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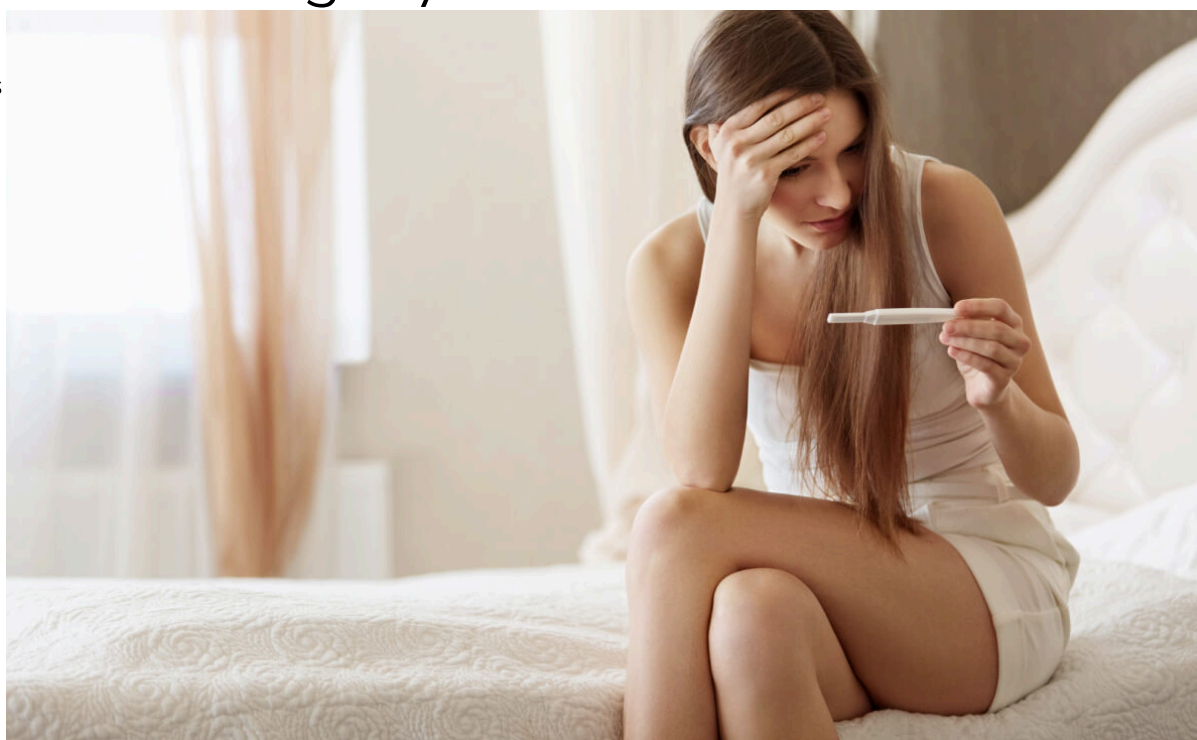


Surrogacy

Surrogacy may be an option for intended parents who are otherwise unable to carry a child of their own. Commercial surrogacy is illegal in both Australia and New Zealand; therefore the arrangement must always be altruistic.

What is surrogacy?

When a woman is unable to safely carry a



pregnancy on her own or the intended parents are unable to conceive, finding a surrogate mother to do so may be an option.

There are two types of surrogacy:

Traditional surrogacy: the surrogate mother uses her own eggs to conceive with sperm from an intended father or **donor sperm** (<https://www.fertilitysociety.com.au/donor-programme-australia-new-zealand/#sperm-donation>).

Gestational surrogacy: the embryo transferred to the uterus of the surrogate mother uses gametes from the intended parents where available, or there may be use of donor oocytes or donor sperm from a third party.



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"Not all fertility clinics facilitate surrogacy so you should always check which type of surrogacy they facilitate. Australia and New Zealand have different regulations, and within Australia, the states and territories have their own set of rules."

In short, surrogacy laws in most Australian states/territories and New Zealand follow a set of basic principles.

The intended parents are unable to carry a baby themselves

The surrogacy arrangement is not commercial so the surrogate cannot be paid

Costs involved in the treatment, pregnancy and birth should be paid by the intended parents

Everyone involved must receive counselling and legal advice

The surrogate (and her partner if she has one) are listed on the birth certificate and the intended parents can apply to the court for a Parentage Order

In Australia, each state and territory is responsible for their own surrogacy legislation. This means there are no uniform laws that cover surrogacy across the country. New Zealand has its own laws as well. It is essential that you are aware of the legislation that applies to your country, state or territory.

The surrogacy journey

The steps vary in each jurisdiction. Always consult with a specialist to understand which steps are involved in your jurisdiction.

> One

The intended parents should qualify for surrogacy in their jurisdiction: This typically means that a fertility specialist will recommend surrogacy for your individual case.

> Two

Finding a surrogate: In some jurisdictions, it is illegal to advertise for a surrogate. In that case you may discuss this option with your friends and family members.

> Three

Medical assessment: The surrogate meets a fertility specialist for a medical examination.

> Four

Counselling and legal advice: Everyone involved (intended parents and surrogate) have counselling and get legal advice.

> Five

Psychological assessment: In some jurisdictions, everyone involved will need to undergo a psychological assessment

> Six



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Approval: The surrogacy arrang

ahead

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How to find a surrogate?



If you are thinking about surrogacy, it is important to understand that there is more demand than supply. In other words, intended parents outnumber surrogates. That is why some intended parents travel overseas to find a surrogate mother. Before going down that path, it is important to remember that surrogacy in Australia and New Zealand is regulated by law and therefore protects the surrogate's rights. It also means that the child's best interests are protected.

In many countries there is little regulatory oversight or protections for a surrogate. Arrangements may be brokered through clinics or lawyers.

State policies/NZ legislation



The National Health and Medical Research Council (NHMRC) has also issued ethical guidelines in relation to assisted reproductive technology (ART). Four States have enacted their own ART legislation - New South Wales, Victoria, South Australia and Western Australia. The NHMRC guidelines apply in jurisdictions without a legislative regime.

Here's a quick summary of the legislation per jurisdiction:

NSW: surrogate minimum age is 25, single women and gay couples are allowed to find a surrogate, traditional surrogacy is allowed

VIC: surrogate minimum age is 25, single women and gay couples are allowed to find a surrogate.

QLD: surrogate minimum age is 25, single women and gay couples are allowed to find a surrogate, traditional surrogacy is allowed

SA: surrogate minimum age is 18, gay couples are allowed to find a surrogate, single women aren't, traditional surrogacy is allowed

WA: surrogate minimum age is 25, single women are allowed to find a surrogate, gay couples are not (though this is under review)

TAS: surrogate minimum age is 21, single women are allowed to find a surrogate, traditional surrogacy is allowed

(/) **ACT:** surrogate minimum age is 18, gay couples are allowed to find a surrogate, single women are not, traditional surrogacy is not allowed

NT: Surrogate minimum age is 25 (noting exceptions are allowable by the local court), one person or persons are allowed to find a surrogate and traditional surrogacy is allowed.

New Zealand: Following Ethics Committee approval, surrogate minimum age 20, gay couples are allowed to find a surrogate; single women and traditional surrogacy also allowed on case by case basis.



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Useful Links

VARTA: Surrogacy (<https://www.varta.org.au/surrogacy>)

Surrogacy Australia (<https://www.surrogacyaustralia.org/>)

Access Fact Sheet: IVF Surrogacy (<https://www.fertilitysociety.com.au/wp-content/uploads/30-IVF-Surrogacy-a-personal-perspective.pdf>)

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ART REGULATION

RTAC (<https://www.fertilitysociety.com.au/art-regulation/rtac/>)

ANZARD (<https://www.fertilitysociety.com.au/art-regulation/anzard/>)

TRAINING & EVENTS

FSA Conference 2025 (<https://www.fertilitysociety.com.au/annual-conference/registration/>)

START Course (<https://www.fertilitysociety.com.au/training-events/start-2025/>)



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