



Amendment to Surrogacy Rules

For Prelims: [Surrogacy](#), Surrogacy (Regulation) Act 2021, Mayer-Rokitansky-Kuster-Hauser (MRKH) Syndrome, Ban on Commercial Surrogacy

For Mains: Laws Related to Surrogacy in India and Recently Amended Provisions

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Why in News?

Recently, the Indian government has amended the [Surrogacy \(Regulation\) Rules, 2022](#) and allowed married couples to use an **egg or sperm of a donor** in case one of the partners is suffering from a medical condition.

- This overturned a previous amendment made to the rules in **March 2023** that banned the use of donor gametes.

What are the Major Provisions of the Amended Surrogacy Rules?

- **Background:** The **March 2023** amended rules only permitted the **use of the intending couple's own gametes**, barring couples with specific medical conditions from having biological children through surrogacy.
 - These restrictions caused distress and challenged the right to parenthood for affected couples.
 - It faced legal challenges in the [Supreme Court](#) by a woman with [Mayer-Rokitansky-Kuster-Hauser \(MRKH\) Syndrome](#), a congenital disorder causing infertility.
 - The Supreme Court expressed skepticism regarding the efficacy of these regulations, asserting that such rules undermined the fundamental objectives of surrogacy.
- **Recent Amended Provisions:** It allows surrogacy with donor gametes if either spouse in the intending couple is certified by the [District Medical Board](#) to require donor gametes due to a medical condition.
 - This implies that **couples still cannot opt for surrogacy if both partners have medical issues.**
 - For divorced or widowed women opting for surrogacy, it mandates the use of the woman's own eggs alongside donor sperm.

What is Surrogacy?

- **About:** Surrogacy is an arrangement where a woman, known as the **surrogate mother**, agrees to carry and deliver a baby for another individual or couple, known as the intended parents.
- **Types:**
 - **Traditional Surrogacy:** Traditional surrogacy involves using the intended father's sperm to fertilise the surrogate's egg.

- The surrogate carries the pregnancy to term, and the **resulting baby is biologically related to the surrogate mother and the intended father.**
- **Gestational Surrogacy:** In gestational surrogacy, the baby is not biologically related to the surrogate.
 - An embryo, created using the intended father's sperm (or donor sperm) and the biological mother's egg (or donor egg), is implanted into the **surrogate's uterus for her to carry to term.**
- **Surrogacy Arrangements:**
 - **Altruistic Surrogacy:** It refers to a surrogacy arrangement where the surrogate does not receive financial compensation beyond reimbursement for medical expenses and other related costs.
 - The primary motivation for the surrogate in altruistic surrogacy is typically to help another individual or couple achieve their dream of having a child.
 - **Commercial Surrogacy:** It involves a contractual agreement where the surrogate mother receives **financial compensation beyond just reimbursement for medical expenses** and other costs associated with the pregnancy.
 - This compensation may vary depending on factors such as location, legal regulations, and the specific terms of the surrogacy agreement.

What are the Other Provisions Related to Surrogacy in India?

- **Permissibility:** Under the [Surrogacy \(Regulation\) Act 2021](#), Surrogacy is permissible only for **altruistic purposes** or for couples with proven infertility or disease.
 - **Commercial surrogacy**, including for sale or exploitation purposes, is strictly prohibited.
- **Eligibility Requirements for Couples:** Couples must be married for at least 5 years.
 - The wife must be aged between **25-50 years**, and the husband between **26-55** years.
 - The couple must not have any living child, whether **biological, adopted, or through surrogacy**, except in cases of children with disabilities or life-threatening disorders.
- **Surrogate Mother Criteria:** The surrogate mother must be a close relative of the couple.
 - She must be a married woman with at least one child of her own.
 - Her age must be between **25-35 years**, and she must have only been a surrogate once in her life.
- **Parental Status upon Birth:** Upon birth, the child is legally recognized as the biological child of the intended couple.
 - Abortion of the fetus requires consent from both the surrogate mother and the relevant authorities, following the provisions of the [Medical Termination of Pregnancy Act](#).