Review of Surrogacy Laws
Questions in the Issues Paper

Insights from people with personal experience of surrogacy

Question 1 If you or someone close to you has had personal experience of surrogacy, please describe:

We are new intended parents to surrogacy, we looked into it 12 years ago and it seems to complicated to try, while it seems a bit less complicated, it is still a long and trying process to create a family domestically through surrogacy.

What parts of your experience were positive?

- We have only started our surrogacy journey in March 2025 and are mostly still in the research phase. However, despite being so new to it all, we have found that the surrogacy community is such a loving and caring community. Intended parents are supportive of other intended parents, as are surrogates. We already feel so much more supported and understood that the 10 years we spent trying to create a family through adoption, permanent care or foster care. Despite the smaller number of surrogates compared to intended parents, surrogacy has such a positive feel.

What parts of your experience were negative?

- So far some of the biggest negatives we have seen are to do with varying legal aspects from state to state and the lower number of surrogates available. As each state has different laws regarding surrogacy, there is no consistency. Also being unable to advertise that we need a surrogate it makes it harder to find someone who is willing to be a surrogate domestically as unfortunately we have no family or friends that would be suitable to be a surrogate.
  A new issue we have been faced with is that many IVF clinics and hospitals state they can not create embryos for surrogacy, using our own eggs and sperm, until there is a surrogate, however surrogates seem to prefer to match with intended parents whom already have embryos ready to go.

What could be improved and how?

- Have consistant laws for surrogacy across all states, at the moment if feels like Australia is 8 separate countries with all their own laws regarding surrogacy.
- Allow intended parents to advertise the need for a surrogate, an individual in the community may think about being a surrogate, but if they don't know that someone is in need of a surrogate they can not offer to do so.
- Make it possible for intended parents to create embryos using their own eggs and sperm even if they do not have a surrogate ready.

Reform principles

Question 2 What reform principles should guide this Inquiry?

Human rights

Question 3 What do you think are the key human rights issues raised by domestic and/or international surrogacy arrangements? How should these be addressed?

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Question 4 What information about the circumstances of their birth do you think children born through surrogacy should have access to? How should this be provided or facilitated?

- I think all children should be given age appropriate information about their birth and the circumstances that resulted in their birth. It is part of their identity and their life story. I believe that the intended parents should be able to provide this to the child, it may be via simple open communication, and life story book or the possible use of an age appropriate commercially available books about surrogacy, for example **"Grown in Another Garden"**:.

Insights about the key issues and potential reform options

Barriers to domestic surrogacy

Question 5 What do you think are the main barriers that prevent people from entering surrogacy arrangements in Australia? How could these be overcome?

You might want to consider the experiences of any groups who may face greater barriers to accessing domestic surrogacy than others, such as LGBTIQA+ people, people who are financially disadvantaged, or people from culturally and linguistically diverse backgrounds.

- Some of the main barriers that prevent people from entering surrogacy arrangements in Australia are the lack of surrogates, the lack of knowledge and education about surrogacy and the incostinacies between the states and territories. For examples, in Western Australia only allows single women or heterosexual couples to enter into surrogacy arrangements, and LGBTIQA+ people are prevented.
- Costs can also be another issue for some individuals. In Victoria, if the couple was undergoing IVF with the plan to conceive the child themselves then they may be entitled to medicare rebates (I can not speak for other states as I'm Victorian), but as soon as surrogacy is mentioned, the medicare rebates are not available despite the fact that the while the intended mother will not be carry the preganancy, the intended parents will be the ones covering the costs and at the end of the journey they will be taking the child home.

Eligibility requirements for surrogacy

Question 6 Should there be eligibility requirements for surrogacy? If so, what should those requirements be?

There should still be eligibility requirements for surrogacy. I believe the current requirements of their being a medical need for surrogacy, whether it being a medical condition that means a pregnancy could be harmful and maybe fatal for the intended mother, or due to infertility issues. I think male homosexual couples should also be allowed to experience parenthood through the use of surrogacy. Everybody deserves the chance to be a parent.

Question 7 Are there any eligibility requirements which should be introduced, changed, or removed?

I think all states should have the same eligibility requirements.

Limits on advertising

Question 13 How should surrogacy advertising be regulated? You might want to consider:

a. if advertising should be allowed;

I think advertising should be allowed. Currently surrogacy is not widely understood or known within Australia, therefore it is harder to reach individuals who are willing to be surrogates.

b. who should be allowed to advertise;

I feel that intended parents should be allowed to freely advertise their need, meanwhile it would be useful if surrogacy in generally was advertised more within society.

Access to Medicare and parental leave

Question 14 What entitlements, if any, should be available to surrogates and intended parents? You might want to consider:

I think intended parents should be afforded the same entitlements as any other parents who have achieved their dream of a family the more conventional way. Us intended parents should not be treated as less than just because we can not create our family the conventional way.

Surrogates should also still be eligible for entitlements as it is their body doing all the hard work. They are still the ones who are preganant as should be eligible for the same entitlements as someone who is pregnant with their own child.

a. Medicare rebates for fertility treatments;

I believe that surrogacy should be covered by the same Medicare rebates as IVF. The intended parents are going to be the child's parents, just the same as couples or individuals who have a child through IVF, the only difference is that the intended parents are not physically capable of carrying a pregnancy. By not allowing intended parents to be able to claim Medicare rebates on medical procedures required for surrogacy, they are being financially penalised for the fact that they can not physically carry the pregnancy themselves, whether it be due to health risks, infertility or as a same sex couple.

b. access by surrogates to paid or unpaid parental leave, including through enterprise agreement terms; and

They should be able to access paid or unpaid parental leave just like they would if they were carrying their own child. They will still need the time post birth for recovery.

c. if it is desirable to make surrogacy arrangements generally more affordable, and how this could be achieved.

The first and easiest way to begin to make this more affordable is to allow medicare rebates for the fertility treatments.

Reimbursing and compensating surrogates

Question 15 How could the process for reimbursing surrogates for reasonable expenses be improved? You might want to consider:

a. what expenses should be reimbursable;

I think what expenses should be reimbursed may depend on the surrogacy team as a whole and also on the individual surrogate.

Any medical expenses related to the pregnancy should certainly be reimbursed, as should loss of wages and other expenses that the surrogate would not have had if she was not pregnant. Some of these may need to be agreed upon, ie the cost of maternity clothing and how much is reasonable.

Also any legal expenses should also be reimbursed.

Other expenses which should be considered for reimbursement are cleaners, babysitting expenses/childcare for surrogates children, something like meal boxes, massages and other similar expenses. These may not be needed, but I think there should be the option to reimburse these within reason.

b. how payment should be calculated;

c. if there should be limits on any amounts;

Some of the reimbursements may need to be limited, but only limited to what is agreed upon by both the surrogate and the intended parent/s, this may vary from surrogate team to team, and also due to financial abilities of the intended parents. For example, the intended parents may agree to reimburse the cost of maternity clothing, but may put a limit of the total cost spent. This may be that the surrogate is limited to $100 for maternity bras being reimbursed and if the surrogate feels they need to buy more, or more expensive bras, then they would need to cover the remaining cost. However these limits may vary and be flexible depending on every situation.

d. the process for reimbursement (for example, whether money should be kept in trust, whether there should be a requirement to produce receipts, etc); and

The process for reimbursement is not as simple as saying this is the one and only way. Every situation is different, and from surrogates we have spoken to, they all have their own feelings about how this should be achieved. For some a trust account would be the most suitable, meanwhile others may be happier to have a bank account that the intended parents deposit money into. Some partnerships may prefer to have receipts for reimbursements, others may prefer to have an agreement that they need to communicate with the intended parents before making certain purchases.

e. any jurisdictions (either within Australia or overseas) that have processes for reimbursement worth learning from.

Question 16 Do you support a) *compensated* surrogacy and/or b) '*commercial*' surrogacy? You might want to consider whether you agree with how we have described compensated and 'commercial' surrogacy.

I support the idea of compensated surrogacy. I believe that the surrogates should be not only reimbursed for costs associated with the surrogacy arrangements and loss of wages, but that they should receive some value of compensation as they put their lives on hold and their body on the line to help the intended parents reach their dream of becoming parents. I agree that it needs to be regulated and is more of a token amount maintaining a more altruistic surrogacy than the surrogates being "paid" to do so and then doing so for financial gain only.

Question 17 If Australia was to allow for compensated or 'commercial' surrogacy, how could this be implemented? You might want to consider:

a. how compensation should be calculated;
I think the level of compensation could possibly be means tested, however I feel it should also be flexible dependant upon each situation.

b. if there should be a limit on the amount of compensation;

I think there should be a limit to the level of compensation. I feel it would be good to maintain a more altruistic world of surrogacy in Australia to ensure surrogates are not only doing it for financial gain.

Intended parents are already burdened financially as many have gone through years of infertility treatment themselves and have reached surrogacy as a final way to create their families.

c. who should set the amount of compensation;

d. the process for compensation (for example, whether it should be paid in monthly instalments, whether the money should be kept in trust etc); and

I think the compensation should be paid monthly for the period of pregnancy (40 weeks), however, I think it should be open for the surrogate to choose to have it paid as a lump sum at the end of the 40weeks.

Question 19 How could the process for intended parents to become the legal parents of children born through surrogacy be improved? You might want to consider:

We haven't learnt much yet in regards to the parenting orders yet, however I have not heard much positive things. From what I understand, it needs to be more streamlined and maybe a process that can be begun prior to the childs birth and finalised shortly afterward