वे चिकित्सा संकेत जो गर्भकालीन सरोगेसी को आवश्यक बनाते हैं - एक महिला सरोगेसी का विकल्प चुन सकती है यदि; -
- (क) यदि उसका गर्भाशय अनुपस्थित या लापता है / या वह असामान्य गर्भाशय वाली महिला है (जैसे हाइपोप्लास्टिक गर्भाशय/अंतर्गर्भाशयी एंड्रोमेट्रियस/छोटा यूनी-कॉर्नुएट गर्भाशय, टी आकार का गर्भाशय) या यदि स्त्री रोग संबंधी कैंसर जैसी किसी चिकित्सीय स्थिति के कारण गर्भाशय को शल्य चिकित्सा द्वारा हटा दिया जाता है।
- (ख) आशयित माता-पिता/महिला जो इन विट्रो फर्टिलाइजेशन/इंट्रासाइटोप्लाज्मिक स्पर्म इंजेक्शन के कई प्रयासों के बाद बार-बार गर्भधारण करने में विफल रहे हैं। (आवर्तक आरोपण विफलता)।
- (ग) एक अस्पष्ट चिकित्सीय कारण से होने वाली एकाधिक गर्भावस्था हानि। अतिरंजित प्रतिरक्षा प्रतिक्रिया के कारण अनएक्सप्लेन्ड ग्राफ्ट रिजेक्शन।
- (घ) कोई भी बीमारी जो महिला के लिए गर्भावस्था को व्यवहार्यता में लाना असंभव बना देती है या ऐसी गर्भावस्था जो जीवन के लिए खतरा है।

[फा. सं. यू.11019/15/2022-एचआर(पीटी)]

गीता नारायण, संयुक्त सचिव

अनुसूची-1**भाग-1****[नियम 3 (1) देखें]**

- (1) सरोगेसी क्लीनिक का स्टाफ - सरोगेसी क्लीनिक में कम से कम एक स्त्री रोग विशेषज्ञ, एक एनेस्थेतिस्ट, एक भ्रूणविज्ञानी और एक परामर्शदाता होगा। क्लिनिक सहायताप्राप्त जननीय प्रौद्योगिकी स्तर 2 क्लीनिक द्वारा अतिरिक्त कर्मचारियों को नियुक्त कर सकता है; साधारणतया निदेशक, एंड्रोलॉजिस्ट और ऐसे स्टाफ की नियुक्ति करेगा जो क्लिनिक को दिन-प्रतिदिन के काम में सहायता करने के लिए आवश्यक हो।
- (2) सरोगेसी क्लीनिक में डॉक्टरों और अन्य कर्मचारियों की अर्हता - सरोगेसी क्लीनिक में स्टाफ की अर्हता निम्नानुसार होगी:
- (क) स्त्रीरोग विशेषज्ञ - स्त्री रोग विशेषज्ञ, स्त्री रोग विज्ञान और प्रसूति विज्ञान में चिकित्सा स्नातकोत्तर होंगी और प्रसूति और 50 ओवम पिकअप प्रक्रियाओं को करने का रिकॉर्ड होना चाहिए और एक प्रशिक्षित एआरटी विशेषज्ञ की देखरेख में एआरटी क्लिनिक में कम से कम तीन वर्ष का कार्य अनुभव होना चाहिए (इस अधिनियम के लागू होने से पूर्व एआरटी या आईवीएफ में पेशेवर और या एआरटी क्लिनिकों में काम करने वाले स्त्री रोग विशेषज्ञों के मामले में कम से कम तीन वर्ष के अनुभव के साथ स्त्री रोग विज्ञान और प्रसूति विज्ञान में स्नातकोत्तर डिग्री और 50 ओवम पिकअप प्रक्रियाओं का अभिलेख स्वीकार्य होगा); या किसी सहायताप्राप्त जननीय प्रौद्योगिकी क्लिनिक में काम करने के कम से कम तीन वर्ष के अनुभव के साथ सुपर स्पेशलिस्ट डॉक्टरेट ऑफ मेडिसन/प्रजनन चिकित्सा में फेलोशिप के साथ स्त्री रोग विज्ञान और प्रसूति विज्ञान में चिकित्सा स्नातकोत्तर।
- (ख) एंड्रोलॉजिस्ट: पुरुष बांझपन के निदान और उपचार में विशेष प्रशिक्षण के साथ यूरोलॉजी में राष्ट्रीय बोर्ड के चिरर्जिकल या डिप्लोमेट का मास्टर होगा।
- (ग) भ्रूणविज्ञानी-(i) किसी मान्यता प्राप्त विश्वविद्यालय से क्लिनिकल भ्रूणविज्ञान में स्नातकोत्तर (न्यूनतम चार सेमेस्टर के साथ पूर्णकालिक कार्यक्रम के साथ स्नातक) जिसके साथ मानव युग्मकों और भ्रूणों को संभालने में मानव एआरटी प्रयोगशाला का तीन वर्ष का अनुभव; या

(ii) पीएच.डी. धारक (पूर्णकालिक पीएच.डी. परियोजना किसी मान्यता प्राप्त विश्वविद्यालय से क्लिनिकल भ्रूणविज्ञान/सहायताप्राप्त जननीय प्रौद्योगिकी/फर्टिलिटी) से संबंधित होनी चाहिए जिसके साथ मानव युग्मकों और भ्रूणों को संभालने में मानव एआरटी प्रयोगशाला का एक वर्ष का अतिरिक्त अनुभव; या

(iii) किसी मान्यता प्राप्त विश्वविद्यालय या संस्थान से क्लिनिकल भ्रूणविज्ञान (पूर्णकालिक कार्यक्रम) में स्नातकोत्तर डिग्री के साथ मेडिकल स्नातक (एमबीबीएस) या पशु चिकित्सा स्नातक (बीवीएससी) जिसके साथ मानव युग्मकों और भ्रूणों को संभालने में मानव एआरटी प्रयोगशाला का दो वर्ष का अतिरिक्त अनुभव; या

(iv) एक रजिस्ट्री एआरटी स्तर 2 क्लिनिक में मानव युग्मक और भ्रूण को संभालने में चार वर्ष के अनुभव के अतिरिक्त ऑन-साइट, पूर्णकालिक क्लिनिकल भ्रूणविज्ञान प्रमाणित प्रशिक्षण के न्यूनतम एक वर्ष के साथ जीवन विज्ञान/जैव प्रौद्योगिकी में स्नातकोत्तर।

इस अधिनियम के लागू होने से पूर्व सहायताप्राप्त जननीय प्रौद्योगिकी/इन विट्रो निषेचन क्लिनिक में काम करने वाले सभी एम्ब्रायोलॉजिस्टों को, नीचे उल्लिखित अर्हता और अनुभव के साथ, एक बार के उपाय के रूप में एक भ्रूणविज्ञानी के रूप में बने रहने की अनुमति दी जा सकती है। तथापि, इस अधिनियम के लागू होने के पश्चात, सभी क्लिनिक एक मानदंड के रूप में उपरोक्त किसी भी अर्हता और अनुभव वाले भ्रूणविज्ञानी को नियुक्त करेंगे।

एक रजिस्ट्री सहायताप्राप्त जननीय प्रौद्योगिकी/इन विट्रो निषेचन क्लिनिक में काम करने के कम से कम पांच वर्ष के अनुभव के साथ जीवन विज्ञान/जैव प्रौद्योगिकी/प्रजनन जीव विज्ञान/पशु चिकित्सा विज्ञान में स्नातक, जिसने कम से कम 500 आईवीएफ प्रयोगशाला प्रक्रियाओं (आईसीएसआई सहित और भ्रूणों के क्रायोप्रीजर्वेशन के कम से कम 100 चक्र) को पूरा किया हो।

(घ) परामर्शदाता: एक व्यक्ति जो मनोविज्ञान/नैदानिक मनोविज्ञान/नर्सिंग/जीवन विज्ञान में किसी मान्यता प्राप्त विश्वविद्यालय या संस्थान से स्नातक है।

(ङ) एनेस्थेतिस्ट: एनेस्थेतिस्ट एनेस्थीसिया में किसी मान्यता प्राप्त विश्वविद्यालय या संस्थान से चिकित्सा स्नातकोत्तर होगा।

(च) निदेशक: निदेशक के पास चिकित्सा/जीवन विज्ञान/प्रबंधन विज्ञान में किसी मान्यता प्राप्त विश्वविद्यालय या संस्थान से स्नातकोत्तर डिग्री होनी चाहिए।

अनुसूची- 1

भाग-2

[नियम 3 (2) देखें]

1. उपकरण: - माइक्रोस्कोप:

- (क) इनक्यूबेटर (संख्या में न्यूनतम 02);
- (ख) लैमिनर एयरफ्लो;
- (ग) स्पर्म काउंटिंग चैम्बर्स;
- (घ) सेंट्रीफ्यूज;
- (ङ) रेफ्रिजरेटर;
- (च) क्रायोप्रीजर्वेशन के लिए उपकरण;
- (छ) ओवम एस्पिरेशन पम्प;
- (ज) ट्रांसवेजाइनल प्रोब और नीडल गार्ड के साथ यूएसजी मशीन;
- (झ) टेस्ट ट्यूब वार्मर;
- (ञ) एनेस्थीसिया रिससिटेशन ट्रॉली

प्ररूप 1

[नियम 4 देखें]

सरोगेसी का लाभ उठाने के लिए भारतीय मूल के दंपत्ति/आशयित महिला हेतु

बोर्ड को संबोधित आवेदन पत्र

मैं/हम (नीचे दिए गए विवरण के अनुसार) सरोगेसी सेवाओं का लाभ उठाने के लिए सिफारिश प्रमाण पत्र के लिए अनुरोध करता हूँ/करते हैं

1. मूलभूत जानकारी

1.1 आशयित पिता का विवरण:

1. नाम:
2. उपनाम:
3. जन्म तिथि:
4. रक्त समूह:
5. आयु वर्षों में:
6. लिंग: पुरुष/महिला
7. राष्ट्रियता:
8. व्यवसाय:
9. वैवाहिक स्थिति: विवाहित/तलाक़शुदा/विधवा।
10. पता: (यदि उपलब्ध हो तो भारत के पते का और निवास के वर्तमान विदेश का विवरण दें)
 - (i) वर्तमान:
 - (ii) स्थायी
11. टेलीफोन/मोबाइल नंबर (भारत और निवास के देश में नंबरों का विवरण)
12. ईमेल:
13. सोशल सिक्क्योरिटी नंबर या समकक्ष
14. पासपोर्ट नंबर

1.2 आशयित माता का विवरण:

1. नाम:
2. उपनाम:
3. जन्म तिथि:
4. रक्त समूह:
5. आयु वर्षों में:
6. लिंग: पुरुष महिला
7. राष्ट्रियता:
8. व्यवसाय:
9. वैवाहिक स्थिति: विवाहित/तलाक़शुदा/विधवा।

10. पता: (यदि उपलब्ध हो तो भारत के पते का और निवास के वर्तमान विदेश का विवरण दें)
 - i) वर्तमान:
 - ii) स्थायी
11. टेलीफोन/मोबाइल नंबर (भारत और निवास के देश में नंबरों का विवरण)
12. ईमेल:
13. सोशल सिक्क्योरिटी नंबर या समकक्ष
14. पासपोर्ट नंबर

1.3 सरोगेसी का लाभ उठाने के कारणों का संक्षेप में वर्णन करें

घोषणा

मैं घोषणा करता हूँ कि उपरोक्त कथन मेरी सर्वोत्तम जानकारी और विश्वास के अनुसार सत्य हैं।

तारीख:

आशयित पिता के हस्ताक्षर

स्थान:

आशयित माता के हस्ताक्षर

आवेदन करने के लिए स्वप्रमाणित दस्तावेज आवश्यक हैं

1. विवाह का प्रमाण/विवाह का प्रमाण पत्र (यदि लागू हो)
 2. आयु का प्रमाण/जन्म प्रमाण पत्र/10वीं कक्षा का प्रमाण पत्र/या कोई समकक्ष।
- (टिप्पण: अनिवार्यता का प्रमाण पत्र उपयुक्त प्राधिकारी से प्राप्त किया जाना है और चिकित्सा संकेत प्रमाण पत्र जिला चिकित्सा बोर्ड से प्राप्त किया जाना है)

प्ररूप 2

[नियम 7 देखें]

सरोगेट माता की सहमति और

सरोगेसी के लिए अनुबंध

मैं, _____ (महिला), आयु _____ वर्ष (पता) _____ (आधार संख्या), मेरे स्वयं के _____ (बालकों की संख्या) हैं बालक/बालकों की आयु _____ (वर्ष में आयु) है, आशयित दंपत्ति/आशयित महिलाओं, जिनका नाम _____ पति का नाम पत्नी/ _____ के लिए एक सरोगेट माता के रूप में कार्य करने के लिए सहमत हुई हूँ। आशयित महिला _____ आयु पति की आयु _____ पत्नी/आशयित महिलाओं ने _____ उपरोक्त दंपत्ति के बालक/बालकों के लिए एक सरोगेट माता के रूप में मेरे कार्य करने के मामले के संबंध में सरोगेसी क्लिनिक के डॉ _____ के साथ _____ को पूरी चर्चा की है।

1. कि मैं समझती हूँ कि उपचार के तरीकों में निम्नलिखित सम्मिलित हो सकते हैं:
 - (क) फॉलिक्युलर रिक्लूटमेंट के लिए आनुवंशिक माता की उत्तेजना;
 - (ख) अल्ट्रासाउंड-निर्देशित ऊसाइट पुनर्प्राप्तिद्वारा या लैप्रोस्कोपी द्वारा आनुवंशिक माता से एक या एक से अधिक ऊसाइट्स की पुनर्प्राप्ति;
 - (ग) अपने पति के शुक्राणु के साथ आनुवंशिक माता से ऊसाइट्स का निषेचन;

- (घ) पति के शुक्राणु द्वारा एक दाता ऊसाइट का निषेचन;
- (ङ) ऐसे निषेचन के परिणामस्वरूप भ्रूण के क्रायोप्रीजर्वेशन द्वारा रखरखाव और भंडारण, चिकित्सा और वैज्ञानिक कर्मचारियों की दृष्टि में, जब तक यह स्थानांतरण के लिए तैयार नहीं हो जाता;
- (च) उपरोक्त किसी भी संभावना के माध्यम से प्राप्त भ्रूण का, आवश्यक उपचार के बाद यदि कोई हो, मेरे गर्भाशय में आरोपण।
2. कि मुझे आश्वासन दिया गया है कि ऊसाइट की पुनर्प्राप्ति से पहले आनुवंशिक मां और आनुवंशिक पिता की 'एचआईवी' और हेपेटाइटिस 'बी' और 'सी' और अन्य यौन संचारित बीमारियों के लिए जांच की गई है और इन सभी बीमारियों के लिए सेरोनिगेटिव पाया गया है। तथापि, मुझे यह भी सूचित किया गया है कि 'विंडो' अवधि के दौरान एचआईवी के प्रति माता या पिता के सेरोपॉज़िटिव बनने का एक छोटा सा जोखिम है।
 3. कि मैं उपरोक्त प्रक्रियाओं और ऐसी दवाओं को दिए जाने के लिए सहमति देती हूँ जो भ्रूण स्थानांतरण के लिए मेरे गर्भाशय को तैयार करने और ल्यूटियल चरण में सहारे के लिए आवश्यक हो सकती हैं।
 4. कि मैं समझती हूँ और स्वीकार करती हूँ कि इस बात की कोई निश्चितता नहीं है कि इन प्रक्रियाओं के परिणामस्वरूप गर्भावस्था होगी।
 5. कि मैं समझती हूँ और स्वीकार करती हूँ कि चिकित्सा और वैज्ञानिक कर्मचारी इस बात का कोई आश्वासन नहीं दे सकते कि किसी भी गर्भावस्था के परिणामस्वरूप एक सामान्य और जीवित बच्चे या बच्चों का प्रसव होगा।
 6. कि मेरा दंपत्ति (भावी आनुवंशिक माता-पिता) से संबंध नहीं है या संबंध है _____ (संबंध)।
 7. कि मैंने दंपत्ति के साथ सरोगेसी के चिकित्सा और अन्य खर्चों और शर्तों को लिखित रूप में तैयार किया है और अनुबंध की एक उचित रूप से प्रमाणित प्रति क्लिनिक के पास जमा की गई है, जिसे क्लिनिक गोपनीय रखेगा। आशयित दंपत्ति/महिला सरोगेट माता के पक्ष में एक सामान्य स्वास्थ्य बीमा कवरेज, बीमा नियामक और विकास प्राधिकरण अधिनियम, 1999 (1999 का 41) के प्रावधानों के अधीन स्थापित बीमा नियामक और विकास प्राधिकरण द्वारा मान्यता प्राप्त एक बीमा कंपनी या अभिकर्ता से खरीदा गया है।
 8. कि मैं बालक पर अपने सभी अधिकारों को त्यागने और बालक/बालकों को _____ को, या आशयित दंपत्ति के मामले में _____ और _____ को, या मेरी गर्भावस्था के दौरान उनके पृथक् होने की स्थिति में _____ को, गर्भावस्था के दौरान उनमें से किसी एक की मृत्यु के मामले में या उत्तरजीवी को, या दोनों की मृत्यु हो जाने के मामले में ----- को या गारंटीकर्ता आशयित दंपत्ति/महिलाओं के मामले में -----को, जैसे ही मुझे अस्पताल या क्लिनिक या नर्सिंग होम द्वारा ऐसा करने की अनुमति दी जाती है जहां बालक या बालकों का जन्म होता है, सौंपने के लिए सहमत हूँ।
 9. कि मुझे उन सभी नाम (नामों) की लिखित सहमति प्रदान की गई है जिनका उल्लेख ऊपर किया गया है।
 10. कि मैं गर्भावस्था के परिणाम के बारे में सरोगेसी क्लिनिक, _____ को सूचित करने का वचन देती हूँ।
 11. कि इसकी कोई उत्तरदायित्व मेरा नहीं है कि मेरे द्वारा जन्म दिया गया/गए बालक या बालकों हर तरह से सामान्य होंगे। मैं समझती हूँ कि बालक/बालकों के जैविक माता-पिता(ओं) का मेरे द्वारा जन्म दिए गए बालक या बालकों को स्वीकार करने का विधिक दायित्व है और यह कि वर्तमान विधि के अनुसार जैविक माता-पिता के बालक या बालकों के सभी उत्तराधिकार अधिकार बालक या बालकों के पास होंगे।
 12. कि मुझे गर्भावस्था के दौरान बालक/बालकों के लिंग निर्धारण परीक्षणों करवाने के लिए नहीं कहा जाएगा और मुझे इस तरह के परीक्षणों को मना करने का पूरा अधिकार है।
 13. कि मैं समझती हूँ कि गर्भ का चिकित्सकीय समापन अधिनियम 1971 (1971 का 34) के उपबंधों के अधीन डॉक्टरों द्वारा बतायी गई किसी भी जटिलता के मामले में मुझे गर्भावस्था को समाप्त करने का अधिकार होगा।
 14. मैं प्रमाणित करती हूँ कि मैंने पहले सरोगेसी के माध्यम से कोई बालक पैदा नहीं किया है।
 15. कि मेरा 'एचआईवी', हेपेटाइटिस 'बी' और 'सी' के लिए परीक्षण किया गया है और भ्रूण स्थानांतरण से ठीक पहले इन वायरस के लिए सेरोनिगेटिव दिखाया गया है।

16. कि मैं एक बार चक्र की तैयारी शुरू होने के बाद किसी भी प्रकार का संभोग नहीं करूंगी।
17. कि मैं प्रमाणित करती हूँ कि (क) मुझे किसी साझा सिरिज द्वारा शिरा के माध्यम से कोई दवा नहीं दी गई है; (ख) मैंने पिछले छह महीनों में रक्त ट्रान्सफ्यूशन नहीं किया है।
18. कि मैं यह भी घोषणा करती हूँ कि मैं शिरा के माध्यम से किसी दवा का उपयोग नहीं करूंगी, या चिकित्सीय सलाह पर प्रमाणित रक्त बैंक के माध्यम से प्राप्त रक्त को छोड़कर रक्त ट्रान्सफ्यूशन नहीं कराऊंगी।
19. कि मैं सरोगेसी चाहने वाले पक्ष की पहचान का खुलासा न करने का वचन देती हूँ।
20. कि सरोगेट माता के रूप में मेरी मदद मांगने वाले पक्ष की मृत्यु या अनुपलब्धता के मामले में, मैं इस क्रम में बालक/बालकों को _____ या _____ तक पहुंचाऊंगी; मुझे भ्रूण हस्तांतरण से पहले, उपरोक्त व्यक्तियों का एक लिखित अनुबंध प्रदान किया जाएगा कि वे उपरोक्त संभाव्यता के मामले में बालक या बालकों को स्वीकार करने के लिए विधिक रूप से बाध्य होंगे। (यदि लागू हो)

(यदि लागू न हो तो काट दें)

सरोगेसी क्लिनिक द्वारा पृष्ठांकन

मैंने/हमने व्यक्तिगत रूप से _____ और _____ को इस सहमति/अनुमोदन प्ररूप के विवरण और उस पर उनके हस्ताक्षर करने के निहितार्थ के बारे में बताया है, और मानवीय रूप से यथासंभव सुनिश्चित किया है कि वह/वे इन विवरणों और निहितार्थों को समझ जाएं।

हस्ताक्षर किए:

(सरोगेट माता)

आशयित दंपति/महिला के हस्ताक्षर

सरोगेसी क्लिनिक से साक्षी का

नाम, पता और हस्ताक्षर

डॉक्टर का नाम और हस्ताक्षर

सरोगेसी क्लिनिक का नाम और पता

तारीख:

प्ररूप 3

[नियम 10 देखें]

आवेदन पत्र

सरोगेसी क्लिनिक का रजिस्ट्री

सरोगेसी क्लिनिक का नाम:

सरोगेसी क्लिनिक का पता:

राज्य: _____ शहर: _____ पिन कोड: _____

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टेलीफोन नम्बर (एसटीडी कोड के साथ) (केवल सरोगेसी क्लिनिक):

सरोगेसी क्लिनिक का मोबाइल नंबर

ईमेल (सरोगेसी क्लिनिक):

वेबसाइट यदि कोई हो

1. आपके सरोगेसी क्लिनिक की स्थिति:
 1. सरकारी
 2. निजी
 कोई अन्य, कृपया स्पष्ट करें
2. आपके सरोगेसी क्लिनिक की स्थापना की तारीख:
3. क्या आपका सरोगेसी क्लिनिक निम्नलिखित अधिनियमों/प्राधिकारियों के अधीन रजिस्ट्री है (कृपया विवरण प्रदान करें) हाँ/नहीं
 1. गर्भ का चिकित्सकीय समापन अधिनियम 1971 (1971 का 44)
 2. गर्भधारण पूर्व और निदान-तकनीक (लिंग चयन प्रतिबंध) अधिनियम, 1994 (1994 का 57)
4. क्या आपके सरोगेसी क्लिनिक में निदेशक हैं
 - (1. हाँ
 2. नहीं)
 क) नाम
 ख) अर्हता
 ग) रजिस्ट्री संख्या यदि लागू हो
5. स्टाफ का विवरण

पद	नाम	अर्हता	रजिस्ट्री संख्या यदि लागू हो
स्त्रीरोग विशेषज्ञ			
एनेस्थेसिस्ट			
क्लिनिकल भ्रूणविज्ञानी			
एंड्रोलॉजिस्ट			
परामर्शदाता			

6. उपकरणों की सूची

7. बताएं कि आपके सरोगेसी क्लिनिक में निम्नलिखित में से कौन सी प्रक्रियाएं नियमित रूप से की जा रही हैं
 - (1. हाँ
 2. नहीं)
 (क) पति के वीर्य का उपयोग करके अंतर्गर्भाशयी वीर्यसेचन (आईयूआई-एच)
 (ख) दाता के वीर्य का उपयोग करके अंतर्गर्भाशयी वीर्यसेचन (आईयूआई-डी)
 (ग) इन विट्रो फर्टिलाइजेशन-एम्ब्रायो स्थानांतरण (आईवीएफ-ईटी)
 (घ) इंट्रा-साइटोप्लाज़्मिक स्पर्म इंजेक्शन (आईसीएसआई)
 (ङ) वीर्य का प्रसंस्करण
 (च) रोगी के युग्मकों (शुक्राणु और ऊसाइट) और या भ्रूण का भंडारण
 (छ) पूर्व आरोपण आनुवंशिक परीक्षण
 (ज) कोई अन्य प्रक्रिया, कृपया स्पष्ट करें

8. कोई अतिरिक्त जानकारी

घोषणा

मैं घोषणा करता हूँ कि इस प्ररूप में दी गई प्रविष्टियाँ और इसके साथ प्रस्तुत अतिरिक्त विवरण, यदि कोई हैं, मेरे सर्वोत्तम ज्ञान और विश्वास के अनुसार सत्य हैं।

तारीख: _____

प्ररूप 4

[नियम 11 देखें]

रजिस्ट्री का प्रमाणपत्र

सरोगेसी क्लिनिक

(दो प्रतियों में जारी किया जाए)

प्रमाणपत्र संख्या:

1. सरोगेसी (विनियमन) अधिनियम, 2021 की धारा 12(1) के अधीन प्रदत्त शक्तियों का प्रयोग करते हुए, उपयुक्त प्राधिकारी..... पूर्वोक्त अधिनियम के अनुसार सरोगेसी या सरोगेसी प्रक्रियाओं को पूरा करने के प्रयोजन के लिए, निम्नलिखित सरोगेसी क्लिनिक को को समाप्त होने वाली की अवधि के लिए रजिस्ट्री प्रदान करते हैं।
(क) सरोगेसी क्लिनिक का नाम और पता:
(ख) संस्थान का प्रकार (सरकारी/निजी)
2. यह रजिस्ट्री उक्त अधिनियम और उसके अधीन नियमों के अधीन प्रदान किया जाता है और इनके किसी भी उल्लंघन का परिणाम, पांच वर्ष की उक्त अवधि की समाप्ति से पहले इस रजिस्ट्री प्रमाणपत्र का निलम्बन या निरस्तीकरण होगा।
3. रजिस्ट्री संख्या आवंटित
4. केवल रजिस्ट्री के नवीकृत प्रमाण पत्र के लिए: रजिस्ट्री के पहले प्रमाण पत्र की वैधता की अवधि सेतक

उपयुक्त प्राधिकारी के

हस्ताक्षर, नाम और पदनाम

तारीख:

स्थान:

सील

इस प्रमाणपत्र की एक प्रति व्यवसाय के स्थान पर ध्यनाकर्षी स्थान पर प्रदर्शित करें।

*जो लागू या आवश्यक न हो उसे काट दें

प्ररूप 5

[नियम 12 देखें]

अपील संख्या/20..... राज्य बोर्ड/राष्ट्रीय बोर्ड को.....के विरुद्ध की गई

.....के मामले में:

अपीलकर्ता का नाम और पता

बनाम

प्राधिकरण का नाम और पता जिसके आदेश को चुनौती दी गई है प्रतिवादी

सबके प्रति सम्मान दर्शाते हुए:

उपर्युक्त अपीलकर्ता.....संबंधित उपयुक्त प्राधिकारी द्वारा..... (स्थान का नाम और पता)
पर अपीलकर्ता के विरुद्ध पारित आदेश के विरुद्ध अपील करता है

(मामले का विवरण यदि कोई हो)

तारीख.....

और अपील किए गए आदेश पर आपत्ति को निम्नलिखित आधार प्रस्तुत करता है: -

1. आदेशों की संख्या सहित आदेश का विवरण, यदि कोई हो, जिसके विरुद्ध अपील की गई है।
2. मामले के तथ्य संक्षेप में।
3. उपयुक्त प्राधिकारी के निष्कर्ष जिन्हें चुनौती दी गई।
4. अपील करने के आधार।
5. उन सभी दस्तावेजों, जिन पर अपीलार्थी निर्भर रहा है, के साथ आदेश की प्रति संलग्न।
6. अपील के समर्थन में कोई अन्य जानकारी/दस्तावेज।

प्रार्थना:

इसलिए अपीलकर्ता, अपील के अधीन आदेश के ऊपर वर्णित कारणों के लिए प्रार्थना करता है कि रद्द किया जाए और अमान्य घोषित किया जाए तथा अपीलार्थी के पक्ष में न्यायोचित एवं उचित समझे जाने वाले आदेश को पारित करने की कृपा की जाए।

अपीलकर्ता के हस्ताक्षर

स्थान:

तारीख:

सत्यापन

मैं,..... सत्यापित करता हूँ कि पैरा से तक की सामग्री मेरे सर्वोत्तम ज्ञान और विश्वास के अनुसार सत्य और सही है और कोई भी भाग झूठ नहीं है और उसमें कोई भी आवश्यक बात नहीं छिपायी गई है।

अपीलकर्ता के हस्ताक्षर

दस्तावेजों की सूची

क्र.सं.	विवरण	पृष्ठ सं.

MINISTRY OF HEALTH AND FAMILY WELFARE

(Department of Health Research)

NOTIFICATION

New Delhi, the 21st June, 2022

G.S.R. 460(E).—In exercise of the powers conferred by section 50 of the Surrogacy (Regulation) Act, 2021 (47 of 2021), the Central Government hereby makes the following rules, namely: -

- Short title and commencement.- (1) These rules may be called the Surrogacy (Regulation) Rules, 2022.
(2) They shall come into force on the date of their publication in the Official Gazette.
- Definitions.- In these rules, unless the context otherwise requires; -
 - 'Act' means the Surrogacy (Regulation) Act, 2021 (47 of 2021);
 - 'form' means a form appended to these rules;
 - 'section' means a section of the Act;
 - words and expressions used herein and not defined but defined in the Act shall have the meanings respectively assigned to them in the Act.
- The requirement, and qualification for persons employed, at a registered surrogacy clinic.- (1) The minimum requirement of staff and their qualification for surrogacy clinic shall be as specified in Schedule I, Part 1.
(2) The minimum requirement of equipment for surrogacy clinic shall conform to the requirement as specified in Schedule I, Part 2.
- The manner of application for obtaining a certificate of recommendation by the Board shall be as specified in Form 1.
- Insurance coverage.- (1) The intending woman or couple shall purchase a general health insurance coverage in favour of surrogate mother for a period of thirty six months from an insurance company or an agent recognized by the Insurance Regulatory and Development Authority established under the provisions of the Insurance Regulatory and Development Authority Act, (41 of 1999) for an amount which is sufficient enough to cover all expenses for all complications arising out of pregnancy and also covering post- partum delivery complications.

- (2) The intending couple/woman shall sign an affidavit to be sworn before a Metropolitan Magistrate or a Judicial Magistrate of the first-class giving guarantee as per clause (q) of sub section (1) of section 2 of the Surrogacy (Regulation) Act, (47 of 2021).
6. Number of attempts of surrogacy procedure.- The number of attempts of any surrogacy procedure on the surrogate mother shall not be more than three times.
 7. Consent of a surrogate mother.- The consent of a surrogate mother shall be as specified in Form 2.
 8. Number of embryos to be implanted in the uterus of the surrogate mother.- The gynaecologist shall transfer one embryo in the uterus of a surrogate mother during a treatment cycle:
Provided that only in special circumstances up to three embryos may be transferred.
 9. Conditions under which the surrogate mother may be allowed for abortion.- The surrogate mother may be allowed for abortion during the process of surrogacy in accordance with the Medical Termination of Pregnancy Act, 1971 (34 of 1971).
 10. Form and manner for registration and fee for a surrogacy clinic.- (1) An application for registration for a surrogacy clinic shall be made by the surrogacy clinic which is carrying out procedures related to the Surrogacy, as provided in the Act to the appropriate authority in Form 3.
(2) Every application for registration shall be accompanied by an application fee of rupees two lakhs for surrogacy clinic and the application fee once paid shall not be refunded:
Provided that, if an application for registration of any surrogacy clinic is rejected by the appropriate authority, no fee shall be required to be paid on re-submission of the application by the applicant for the same clinic:
Provided further that such establishment in the government run institutes need not pay for application.
 11. Period, manner and form for certificate of registration.- (1) The appropriate authority shall, after making such enquiry and after satisfying itself that the applicant has complied with all the requirements, shall grant a certificate of registration in Form 4 to the applicant.
(2) A copy of the certificate of registration shall be displayed by the registered surrogacy clinic at a conspicuous place at its place of business.
 12. Appeal.- (1) The surrogacy clinic, or the intending woman, or couple may, within a period of thirty days from the date of receipt of the communication relating to order of rejection of application, suspension or cancellation of registration by the appropriate authority under section 13 and communication relating to rejection of the certificates under section 14, prefer an appeal against such order.
(2) The form of appeal shall be as specified in Form 5.
 13. Manner in which the seizure of documents, records, objects, etc., shall be made and seizure list shall be prepared and delivered.- (1) Every surrogacy clinic shall allow the National Board or National Registry or State Board or Appropriate Authority or to any other person authorised in this behalf to inspect the place, equipment and records.
(2) An inspection of an already registered clinic may be done without any notice, during the working hours of the clinic.
(3) The authorities referred to in subsection (1) shall ensure that the entry and search procedure do not place at risk the gametes or embryos stored in the facility.
 14. Medical indications necessitating gestational surrogacy.- A woman may opt for surrogacy if; -
 - (a) she has no uterus or missing uterus or abnormal uterus (like hypoplastic uterus or intrauterine adhesions or thin endometrium or small uni-cornuate uterus, T-shaped uterus) or if the uterus is surgically removed due to any medical conditions such as gynaecological cancer;
 - (b) intended parent or woman who has repeatedly failed to conceive after multiple In vitro fertilization or Intracytoplasmic sperm injection attempts. (Recurrent implantation failure);

- (c) multiple pregnancy losses resulting from an unexplained medical reason. unexplained graft rejection due to exaggerated immune response;
- (d) any illness that makes it impossible for woman to carry a pregnancy to viability or pregnancy that is life threatening.

[F. No. U.11019/15/2022-HR(Pt.)]

GEETA NARAYAN, Jt. Secy.

SCHEDULE 1

Part 1

[See rules 3 (1)]

- (1) Staff of surrogacy clinics.- Surrogacy clinics shall have at least one gynaecologist, one anesthetist, one embryologist and one counselor. The clinic may employ additional staff by the Assisted Reproductive Technology Level 2 clinics; normally Director, Andrologist and shall appoint such staff as may be necessary to assist the clinic into day-to-day work.
- (2) Qualification for doctors and other staff in surrogacy clinics.- The qualification of staff in surrogacy clinics shall be as under:

- (a) Gynecologist: The gynecologist shall be a medical post-graduate in gynecology and obstetrics and should have record of performing 50 ovum pickup procedures and at least three years of working experience in an ART clinic under supervision of a trained ART specialist (In the case of gynecologists practicing ART or IVF and are working in ART clinics before the commencement of this Act a post graduate degree in gynecology and obstetrics with at least three years experience and record of 50 ovum pickup procedures shall be acceptable); or

A medical post-graduate in gynaecology and obstetrics with super specialist Doctorate of Medicine/Fellowship in reproductive medicine with experience not less than three years of working in an Assisted Reproductive Technology clinic.

- (b) Andrologist shall be a Master of Chirurgiae or Diplomate of National Board in urology with special training in diagnosing and treating male infertility.
- (c) Embryologist: (i) Postgraduate in clinical embryology (graduated with the full-time program with a minimum of four semesters) from a recognised university or institute with additional three years of human ART laboratory experience in handling human gametes and embryos;
- (ii) Ph.D. holder (full-time, Ph.D. project should be related to Clinical Embryology/assisted reproductive technology/fertility) from a recognised university or institute or with an additional one year of human ART laboratory experience in handling human gametes and embryos;
- (iii) Medical graduate (MBBS) or Veterinary graduate (BVSc) with a postgraduate degree in Clinical Embryology (full-time program) from a recognised university or institute with additional two years of ART laboratory experience in handling human gametes and embryos;
- (iv) Postgraduate in life sciences/Biotechnology with at least one year of on-site, full-time clinical embryology certified training in addition to four years experience in handling human gametes and embryos in a registered ART level 2 clinics.

As a one-time measure all embryologists working in Assisted Reproductive Technology or In vitro fertilization clinics before the commencement of the Act, with the following below mentioned qualifications and experience may be allowed to continue as embryologists. However, after the commencement of this Act, all clinics will hire Embryologists only with any of the above-mentioned four qualifications and experience criteria.

Graduate in Life Sciences /biotechnology/ reproductive biology/ veterinary science with at least five years experience of working in a registered Assisted Reproductive Technology / In vitro fertilization clinic, who have performed at least 500 IVF lab procedures (including Intracytoplasmic sperm injection I and at least 100 cycles of cryopreservation of embryos).

- (d) Counselor: A person who is a graduate in psychology or clinical psychology or nursing or life sciences from a recognised university or institute.
- (e) Anesthetist: Anesthetist shall be a medical postgraduate in Anesthesia from a recognised university or institute.
- (f) Director: The director should have a post-graduate degree in medical /life sciences/Management Sciences from a recognised university or institute.

SCHEDULE 1

Part 2

[see rule 3(2)]

1. Equipments: - Microscope:
 - (a) Incubator (minimum 02 in number);
 - (b) Laminar Airflow;
 - (c) Sperm counting Chambers;
 - (d) Centrifuge;
 - (e) Refrigerator;
 - (f) Equipment for cryopreservation;
 - (g) Ovum aspiration pump;
 - (h) Ultrasonography machine with transvaginal probe and needle guard;
 - (i) Test tube warmer;
 - (j) Anesthesia resuscitation trolley.

FORM 1

[See rule 4]

Application Form for Couple of Indian Origin/Intending woman for availing Surrogacy addressed to Board

I/ We (Details as given below) request for a certificate of recommendation for availing Surrogacy Services

1. Basic Information

1.1 Details of Intended Father:

1. Name:
2. Surname:
3. Date of Birth:
4. Blood Group:
5. Age in years:
6. Sex: Male/ Female

7. Nationality:
8. Occupation:
9. Marital Status: Married/ Divorced /Widow.
10. Address: (Please give details of Address in India if available and the present foreign country of residence)
 - (i) Present:
 - (ii) Permanent
11. Telephone/Mob. No. (Details of number in India and the country of residence)
12. Email:
13. Social Security Number or Equivalent
14. Passport Number

1.2 Details of the Intended Mother:

1. Name:
2. Surname
3. Date of Birth:
4. Blood Group:
5. Age in years
6. Sex: Male Female
7. Nationality:
8. Occupation:
9. Marital Status: Married/ Divorced /Widow.
10. Address: (Please give details of Address in India if available and the present foreign country of residence)
 - (i) Present:
 - (ii) Permanent
11. Telephone/Mob. No. (Details of number in India and the country of residence)
12. Email:
13. Social Security Number or Equivalent
14. Passport Number

1.3 Briefly describe the reason for availing surrogacy

Declaration

I hereby declare that the above statements are true to the best of my knowledge and belief.

Date:

Signature of the Intended father

Place:

Signature of the Intended Mother

Self attested Documents required for applying

1. Proof of marriage / Marriage Certificate (If applicable)
2. Proof of age/ Birth certificate/10th certificate/ or any equivalent.

(Note: Certificate of essentiality is to be obtained from appropriate authority and Certificate of Medical Indication is to be obtained from the District Medical Board)

FORM 2

[See rule 7]

**Consent of the Surrogate Mother and
Agreement for Surrogacy**

I, _____ (the woman), aged _____ Years (address) _____ (Aadhar Number), having _____ (Number of children) child/children _____ (age in years) of my own have agreed to act as a surrogate mother for Intending couple/intending woman Name _____ Husband Name _____ Wife/ _____ Intending woman Age _____ Husband Age _____ Wife/Intending woman _____ had a full discussion with Dr. _____ of the Surrogacy clinic on _____ in regard to the matter of my acting as a surrogate mother for the child/children of the above couple.

1. That I understand that the methods of treatment may include:
 - (a) stimulation of the genetic mother for follicular recruitment;
 - (b) the recovery of one or more oocytes from the genetic mother by ultrasound-guided oocyte recovery or by laparoscopy;
 - (c) the fertilization of the oocytes from the genetic mother with the sperm of her husband;
 - (d) the fertilization of a donor oocyte by the sperm of the husband;
 - (e) the maintenance and storage by cryopreservation of the embryo resulting from such fertilization until, in the view of the medical and scientific staff, it is ready for transfer;
 - (f) implantation of the embryo obtained through any of the above possibilities into my uterus, after the necessary treatment if any.
2. That I have been assured that the genetic mother and the genetic father have been screened for 'HIV' and hepatitis 'B' and 'C' and other sexually transmitted diseases before oocyte recovery and found to be seronegative for all these diseases. I have, however, been also informed that there is a small risk of the mother or the father becoming seropositive for Human immunodeficiency (HIV) during the window period.
3. That I consent to the above procedures and the administration of such drugs that may be necessary to assist in preparing my uterus for embryo transfer, and for support in the luteal phase.
4. That I understand and accept that there is no certainty that a pregnancy may result from these procedures.
5. That I understand and accept that the medical and scientific staff may give no assurance that any pregnancy will result in the delivery of a normal and living child or children.
6. That I am unrelated or related (relation) _____ to the couple (the would-be genetic parents).
7. That I have worked out medical and other expenses and conditions of the surrogacy with the couple in writing and an appropriately authenticated copy of the agreement has been filed with the clinic, which the clinic shall keep confidential. A General health insurance coverage in favor of the surrogate mother from an insurance company or an agent recognized by the Insurance Regulatory and Development Authority established under the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999) has been purchased by the intending couple/woman.

8. That I agree to relinquish all my rights over the child and hand over the child/children to _____, or _____ and _____ in case of a intending couple, or to _____ in case of their separation during my pregnancy, or to the survivor in case of the death of one of them during pregnancy, or to ----- in case of death of both of them, or to ----- in case of guarantor intending couple/ woman, as soon as I am permitted to do so by the hospital or clinic or nursing home where the child or children are delivered.
9. That I have been provided with the written consent of all of those name(s) mentioned above.
10. That I undertake to inform the surrogacy clinic, _____, of the result of the pregnancy.
11. That I take no responsibility that the child or children delivered by me will be normal in all respects. I understand that the biological parent(s) of the child/ children has / have a legal obligation to accept the child or children that I deliver and that the child or children would have all the inheritance rights of a child or children of the biological parent(s) as per the prevailing law.
12. That I shall not be asked to go through sex determination tests for the child/ children during the pregnancy and that I have the full right to refuse such tests.
13. That I understand that I would have the right to terminate the pregnancy in case of any complication as advised by the doctors, under the provisions of the Medical Termination of Pregnancy Act, 1971 (34 of 1971).
14. That I certify that I have not born any child through surrogacy before.
15. That I have been tested for 'HIV', hepatitis 'B' and 'C' and shown to be seronegative for these viruses just before embryo transfer.
16. That I shall not have intercourse of any kind once the cycle preparation is initiated.
17. That I certify that (a) I have not had any drug intravenously administered into me through a shared syringe; and (b) I have not undergone blood transfusion in the last six months.
18. That I also declare that I shall not use drugs intravenously, or undergo blood transfusion excepting of blood obtained through a certified blood bank on medical advice.
19. That I undertake not to disclose the identity of the party seeking the surrogacy.
20. That In the case of the death or unavailability of the party seeking my help as the surrogate mother, I shall deliver the child/children to _____ or _____ in this order; I shall be provided, before the embryo transfer into me, a written agreement of the above persons that they shall be legally bound to accept the child or children in the case of the above-mentioned eventuality. (If applicable)

(Strike off if not applicable.)

Endorsement by the Surrogacy Clinic

I/we have personally explained to _____ and _____ the details and implications of his / her / their signing this consent / approval form, and made sure to the extent humanly possible that he / she / they understand these details and implications.

Signed:

(Surrogate Mother)

Signature of Intending couple/Woman

Name, address and signature

of the Witness from the Surrogacy clinic

Name and signature of the Doctor

Name and address of the Surrogacy Clinic

Dated:

FORM 3

[See rule 10]

APPLICATION FORM**REGISTRATION OF A SURROGACY CLINIC**

Name of the Surrogacy clinic:

Address of the Surrogacy clinic:

State: _____ City: _____

Pin Code:

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Telephone No. (with STD Code) (Surrogacy clinic only):

Mobile No. of Surrogacy clinic

E-mail (Surrogacy clinic):

Website, if any

1. Status of your Surrogacy clinic:

1. Government

2. Private

Any other, please specify.....

2. Date of establishment of your Surrogacy clinic:

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3. Whether your Surrogacy clinic is registered under following Acts/Authorities (Please provide details) Yes / No

1. The Medical Termination of Pregnancy (MTP) Act, 1971 (44 of 1971)

2. The Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 (57 of 1994)

4. Whether your Surrogacy clinic has Director

(1. Yes

2. No)

a) Name

b) Qualification

c) Registration No. if applicable

5. Details of staff

Post	Name	Qualification	Registration No. if applicable
Gynaecologist			
Anesthetist			
Clinical Embryologist			
Andrologist			
Counsellor			

6. List of equipments

7. Indicate which of the following procedures are being carried out at your Surrogacy clinic

1. Yes

2. No

- (a) Intra-uterine Insemination using Husband Semen (IUI-H)
- (b) Intra-uterine Insemination using Donor Semen (IUI-D)
- (c) *In vitro* Fertilization-Embryo Transfer (IVF-ET)
- (d) Intra-cytoplasmic Sperm Injection (ICSI)
- (e) Processing of semen
- (f) Storage of gametes (sperm and oocyte) and or embryos of patient
- (g) Pre-implantation Genetic Testing
- (h) Any other procedure, please specify.....

8. Any additional Information

DECLARATION

I hereby declare that the entries in this form and the additional particulars (if any), furnished herewith are true to the best of my knowledge and belief.

Date: _____

FORM 4

[See rule 11]

CERTIFICATE OF REGISTRATION

Surrogacy Clinic

(To be issued in duplicate)

Certificate No.:

1. In exercise of the powers conferred under section 12 (1) of the Surrogacy (Regulation) Act, 2021 (47 of 2021), the Appropriate Authority hereby grants registration to the Surrogacy Clinic named below for purposes of carrying out surrogacy or surrogacy procedures as per the aforesaid Act, for a period ofyears ending on
- (a) Name and address of the Surrogacy clinic:
- (b) Type of institution (Government / Private)
2. This registration is granted subject to the aforesaid Act and Rules there under and any contravention thereof shall result in suspension or cancellation of this certificate of registration before the expiry of the said period of three years.
3. Registration No. allotted
4. For renewed Certificate of Registration only: Period of validity of earlier Certificate of Registration from To

**Signature, Name and Designation of
the Appropriate Authority**

Date:

Place:

SEAL

Display one copy of this certificate at a conspicuous place at the place of business

*Strike out whichever is not applicable or necessary

FORM 5**[See rule 12]**

Appeal No./20.....Made againstto the State Government /Central Government

In the matter of:

Name and Address of Appellant

Versus

Name and Address of the Authority Whose Order is Challenged Respondent

Most respectfully sheweth:

The above-mentioned appellant appeals against the order passed by the..... concerned
Appropriate Authority at(Name of place and address) against the appellant in
(details of the case if any)

dated.....

and sets forth the following grounds of objection of the order appealed: -

1. Particulars of the order including number of orders, if any, against which the appeal is Preferred.
2. Brief facts of the case.
3. Findings of the Appropriate Authority challenged.
4. Grounds of appeal.
5. Copy of the order enclosed along with all the documents relied upon by the Appellant.
6. Any other information/documents in support of appeal

Prayer:

That the appellant, therefore prays for the reasons stated above the order under the appeal be set aside and
quashed and order deemed just and proper may kindly be passed in favor of the appellant.

Signature of the Appellant

Place:

Date:

Verification

I, do hereby verify that the contents of parato are true and correct
to the best of my knowledge and belief and no part is false and nothing material has been concealed therein.

Signature of the Appellant

List of Documents

S. No.	Particulars	Page No.