

## Amendment in Surrogacy Rules

### Why in news?

The Centre has allowed married couples with medical complications to use donor gametes for surrogacy, revoking a previous ban.

What are the key provisions of Surrogacy Act 2021?

Key aspects	About
Definition of Surrogacy	It is a practice where a woman gives birth to a child for an intending couple with the intention to hand over the child after the birth to the intending couple.
Regulation of surrogacy	<ul style="list-style-type: none"> <li>The Act <i>prohibits commercial surrogacy</i>(carrier is paid), but allows altruistic surrogacy</li> <li><b>Altruistic surrogacy</b> involves <i>no monetary compensation</i> to the surrogate mother other than the medical expenses and insurance coverage during the pregnancy.</li> </ul>
Purpose for which surrogacy is permitted	<ul style="list-style-type: none"> <li>For intending couple who suffer from proven infertility.</li> <li>Altruistic and not for commercial purposes.</li> <li>Not for producing children for sale, prostitution or other forms of exploitation</li> <li>For any condition or disease specified through regulation.</li> </ul>
Eligibility criteria for intending couple	They should have a certificate of essentiality and certificate of eligibility issued by appropriate authority.
Certificate of eligibility	<ul style="list-style-type: none"> <li>The intended couple shall be a legally married Indian man and woman for at least 5 years.</li> <li>The man shall be between the ages of 26-55 years and the woman shall be between the ages of 25-50 years.</li> <li>The intending couple shall not have any previous biological, adopted, or surrogate child.</li> </ul>
Certificate of essentiality	<ul style="list-style-type: none"> <li>It is issued by District Medical Board when either the wife or the husband or both husband and wife have any medical conditions which indicates the <i>necessity of gestational surrogacy</i>.</li> <li>An order will be passed by Magistrate's court that the custody of the child will be given to the intending parent.</li> <li>Insurance will also be provided to the surrogate mother for the period of 16 months.</li> </ul>
Eligibility criteria for surrogate mother	To obtain a certificate of eligibility from the appropriate authority, the surrogate mother has to be <ul style="list-style-type: none"> <li>A close relative of the intending couple</li> <li>A married woman having a child of her own</li> <li>25 to 35 years old</li> <li>A surrogate only once in her lifetime</li> <li>Possess a certificate of medical and psychological fitness for surrogacy</li> </ul>
Registration of surrogacy clinics	<ul style="list-style-type: none"> <li>Clinics must apply for registration within a period of 60 days from the date of appointment of the appropriate authority.</li> <li>Registration shall be renewed after every 3 years.</li> </ul>
Institutional mechanism	<ul style="list-style-type: none"> <li><b>National level-</b> Central government will appoint <i>National Surrogacy Board</i>.</li> <li><b>State level-</b> The State governments will appoint <i>State Surrogacy Board</i>.</li> </ul>

<b>2023 amendment</b>	<ul style="list-style-type: none"> <li>• It stipulates that the donor eggs could not be used for gestational surrogacy (In-Vitro Fertilization).</li> <li>• It is a type of assisted reproductive technology (ART) where sperm and an egg are fertilized outside of the human body.</li> <li>• The fertilized egg is inserted in the uterus of the surrogate mother who keeps the child in her womb for that couple.</li> </ul>
<b>Surrogacy(Regulation) Amendment Rules, 2024</b>	<ul style="list-style-type: none"> <li>• The married couples to use a donor gamete on the condition that a District Magistrate Board certifies that either the husband or the wife suffers from a medical condition.</li> <li>• Eligibility condition- It outlines that the child to be born through surrogacy must have at least one gamete from the intending parents.</li> <li>• This implies that a married couple where both partners are unable to use their gametes due to an existing medical condition cannot opt for surrogacy.</li> <li>• There is a separate rules for single women.</li> </ul>
<b>Single women</b>	<ul style="list-style-type: none"> <li>• Single women opting for surrogacy should be a <i>divorcee or a widow</i>.</li> <li>• Single women undergoing surrogacy must use self-eggs and donor sperms to avail surrogacy procedure.</li> </ul>

## Why have the surrogacy rules been changed?

- **MRKH syndrome**- The Supreme Court allowed a women with Mayer Rokitansky Kuster Hauser (MRKH) Syndrome- a rare congenital disorder that affects production of eggs and can cause infertility to use donor eggs for surrogacy.
- The Court observed that the law permitting gestational surrogacy was “woman-centric” as it was a woman’s choice to have a surrogate child owing to existing medical or congenital conditions.
- The Supreme Court has since allowed two dozen petitioners to use donor eggs.
- **Delhi High Court**- It observed that 2023 amendment banning donor gametes in surrogacy violates the “basic rights” of a married infertile couple to parenthood by denying them access to legally and medically regulated procedures and services.
- **Implications of 2024 rules**- It bars single unmarried women from having children through surrogacy which violates Article 14 (right to equality) and Article 21 (right to life) of the Constitution.

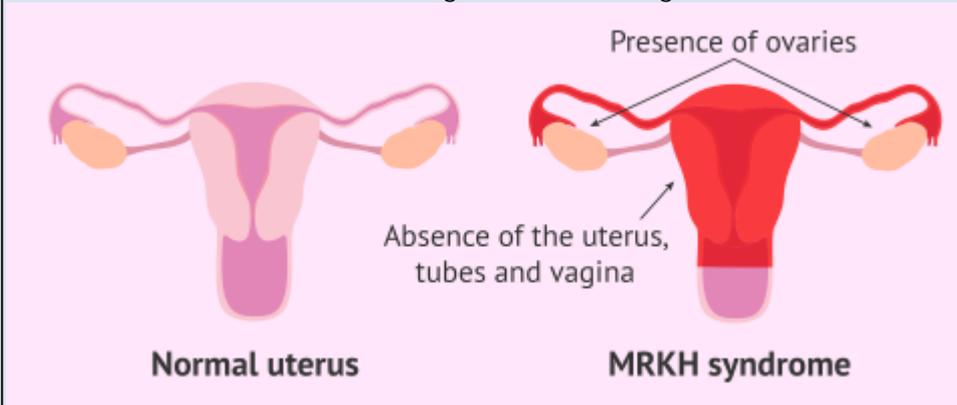
*Surrogacy cannot be accessed by single persons, live-in couples, and LGBTQ couples.*

- A petition was filed by unmarried by 44-year-old unmarried woman challenging provisions of the 2021 Act.
- The Court expressed reservation stating that the institution of marriage needed to be “protected” in the country, unlike the West where it was normal to have children without getting married

## Quick facts

**Mayer Rokitansky Kuster Hauser Syndrome**

- It is a rare congenital disorder that can affect the development of the female reproductive system.
- It causes the absence or underdevelopment of the uterus, cervix, and upper vagina.
- It is also called as Müllerian agenesis and congenital absence of the uterus and vagina.



- Type 1- It only affects the reproductive organs
- Type 2- It involves problems with other organs such as kidneys, spine or ears.

## References

1. [Indian Express- Donor gametes are allowed](#)
2. [The Hindu- Why surrogacy rules modified?](#)