The Surrogacy (Regulation) Bill, 2019

Why in News?

The Surrogacy (Regulation) Bill, 2019 was introduced in the Lok Sabha earlier this month by the Ministry of Health and Family Welfare.

How does it regulate surrogacy?

- It prohibits commercial surrogacy but allows altruistic surrogacy.
- **Altruistic surrogacy** - No monetary compensation to the surrogate mother other than the medical expenses and insurance coverage during the pregnancy.
- **Commercial surrogacy** - Monetary benefit or reward exceeding the basic medical expenses and insurance coverage will be given to the surrogate mother.
- Surrogacy clinics must apply for registration within a period of 60 days from the date of appointment of the appropriate authority.

When is surrogacy permitted?

- When the intending couples suffer from proven infertility.
- When Altruistic and not commercial.
- When Children are not produced for sale, prostitution or other forms of exploitation.
- For any condition or disease specified through regulations.

What are the eligibility criteria for the intending couple?

- They should have 'certificate of essentiality' and a 'certificate of eligibility' issued by the appropriate authority.
- **Certificate of essentiality** –
    1. A certificate of proven infertility of one or both of the couple from a District Medical Board;
    2. An order of parentage and custody of the surrogate child passed by a Magistrate's court;
    3. Insurance coverage for a period of 16 months covering postpartum delivery complications for the surrogate.
- **Certificate of eligibility** –

1. They must be Indian citizens and married for at least 5 years;
2. Wife - 23 to 50 years old and Husband - 26 to 55 years old;
3. They do not have any surviving child (biological, adopted or surrogate).

What are the eligibility criteria for surrogate mother?

- She should get a **certificate of eligibility** from the appropriate authority, the surrogate mother has to be:
  1. A 25 to 35 years old married woman with a child of her own, who is a close relative of the intending couple.
  2. Can surrogate only once in her lifetime.
  3. Should possess a certificate of medical and psychological fitness for surrogacy.
  4. She cannot provide her own gametes for surrogacy.

What are National and State Surrogacy Boards?

- **Central governments** shall constitute the National Surrogacy Board (NSB) and by **state governments** the State Surrogacy Boards (SSB).
- **Functions** of the NSB include advising the Centre on policy matters, laying down the code of conduct of surrogacy clinics and supervising the SSBs.

What are the other procedures?

- A child born out of a surrogacy procedure will be deemed to be the **biological child of the intending couple**.
- An abortion requires the written consent of the surrogate mother and the authorisation of the appropriate authority, compliant with the **Medical Termination of Pregnancy Act, 1971**.
- The surrogate mother will have an option to withdraw from surrogacy before the embryo is implanted in her womb.

What are the offences and penalties?

- The offences under the Bill include:
  1. Undertaking or advertising commercial surrogacy;
  2. Exploiting the surrogate mother;
  3. Abandoning, exploiting or disowning a surrogate child;
  4. Selling or importing human embryo or gametes for surrogacy.
- The penalty for such offences is imprisonment up to 10 years and a fine up to 10 lakh rupees.

Source: PRS

