

## 1. Cabinet Approves Bill to Regulate Surrogacy

**Prelims Syllabus:** Governance – Policies

**Mains Syllabus:** GS-II Issues relating to development and management of Social Sector or Services relating to Health, Education, Human Resources.

### Why in News?

- The Union Cabinet recently approved the Surrogacy (Regulation) Bill, 2020, allowing a “willing” woman to be a surrogate mother.
- It also proposed that the Bill would benefit widows and divorced women besides infertile Indian couples.

### Provisions of the Bill:

#### What is prohibited?

- The Bill prohibits commercial surrogacy, but allows altruistic surrogacy.
  - ✓ **Altruistic surrogacy** involves **no monetary compensation** to the surrogate mother other than the medical expenses and insurance coverage during the pregnancy.
  - ✓ **Commercial surrogacy includes surrogacy** or its related procedures undertaken for a monetary benefit or reward (in cash or kind) exceeding the basic medical expenses and insurance coverage.

#### When Surrogacy is Permitted?

- Surrogacy is permitted when it is:
  - ✓ for intending couples who suffer from **proven infertility**;
  - ✓ altruistic;
  - ✓ not for commercial purposes;
  - ✓ not for producing children for sale, prostitution or other forms of exploitation; and
  - ✓ for any condition or disease specified through regulations.
- The intending couple should have a ‘**certificate of essentiality**’ and a ‘**certificate of eligibility**’ issued by the appropriate authority.

#### When the Certificate is Issued?

- A certificate of essentiality will be issued upon fulfilment of the following conditions:
  - ✓ a certificate of proven infertility of one or both members of the intending couple from a District Medical Board; an order of parentage and custody of the surrogate child passed by a Magistrate’s court; and Insurance coverage for a period of 16 months covering postpartum delivery complications for the surrogate.

- The certificate of eligibility to the intending couple is issued upon fulfilment of the following conditions:
  - ✓ the couple being Indian citizens and married for at least five years;
  - ✓ between 23 to 50 years old (wife) and 26 to 55 years old (husband);
  - ✓ they do not have any surviving child (biological, adopted or surrogate); this would not include a child who is mentally or physically challenged or suffers from life threatening disorder or fatal illness; and
  - ✓ Other conditions that may be specified by regulations.

### **What are the Eligibility Criteria for Surrogate Mother?**

- To obtain a certificate of eligibility from the appropriate authority, the surrogate mother has to be:
  - ✓ a close relative of the intending couple;
  - ✓ a married woman having a child of her own;
  - ✓ 25 to 35 years old;
  - ✓ a surrogate only once in her lifetime; and
  - ✓ Possess a certificate of medical and psychological fitness for surrogacy. Further, the surrogate mother cannot provide her own gametes for surrogacy.

### **What is the function of Appropriate Authorities?**

- The central and state governments shall appoint one or more appropriate authorities within 90 days of the Bill becoming an Act.
- The functions of the appropriate authority include;
  - ✓ granting, suspending or cancelling registration of surrogacy clinics;
  - ✓ enforcing standards for surrogacy clinics;
  - ✓ investigating and taking action against breach of the provisions of the Bill;
  - ✓ Recommending modifications to the rules and regulations.
- Surrogacy clinics cannot undertake surrogacy related procedures unless they are registered by the appropriate authority.
- Clinics must apply for registration within a period of 60 days from the date of appointment of the appropriate authority.

### **What is the function of the Surrogacy Boards?**

- The central and the state governments shall constitute the National Surrogacy Board (NSB) and the State Surrogacy Boards (SSB), respectively.

- Functions of the NSB include, (i) advising the central government on policy matters relating to surrogacy; (ii) laying down the code of conduct of surrogacy clinics; and (iii) supervising the functioning of SSBs.

### **What is the procedure for the Parentage and Abortion of Surrogate Child?**

- A child born out of a surrogacy procedure will be deemed to be the biological child of the intending couple.
- An abortion of the surrogate child requires the written consent of the surrogate mother and the authorisation of the appropriate authority.
- This authorisation must be compliant with the Medical Termination of Pregnancy Act, 1971.
- Further, 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:**
  - ✓ undertaking or advertising commercial surrogacy;
  - ✓ exploiting the surrogate mother;
  - ✓ abandoning, exploiting or disowning a surrogate child; and
  - ✓ 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.
- The Bill specifies a range of offences and penalties for other contraventions of the provisions of the Bill.

### **What are the recommendations of the Rajya Sabha Select committee?**

- **The major changes recommended by the Committee include**
  - ✓ It recommended that a surrogate mother need not be a “close relative”.
  - ✓ It also advocated omission of the five-year time limit before seeking surrogacy.
  - ✓ allowing single women (widow or a divorcee and Persons of Indian Origin) to avail of surrogacy,
  - ✓ Increasing insurance cover for the surrogate mother from the 16 months proposed in the Bill to 36 months.

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### Why such recommendations were given?

- Requiring the surrogate mother to be a “close relative” potentially restricts the availability of surrogate mothers, affecting genuinely needy persons.
- Deleting the definition of “infertility” as “the inability to conceive after five years of unprotected intercourse” is because it is too long a period for a couple to wait for a child.
- However the Surrogacy (Regulation) Bill, 2019 is yet to be passed by the Rajya Sabha.

