

AS INTRODUCED IN THE RAJYA SABHA
ON THE 5TH DECEMBER, 2025

Bill No. XLII of 2024

THE SURROGACY LAWS (AMENDMENT) BILL, 2024

A
BILL

*to amend the Surrogacy (Regulation) Act, 2021 and the Assisted
Reproductive Technology (Regulation) Act, 2021.*

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

CHAPTER I

PRELIMINARY

5 1. (1) This Act may be called the Surrogacy Laws (Amendment)Act, 2024.

Short title and
commencement.

(2) This Act shall come into force on such date as the Central Government
may, by notification in the Official Gazette, appoint.

CHAPTER II

AMENDMENTS TO THE SURROGACY (REGULATION) ACT, 2021

Amendment of
section 2.

2. In the Surrogacy (Regulation) Act, 2021 (hereinafter referred to as the principal Act), in section 2,—

47 of 2021.

(a) clause (h) shall be omitted;

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(b) for clause (r), the following clause shall be substituted, namely—

“(r) “intending person(s)” means person(s), who due to medical or biological reasons cannot undergo pregnancy and intends to become parent(s) through surrogacy.”

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Explanation— For the purposes of this clause, the expression “intending person(s)” shall include:—

(i) same sex couples between the age of twenty-six years to fifty-five years in the case of males, and between the age of twenty-three years to fifty years in the case of females;

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(ii) heterosexual married couples, where the male is between the age of twenty-six years to fifty-five years and the female is between the age of twenty-three years to fifty years; and

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(iii) single males and single females between the age of twenty-five years to fifty years.”.

(c) clause (s) shall be omitted.

Amendment
of section 4.

3. In section 4 of the principal Act, in clause (ii), sub-clause(a), after the word “medical”, the words “or biological” shall be inserted.

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Amendment
of section 17.

4. In section 17 of the principal Act, in sub-section (2), clause (f), sub-clause (iv), after the words “women welfare organizations”, the words “and organizations working for the welfare of LGBTQIA communities” shall be inserted.

Amendment
of section 2.

5. In the Assisted Reproductive Technology (Regulation) Act, 2021, in section 2,—

42 of 2021.

(a) for clause (e), the following clause shall be substituted, namely—

“(e) “commissioning person(s)” means infertile person(s), who approach an assisted reproductive technology clinic or assisted reproductive technology bank for obtaining the services authorized of the said clinic or bank;

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Explanation.— For the purposes of this clause, the expression “commissioning person(s)” shall include:—

5 (i) same sex couples between the age of twenty-six years to fifty-five years in the case of males, and between the age of twenty-three years to fifty years in the case of females;

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(ii) heterosexual married couples, where the male is between the age of twenty-six to fifty-five years and the female is between the age of twenty-three to fifty years; and

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(iv) single male and single females between the age of twenty-five to fifty years.”

(b) in clause (j), for the words “medical condition preventing a couple”, the words “medical or biological condition preventing person(s)” shall be inserted.

STATEMENT OF OBJECTS AND REASONS

The Surrogacy (Regulation) Act, 2021 and The Assisted Reproductive Technology (Regulation) Act, 2021 are heteronormative, patriarchal and exclusionary. They inadvertently perpetuate gender norms and societal structures that do not adequately address the diverse range of familial arrangements and reproductive choices present in our complex social landscape. Under the Surrogacy (Regulation) Act, 2021, surrogacy is made available only for infertile heterosexual married couples or single women, who are either widowed or divorced, completely omitting the LGBTQIA+ community and single unmarried women. It is not in the interest of the progressive growth of the society in not acknowledging the reproductive autonomy of women, as well as the rights of LGBTQIA+ individuals to found a family. Article 16 of the Universal Declaration of Human Rights, Article 17 of the International Covenant on Civil and Political Rights, and Article 10 of the International Covenant on Economic, Social and Cultural Rights recognise the universal right to parenthood. Additionally, recognition of 'atypical families' or 'chosen families' beyond the constraints of marriage, blood or adoption is required in consonance with Articles 14, 15, 19 and 21 of the Constitution.

The Indian judiciary, conscious of this, regards the right to procreate as a fundamental one. The Andhra Pradesh High Court recognized the civil rights to rightly include the freedom to reproduce and affirmed that "the right to reproductive autonomy" is inclusive under the "right to privacy" in B. K. Parthasarthy v. Government of Andhra Pradesh. In Navtej Singh Johar v. The Union of India, the LGBTQIA+ community was assured to be entitled to equal legal rights and to be treated equally in society without experiencing any stigma. In Supriyo v. Union of India, the Supreme Court held that the Parliament should fill the vacuum in legislation.

Therefore, by extending surrogacy rights, the Parliament would be taking a progressive step towards inclusivity that mirrors the aspirations of the population, fostering a society that respects the autonomy of individuals and reflects the principles of equality and human rights enshrined in the Indian Constitution and other international covenants and documents.

Embracing the principles of equality and non-discrimination, this Bill strives to reform surrogacy laws, thus breaking down barriers for individuals of diverse sexual orientations and gender identities. It champions inclusivity and ensures that surrogacy becomes an accessible and affirming avenue for all, irrespective of their sexual orientation or marital status, to build families with dignity and equality.

The Bill seeks to achieve the above objectives.

MOHAMMED NADIMUL HAQUE.

ANNEXURE

EXTRACTS FROM THE SURROGACY (REGULATION) ACT, 2021
(47 OF 2021)

* * * * *

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

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

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(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

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

(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.

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17. Constitution of National Assisted Reproductive Technology and Surrogacy Board.— (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.

(2) The Board shall consist of—

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(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;

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EXTRACTS FROM THE ASSISTED REPRODUCTIVE
TECHNOLOGY (REGULATION) ACT, 2021
(42 OF 2021)

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(e) “commissioning couple” means an infertile married couple who approach an assisted reproductive technology clinic or assisted reproductive technology bank for obtaining the services authorised of the said clinic or bank;

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(j) “infertility” means the inability to conceive after one year of unprotected coitus or other proven medical condition preventing a couple from conception

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RAJYA SABHA

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BILL

*to amend the Surrogacy (Regulation) Act, 2021 and the Assisted
Reproductive Technology (Regulation) Act, 2021.*

(Shri Mohammed Nadimul Haque, M.P.)