

Part 1: Background Information

Two of the Main Policy Objectives:

(Reference: Surrogacy Discussion Paper – Explainer)

1.3 Two of the main policy objectives of current surrogacy laws are to prevent surrogates, intended parents, and children born through surrogacy, from being exploited; and to promote the best interests of children. The ALRC agrees with these objectives and the proposals in the Discussion Paper do not seek to change them — rather, the proposals aim to improve the laws so that they better meet these policy objectives.

█ comments

I understand above.

The ALRC's ideas for reform:

(Reference: Surrogacy Discussion Paper – Explainer)

The ALRC's ideas for reform

1.6 While surrogacy laws are different in every state and territory, they rely on similar approaches. These approaches:

- unnecessarily prohibit the extent to which surrogates can be reimbursed, resulting in surrogates being unable to fully recover financial and non-financial costs and losses — this likely contributes to the lack of surrogates available in Australia;
- overly rely on prohibiting surrogacy arrangements that allow the surrogate to profit from the arrangement — other measures are available and may be more effective at achieving the objective of avoiding exploitation;
- make it difficult for intended parents to access domestic surrogacy arrangements — for example, there are laws that restrict advertising and professional agencies are prohibited;
- require a judicial process for intended parents to become the child's legal parents — a process that is expensive, time consuming and stressful; and
- rely on a model of criminal sanctions to support compliance that is ineffective.

█ comments

I understand above, my suggestions in this document will focus on 1) compensation to surrogates 2) easy connections/right matches between IPs and surrogates.

1.9 The Discussion Paper puts forward ideas for reform that aim to prevent exploitation and create a fair and accessible system that protects the rights and interests of all involved, with priority given to the best interests of the child. Key features of the proposed system are:

- A nationally consistent legal and regulatory framework for surrogacy.
- Full coverage of surrogates' costs and losses — in doing so the ALRC has not described surrogacy based on whether it is 'altruistic' or 'commercial' as this binary is incorrect and unhelpful (a commercial surrogacy arrangement can be primarily motivated by altruism; and altruism is no guarantee that the arrangement will not be exploitative); and distracts us from putting in place measures that are effective and meet the laws' policy objectives.
- A range of ways in which eligible parties can meet, including through Surrogacy Support Organisations or less restrictive advertising.
- Safeguards that must be complied with at the start of a surrogacy arrangement, including requirements for medical and psychological screening and legal advice.
- Access to Medicare-subsidised fertility treatment, once safeguards have been complied with and a compliant surrogacy agreement has been approved.

█ comments

I understand above.

In addition,

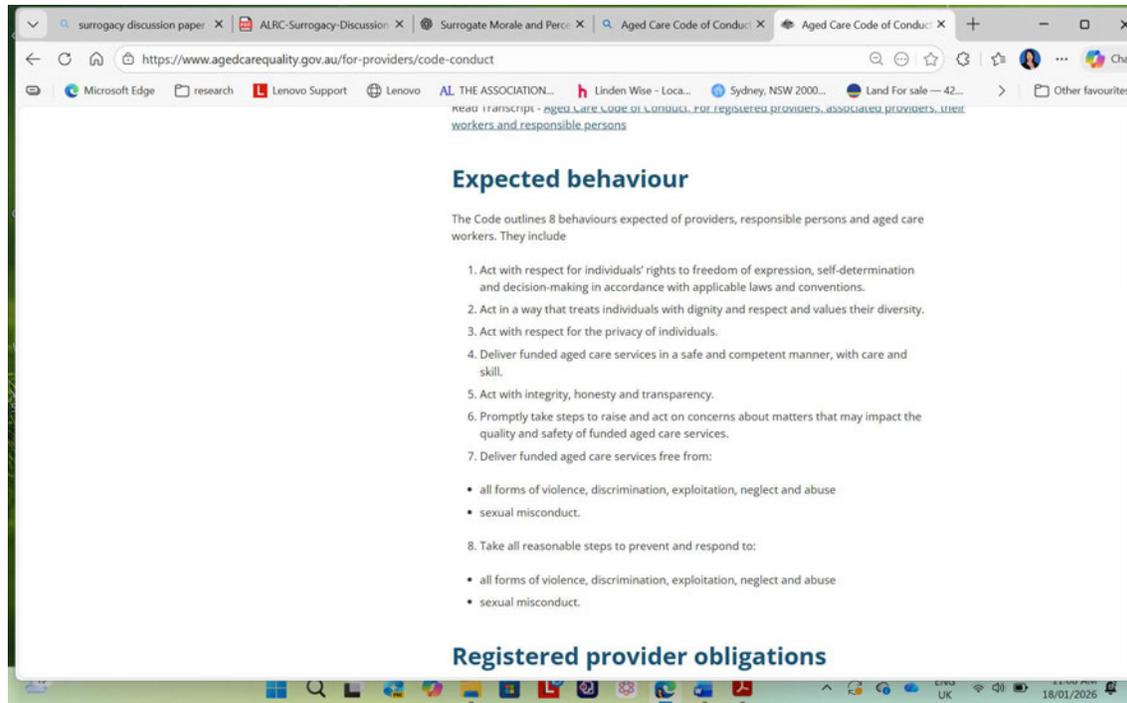
Real life challenges █ observed through discussion with surrogates and surrogate industry people:

1. Current finding surrogate process in Australia is via social media, only surrogate can approach Intended Parents (IP) if she is interested; Intended Parents (IPs) cannot proactively search for surrogates; they must wait to be approached the whole connection is through texts in social media, it is very hard for both surrogate and IP to find right match
2. Surrogate morale should be encouraged, people's mentality towards surrogate is still in the process of shifting from the traditional view to the courageous positive behaviours of surrogate helping IP build families. New surrogacy legal framework should improve surrogate morale, reduce stigma, and encourage ethical, supportive surrogacy practices.
3. During surrogate pregnancy process, surrogate doesn't like to ask money from IP while they physically taking on discomfort, the stress of asking money by surrogate should be reduced.

I hope above challenges can be improved through this new surrogacy legal framework.

One observation is the current surrogacy discussion paper didn't include the code of conduct/Values of both IPs and surrogates; see below an example from age care industry in **Screen Shot 1**, I suggest code of conduct/values be included in the new surrogacy legal framework.

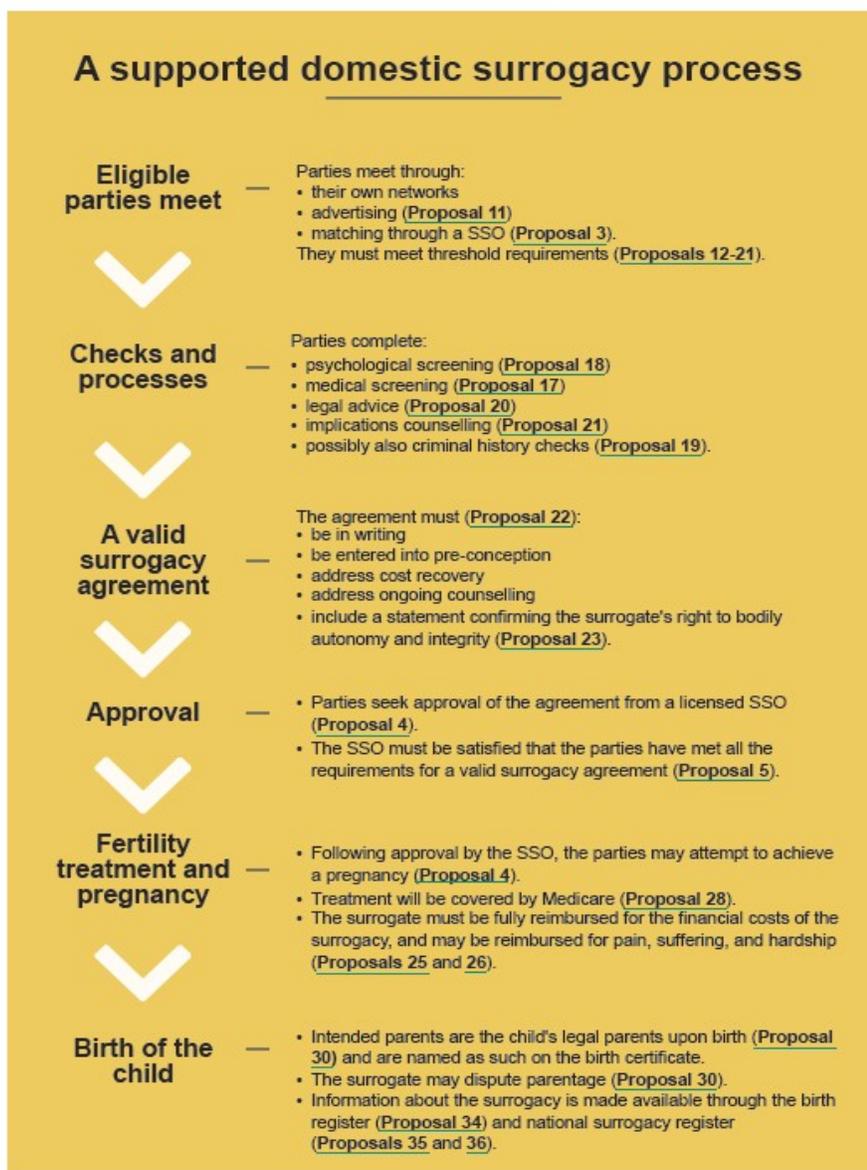
Screen Shot 1:



Source: <https://www.agedcarequality.gov.au/for-providers/code-conduct>

Part 2: COMMENTS ON ALRC'S DISCUSSION PAPER

Fig 1: A supported domestic surrogacy process



Proposal 11

Connecting intended parents and surrogates

Proposal 11

1. Legislation should provide that advertising in relation to surrogacy is permitted, unless it relates to a prohibited surrogacy arrangement (see **Proposals 8–10**).
2. Where existing legislation prohibits all advertising in relation to surrogacy, those provisions should be repealed.

Source: <https://www.alrc.gov.au/publication/review-of-surrogacy-laws-discussion-paper-2025/>

comments

I agree above, I suggest a dedicated, ethical advertising channels rather than relying on informal social media groups.

Proposal 8-10

Prohibited domestic surrogacy arrangements

Proposal 8

1. Legislation should prohibit intended parents and surrogates from engaging in a domestic surrogacy arrangement which is for impermissible profit or reward. Surrogacy arrangements which comply with the requirements in **Proposals 25 and 26** are not for impermissible profit or reward.
2. Compliance with the prohibition should be enforced by a civil penalty regime.
3. Existing criminal offences which prohibit commercial surrogacy should be repealed.

Unregistered overseas surrogacy arrangements

Proposal 9

1. Legislation should prohibit intended parents from intentionally or recklessly engaging in overseas surrogacy arrangements, unless they have registered the arrangement with a registration entity (see **Proposal 37**).
2. Compliance with the prohibition should be enforced by a civil penalty regime.
3. Existing extraterritorial criminal offences in the Australian Capital Territory, New South Wales, and Queensland, which prohibit engagement in commercial surrogacy overseas, should be repealed.

Facilitation of prohibited surrogacy arrangements

Proposal 10

1. Legislation should prohibit individuals and organisations, including Surrogacy Support Organisations, from:
 - a. intentionally or recklessly facilitating, inducing, or procuring (including by advertisement), or attempting to facilitate, induce or procure, the involvement of a person in a prohibited domestic or unregistered overseas surrogacy arrangement (see **Proposals 8 and 9**); or
 - b. intentionally or recklessly coercing or attempting to coerce (by pressure, force, or fraudulent means) the involvement of a person in any surrogacy arrangement.
2. Compliance with the prohibition should be enforced by:
 - **Option 10.1** A civil penalty regime;
 - **Option 10.2** Criminal sanctions; or
 - **Option 10.3** A combination of civil penalties and criminal sanctions

Source: <https://www.alrc.gov.au/publication/review-of-surrogacy-laws-discussion-paper-2025/>

█ comments

I agree above.

Proposal 25

Cost recovery for surrogates

Reimbursing surrogates for expenses

Proposal 25

Legislation should provide that:

1. a surrogacy arrangement that entitles surrogates to the reimbursement of payments provided for in this proposal is not, for that reason only, for impermissible profit or reward;
2. consistent with this proposal, intended parents must reimburse the surrogate for all expenses reasonably incurred by the surrogate or their partner (if any) in relation to the surrogacy arrangement. This must include, but is not limited to:
 - a. costs related to assessments and other preconditions that are required for a surrogacy agreement to be compliant with the legislative requirements and eligible for approval (such as counselling, medical and psychological assessments, and legal advice);
 - b. medical and wellbeing costs;
 - c. pregnancy-related items, including dietary items and supplements;
 - d. care of dependants;
 - e. additional assistance if unable to perform daily tasks (such as meal delivery and house cleaning);
 - f. travel and accommodation for the surrogate and any necessary support person;
 - g. loss of earnings (including superannuation contributions);
 - h. health, life, and income protection insurance during the surrogacy arrangement and following the birth of a child, miscarriage, or stillbirth;
 - i. birth support;
 - j. any product or service recommended by the surrogate's healthcare provider; and
 - k. medical expenses following:
 - i. the birth of a child, miscarriage, or stillbirth (such as counselling or physiotherapy); and
 - ii. in the case of no successful pregnancy occurring, parties agreeing to cease attempts to achieve a pregnancy.
3. the period during which intended parents must reimburse the surrogate's reasonable expenses must be agreed upon by the parties to a surrogacy arrangement, but may be extended after commencement of the agreement if all parties agree; and
4. the National Regulator (or alternative) (see Proposal 2) should be empowered to develop standards and guidelines in relation to the expenses, costs, or losses which are to be regarded as reasonably incurred in relation to a surrogacy arrangement, as well as formulate a monthly allowance to cover any common incidental expenses for which receipts are difficult or inconvenient to obtain.

Source: <https://www.alrc.gov.au/publication/review-of-surrogacy-laws-discussion-paper-2025/>

█ comments

I agree above, I suggest adding 'market rate/reasonable rate' added in proposal 25.

I also suggest below:

1. An honorarium of \$10000 be paid to the surrogate, an honorarium acknowledges the surrogate's time, effort, and personal sacrifice, without creating financial gain, some detailed explanations are:

1a: Compensation for non-quantifiable burdens, given Some impacts cannot be neatly reimbursed by receipts, such as:

- Emotional labour
- Inconvenience
- Disruption to family life
- Physical toll beyond medical bills

1b: An honorarium recognises these without turning surrogacy into a transaction.

1c: Maintaining ethical boundaries by ensuring the payment is Modest, Pre-agreed, not linked to outcomes (e.g. live birth), which helps avoid coercion, exploitation, or inducement.

1d: Transparency and legal scrutiny: Any honorarium must be 1) Clearly disclosed 2) Documented in the surrogacy agreement 3) Considered by counsellors and, later, the court when granting parentage orders.

1e: An honorarium in Australian altruistic surrogacy is permitted only to recognise sacrifice, not to create profit. It exists to balance ethical protection of surrogates with practical fairness, while preserving the altruistic nature of the arrangement.

Proposal 26

Reimbursement for hardship, at the surrogate's election

Proposal 26

1. Legislation should provide that a surrogacy arrangement is not for impermissible profit or reward by reason only of the entitlement to the hardship payments provided for in this proposal.
2. Legislation should provide that, where a surrogate has elected to receive one or both of the hardship payments listed below, the intended parents must pay the surrogate:
 - a. a payment to recognise loss incurred by reason of the commonly experienced discomfort, pain, suffering, and assumption of risk involved in pregnancy and childbirth;
 - b. an additional payment made to acknowledge an extraordinary loss associated with the surrogacy arrangement, including pain and suffering caused by serious medical complications arising from the pregnancy or childbirth (such as stillbirth or hysterectomy). This is only payable if and when extraordinary loss occurs.
3. The National Regulator (or alternative) (see Proposal 2) should be empowered to set a maximum cap for the hardship payment (see paragraph 2(a)). This should be set at a level that fairly approximates the likely loss experienced by a surrogate.
4. The National Regulator (or alternative) should also be empowered to develop guidelines to identify events that would give rise to the hardship payment (see paragraph 2(b)), and set a maximum cap for permitted payments. This should be set at a level that fairly approximates a surrogate's loss in a given situation.

Source: <https://www.alrc.gov.au/publication/review-of-surrogacy-laws-discussion-paper-2025/>

█ comments

I agree above, I suggest hardship payments be agreed beforehand between IPs and surrogate, documented clearly in "surrogacy agreement", avoid future dispute, aim to have a good teamwork between the IPs and surrogate, best interests for the baby, also reduce unnecessary stresses for both surrogate and IPs.

Proposal 2

Establishing a National Regulator

Proposal 2

1. Legislation should create a regulatory framework for surrogacy, with a National Regulator (or alternative) holding the following functions and responsibilities:

Standard setting

- a. developing and maintaining standards, guidelines, and processes on cost recovery for surrogates (see **Proposals 25–27**);
- b. developing a standardised draft surrogacy agreement which parties may use as a basis for an agreement that is compliant with legislative requirements (see **Proposal 22**);

Compliance

- c. setting licence conditions for Surrogacy Support Organisations ('SSOs'), licensing SSOs, and monitoring compliance with licensing conditions (see **Proposal 3**);
- d. enforcing compliance under any civil penalty regime or criminal sanctions enacted by the legislation (see **Proposals 8–10**);

Oversight of surrogacy agreements

- e. reviewing SSO decisions not to approve a surrogacy agreement, at the request of parties to the surrogacy agreement (**Proposals 4 and 5**);
- f. assessing complex applications to approve surrogacy agreements, at the SSO's request (**Proposals 4 and 5**);
- g. keeping records of approved surrogacy arrangements, after an SSO has lodged the approval (**Proposals 4 and 5**);
- h. registering overseas surrogacy arrangements and reviewing applications to engage in surrogacy in unapproved destinations (**Proposal 37**);

Community awareness and information provision

- i. developing information to address misunderstandings about surrogacy in the community (**Proposal 7**);
- j. providing public information about domestic and overseas surrogacy laws, processes, and requirements, including the potential risks that may arise in overseas surrogacy (**Proposal 7**);
- k. developing guidelines on the provision of healthcare to surrogates and intended parents, to be adopted by healthcare providers, including hospitals and medical professionals (**Proposal 7**);
- l. managing the surrogacy register and providing information held on the register to people born through surrogacy (see **Proposals 34–36**); and
- m. providing or overseeing the provision of training or training materials for professionals who provide services to parties to surrogacy arrangements, such as lawyers, healthcare professionals, and counsellors.

comments

I agree above, For “community awareness and information provision”, I suggest the code of conduct/Values of both IPs and surrogates established; see **Screen Shot 1** for an example from age care industry, plus, information on New surrogacy legal framework improving surrogate morale, reduce stigma, and encourage ethical, supportive surrogacy practices.

Proposal 3

Permitting and regulating Surrogacy Support Organisations

Proposal 3

Legislation should enable Surrogacy Support Organisations ('SSOs') to be established to provide the following supports and safeguards for intended parents and surrogates:

1. facilitating introductions, or 'matching', of intended parents and surrogates who meet the requirements (**Proposals 13–16**);
2. determining requests to waive residency and citizenship requirements (**Proposal 15**);
3. providing or coordinating the counselling and other services that need to be engaged with to meet the requirements (**Proposals 17–21**);
4. assessing and approving surrogacy agreements that are compliant with legislative requirements (**Proposals 4 and 5**);
5. providing information, case management, and support for intended parents and surrogates throughout the surrogacy arrangement;
6. facilitating conflict resolution between intended parents and surrogates; and
7. holding funds provided by intended parents in a trust account and managing disbursement of trust account funds to surrogates (**Proposal 27**).

Source: <https://www.alrc.gov.au/publication/review-of-surrogacy-laws-discussion-paper-2025/>

█ comments

I agree above, I also suggest:

- SSOs ensure matching is fair and does not discriminate based on marital status, sexual orientation, race, disability, or socioeconomic status of the intended parents, also encourage right matches between IPs and surrogate based on values, expectations, and long-term compatibility, not speed or convenience.

For SSOs, the regulation would need to be even stricter given the profound human rights and ethical dimensions (involving the creation of life and family). The trust account safeguards and fiduciary duty rules are directly transferable and essential. transforming them from a theoretical concern into a trusted pillar of the surrogacy system.

- SSOs are bound by strict legislation and codes of conduct. , This Ethical Charter sets out the principles that guide Surrogacy Support Organisations (SSOs) in supporting intended parents (IPs) and surrogates in a manner that is ethical, respectful, non-coercive, and emotionally balanced, consistent with Australia's altruistic surrogacy framework.

- Core Principles

Surrogacy creates a relationship of cooperation and care, not emotional debt or moral obligation.

All parties participate voluntarily, with dignity, autonomy, and equal moral standing, details are:

- 1. Voluntary and Informed Participation

1a. SSOs must ensure all parties engage freely and without pressure, inducement, or manipulation.

1b. Participation must be based on clear understanding of legal, medical, emotional, and practical implications.

1c. Consent must be ongoing and may be withdrawn at any stage, subject to the law.

- 2. Respect for Emotional Autonomy

2a. Surrogates and IPs retain full emotional and personal autonomy.

2b. Gratitude, appreciation, or empathy must never translate into guilt, obligation, or leverage.

2c. SSOs must actively discourage narratives of sacrifice, heroism, or lifelong indebtedness.

- 3. Prohibition of Coercion, Exploitation, and Inducement

SSOs must not facilitate or tolerate:

- Emotional coercion (guilt, pressure, or moral obligation)
- Exploitation of vulnerability (financial, cultural, or psychological)
- Inducement through financial or non-financial incentives

Any payments must be lawful, transparent, and non-outcome based.

- 4. Equality and Mutual Respect

4a. SSOs must treat surrogates and IPs as equals, with no hierarchy of moral worth.

4b. Language and conduct must reflect mutual respect, not ownership, entitlement, or superiority.

- 5. Clear Boundaries and Expectations

SSOs must support parties to establish clear, realistic boundaries regarding:

- Communication
- Medical decision-making
- Support roles
- Post-birth contact
- Boundary clarity is essential to prevent misunderstanding and emotional harm.

- 6. Independence and Neutrality

6a. SSOs act as facilitators, not brokers or advocates for one side.

6b. SSOs must avoid conflicts of interest and must not benefit from outcomes or success-based arrangements.

- 7. Independent Support and Safeguards

7a. SSOs must ensure access to independent counselling and legal advice for all parties.

7b. Emotional support services must remain confidential and free from organisational influence.

- 8. Accountability and Transparency

SSOs commit to transparency in processes, fees, and decision-making.

Concerns, complaints, and conflicts must be addressed promptly, respectfully, and impartially.

- Commitment

By adopting this Charter, SSOs affirm their commitment to ethical practice, human dignity, and the protection of all participants, recognising that ethical surrogacy depends not only on law, but on care, restraint, and respect.

- Mandatory Insurance (professional indemnity, trust account fraud).

Mandatory Surrogacy Trust Account:

- All reimbursements and SSO fees held in a separate, audited trust.
- National Surrogacy Compensation Scheme (funded by SSO levies) to protect participants if funds are misappropriated.

- Dispute & Discipline

Complaints Pathway to National Regulator:

- Powers to investigate, impose civil penalties, and suspend or revoke accreditation.
- Independent Tribunal for serious appeals (mirroring VCAT, NCAT).

Ongoing Compliance:

- CPD for SSO staff on evolving law and ethics.
- Public Register of accredited SSOs and any disciplinary actions.

Proposal 11-14

Connecting intended parents and surrogates

Proposal 11

1. Legislation should provide that advertising in relation to surrogacy is permitted, unless it relates to a prohibited surrogacy arrangement (see **Proposals 8–10**).
2. Where existing legislation prohibits all advertising in relation to surrogacy, those provisions should be repealed.

Genetic connection between the parties and the child

Proposal 12

1. Legislation should treat surrogacy arrangements in the same way, regardless of whether or not a genetic connection is present between the surrogate and the child, or the intended parent(s) and the child.
2. Victoria should legalise and treat traditional surrogacy in the same way as gestational surrogacy, consistent with the approach adopted in other jurisdictions.

Requirement for a reason to access surrogacy

Proposal 13

Legislation should provide that:

1. to access surrogacy, the intended parents must be unable to conceive, gestate, and birth a child for a medical, biological or psychological reason; and
2. this requirement may be dispensed with by the National Regulator (or alternative).

Minimum age requirement for surrogates and intended parents

Proposal 14

Legislation should provide that:

1. a surrogate must be at least 25 years old, unless otherwise approved by an accredited counsellor, and have the legal capacity to make an informed decision; and
2. an intended parent must be at least 18 years old and have the legal capacity to make an informed decision.

█ comments

I agree above.

Proposal 15-17

Citizenship and residency requirements

Proposal 15

1. Legislation should provide that at least one intended parent must be either an Australian citizen or permanent resident, unless this requirement is dispensed with by a Surrogacy Support Organisation (see **Proposal 3**).
2. State or territory-based legislation imposing residency requirements should be repealed.

Requirement of previous successful pregnancy

Proposal 16

Legislation should provide that:

1. the surrogate must have previously carried a pregnancy and given birth to a live child; and
2. this requirement may be dispensed with in circumstances where a medical practitioner or a psychologist is satisfied that the surrogate and intended parent(s) understand the potential risks and are making a free and informed decision to continue with the surrogacy arrangement (see **Proposals 17 and 18**).

Requirement for medical screening

Proposal 17

Legislation should provide that:

1. the surrogate must undergo a medical assessment by an independent medical practitioner. The independent medical practitioner must certify that the surrogacy can proceed without undue risk to the surrogate's health; and
2. the independent medical practitioner must provide their report to the surrogate, as well as to the surrogate's nominated Surrogacy Support Organisation, so that it can form part of the approval process (see **Proposals 4 and 5**).

Source: <https://www.alrc.gov.au/publication/review-of-surrogacy-laws-discussion-paper-2025/>

█ comments

I agree above.

Proposal 18-19

Requirement for psychological screening

Proposal 18

Legislation should provide that:

1. the surrogate and the intended parent(s) must undergo a psychological assessment by a psychologist who is a full member of the Australian and New Zealand Infertility Counsellors Association ('ANZICA'), to determine their social, emotional, and psychological suitability to enter a surrogacy arrangement without undue risk to their own or another person's health or wellbeing;
2. the surrogate and the intended parent(s) must disclose any current or previous diagnosed mental health conditions to the independent psychologist; and
3. the independent psychologist must provide their report to the party, as well as to the party's nominated Surrogacy Support Organisation, including a recommendation of whether the party should be allowed to proceed with a surrogacy arrangement, so that it can form part of the approval process (see Proposals 4 and 5).

Question D

Should both the surrogate and the intended parent(s) be required to undergo a psychological assessment?

Requirement for criminal history check

Proposal 19

- **Option 19.1** There should not be a requirement for intended parents to undergo a criminal history check before engaging in a surrogacy arrangement.
- **Option 19.2** There should be a legislated requirement for intended parents to undergo a criminal history check before engaging in a surrogacy arrangement.

Question E

If **Option 19.2** is adopted:

- should the criminal history check be limited to specific offences, such as those relating to children or violent offences?; and
- what should be the purpose of the criminal history check? You might want to consider if it should be provided to the surrogate to facilitate informed consent to the arrangement, to the psychologist undertaking the psychological assessments, or to the Surrogacy Support Organisation to determine if the arrangement should be approved.

User Guide

Source: <https://www.alrc.gov.au/publication/review-of-surrogacy-laws-discussion-paper-2025/>

 comments

I agree above.

Proposal 20

Legal advice requirement for intended parents and surrogates

Proposal 20

1. Legislation should provide that all parties must receive independent legal advice before entering a surrogacy arrangement. The advice must cover the following matters:
 - a. the surrogate's right to bodily integrity, reproductive autonomy, and informed consent in relation to medical treatment or procedures that directly affect them (see Proposal 23);
 - b. legal parentage under the domestic administrative pathway or the judicial pathway (see Proposals 30 and 31);
 - c. the enforceability of the surrogacy agreement (see Proposal 24);
 - d. the operation of the reimbursement provisions (see Proposal 25) and the optional hardship payments (see Proposal 26); and
 - e. the right of the child born through surrogacy to know their genetic and gestational origins, including their right to access registered information (see Proposals 33–35).
2. Legislation should provide that the legal practitioner who provides the advice must provide the party with written confirmation that the matters outlined in paragraph 1 were discussed and the requisite advice provided, and that the legal practitioner believes that the party appeared to understand the advice.
3. Law societies in each jurisdiction should provide accreditation for lawyers providing legal advice on surrogacy arrangements.

Source: <https://www.alrc.gov.au/publication/review-of-surrogacy-laws-discussion-paper-2025/>

 [comments](#)

I agree above.

Proposal 21

Implications counselling requirement for intended parents and surrogates

Proposal 21

1. Legislation should provide that all parties must undergo counselling before entering a surrogacy arrangement. The counselling must:
 - a. be provided by a psychologist or counsellor who is a full member of the Australian and New Zealand Infertility Counsellors Association ('ANZICA');
 - b. include at least:
 - i. one independent counselling session with the intended parent(s);
 - ii. one independent counselling session with the surrogate; and
 - iii. a joint counselling session with all the parties present;
 - c. not be provided by a psychologist who has been involved in the parties' independent psychological assessments; and
 - d. include discussion of the following matters:
 - i. the implications of the surrogacy arrangement for the relationships between the parties and their respective families;
 - ii. the attitudes of the parties to genetic screening, possible termination of pregnancy, and any other complications that may arise during medical treatment, pregnancy, or birth;
 - iii. the possibility of any party deciding not to proceed with the surrogacy arrangement, including the implications if the surrogate is already pregnant, or if the surrogate seeks a parentage declaration;
 - iv. the attitudes of the parties towards the conduct of the pregnancy, including how much input the intended parent(s) should have into the surrogate's lifestyle choices during the pregnancy;
 - v. the implications if the intended parents separate during the surrogacy arrangement;
 - vi. the attitudes of the parties to how and when the child should be told about their genetic and gestational origins;
 - vii. the attitudes of the parties to the surrogate or the surrogate's family having an ongoing relationship or contact with the child born through the surrogacy arrangement, and the extent of such contact; and
 - viii. how the parties will resolve any disputes that arise during the surrogacy arrangement.
2. Legislation should provide that the counsellor must advise the parties that ongoing counselling is available to them individually and collectively throughout the course of the arrangement, and may be initiated at the reasonable election of any party to the surrogacy arrangement.
3. Legislation should provide that the counsellor must provide each party with written confirmation that the matters outlined in paragraph 1(d) were discussed and the counsellor believes that the party appeared to understand the counselling and the personal consequences of the surrogacy arrangement.

█ comments

I agree above.

Proposal 18

Requirement for psychological screening

Proposal 18

Legislation should provide that:

1. the surrogate and the intended parent(s) must undergo a psychological assessment by a psychologist who is a full member of the Australian and New Zealand Infertility Counsellors Association ('ANZICA'), to determine their social, emotional, and psychological suitability to enter a surrogacy arrangement without undue risk to their own or another person's health or wellbeing;
2. the surrogate and the intended parent(s) must disclose any current or previous diagnosed mental health conditions to the independent psychologist; and
3. the independent psychologist must provide their report to the party, as well as to the party's nominated Surrogacy Support Organisation, including a recommendation of whether the party should be allowed to proceed with a surrogacy arrangement, so that it can form part of the approval process (see **Proposals 4 and 5**).

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█ comments

I agree above.

Proposal 17

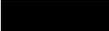
Requirement for medical screening

Proposal 17

Legislation should provide that:

1. the surrogate must undergo a medical assessment by an independent medical practitioner. The independent medical practitioner must certify that the surrogacy can proceed without undue risk to the surrogate's health; and
2. the independent medical practitioner must provide their report to the surrogate, as well as to the surrogate's nominated Surrogacy Support Organisation, so that it can form part of the approval process (see **Proposals 4 and 5**).

Source: <https://www.alrc.gov.au/publication/review-of-surrogacy-laws-discussion-paper-2025/>

 [comments](#)

[I agree above.](#)

Proposal 20

Legal advice requirement for intended parents and surrogates

Proposal 20

1. Legislation should provide that all parties must receive independent legal advice before entering a surrogacy arrangement. The advice must cover the following matters:
 - a. the surrogate's right to bodily integrity, reproductive autonomy, and informed consent in relation to medical treatment or procedures that directly affect them (see **Proposal 23**);
 - b. legal parentage under the domestic administrative pathway or the judicial pathway (see **Proposals 30 and 31**);
 - c. the enforceability of the surrogacy agreement (see **Proposal 24**);
 - d. the operation of the reimbursement provisions (see **Proposal 25**) and the optional hardship payments (see **Proposal 26**); and
 - e. the right of the child born through surrogacy to know their genetic and gestational origins, including their right to access registered information (see **Proposals 33–35**).
2. Legislation should provide that the legal practitioner who provides the advice must provide the party with written confirmation that the matters outlined in paragraph 1 were discussed and the requisite advice provided, and that the legal practitioner believes that the party appeared to understand the advice.
3. Law societies in each jurisdiction should provide accreditation for lawyers providing legal advice on surrogacy arrangements.

Source: <https://www.alrc.gov.au/publication/review-of-surrogacy-laws-discussion-paper-2025/>

 [comments](#)

I agree above.

Proposal 22

Surrogacy agreements

Requirements for a compliant surrogacy agreement

Proposal 22

1. Legislation should provide that for a surrogacy agreement to be compliant and eligible for approval, it must:
 - a. be in writing and signed by the surrogate, the surrogate's partner (if any), and the intended parent(s);
 - b. be entered into before the surrogate becomes pregnant;
 - c. contain provisions relating to permitted payments to the surrogate that are consistent with **Proposals 25 and 26**;
 - d. state whether the surrogate elects to receive either or both of the optional hardship payments (see **Proposal 26**);
 - e. contain a provision that ongoing counselling must be available to the parties, both individually and at joint sessions, at the reasonable election of any party, and paid for by the intended parent(s) (see **Proposal 21**);
 - f. include the statement required by **Proposal 23**; and
 - g. identify the following threshold requirements and confirm that they have been satisfied:
 - i. legal advice requirements have been met (see **Proposal 20**);
 - ii. counselling requirements have been met (see **Proposal 21**);
 - iii. a medical assessment has been conducted, and the medical practitioner has certified that the surrogacy arrangement can proceed (see **Proposal 17**);
 - iv. a psychological assessment has been conducted, and the psychologist recommended that the surrogacy arrangement can proceed (see **Proposal 18**); and
 - v. intended parents have completed a criminal history check (if this becomes a proposed requirement (see **Proposal 19**)).
2. Legislation should provide that evidence that the requirements in paragraph 1(g) have been met must be attached to the surrogacy agreement.

Source: <https://www.alrc.gov.au/publication/review-of-surrogacy-laws-discussion-paper-2025/>

 comments

I agree above.

Proposal 23

Prohibited provisions in a surrogacy agreement

Proposal 23

1. Legislation should prohibit the inclusion of, and invalidate any provision in a surrogacy agreement that inhibits the surrogate's right to autonomy, bodily integrity, and informed consent in relation to medical treatment or procedures that affect them.
2. Legislation should require that a statement confirming these rights must be included in a surrogacy agreement for the agreement to be compliant.

Source: <https://www.alrc.gov.au/publication/review-of-surrogacy-laws-discussion-paper-2025/>

█ comments

I agree above, I think surrogate's health risk and baby's healthy risks should be minimized via designing this new surrogacy legal framework.

Proposal 4

Approving surrogacy agreements

Proposal 4

Legislation should provide that:

1. parties to a surrogacy agreement must obtain approval of their surrogacy agreement before attempting to achieve a pregnancy; and
2. an assisted reproductive technology service provider may only conduct an in-vitro fertilisation procedure or otherwise facilitate an attempt to achieve a pregnancy where satisfied that there is an approved surrogacy arrangement in place.

Source: <https://www.alrc.gov.au/publication/review-of-surrogacy-laws-discussion-paper-2025/>

█ comments

I agree above,

Proposal 5

Proposal 5

Legislation should provide that:

1. the approval process (**Proposal 4**) should incorporate the following elements:
 - a. Parties should seek approval from a Surrogacy Support Organisation ('**SSO**') (see **Proposal 3**). The SSO should review surrogacy agreements 'on the papers', and meetings with the parties should only take place when considered necessary.
 - b. The SSO should assess all supporting evidence provided by the parties, and approve the surrogacy agreement if satisfied that the parties have met all the requirements for approval (see **Proposals 13–21**).
 - c. There should be a presumption in favour of approving a surrogacy agreement if all the requirements are satisfied.
2. when a surrogacy agreement has been approved ('**approved surrogacy arrangement**):
 - a. the approved surrogacy arrangement can proceed on the administrative pathway and intended parents will be the child's legal parents at birth (see **Proposal 30**); and
 - b. the SSO should lodge the approved surrogacy arrangement with the National Regulator (or alternative) (see **Proposal 2**).
3. surrogacy arrangements that are not approved by the SSO ('**unapproved surrogacy arrangements**') cannot proceed on the administrative pathway to legal parentage (see **Proposal 30**). The judicial pathway to legal parentage will remain available (see **Proposal 31**); and
4. approval of a surrogacy arrangement should be sought from the National Regulator (or alternative) if:
 - a. the medical assessment does not certify that the surrogacy arrangement should be allowed to proceed (see **Proposal 17**), and the parties wish it to proceed;
 - b. the psychological assessment does not recommend that a party should be allowed to proceed with a surrogacy arrangement (see **Proposal 18**), and the parties wish it to proceed;
 - c. the SSO regards it as a complex surrogacy arrangement; or
 - d. the SSO denies approval and the parties to the surrogacy arrangement request a review (see **Proposal 2**).

Source: <https://www.alrc.gov.au/publication/review-of-surrogacy-laws-discussion-paper-2025/>

 [comments](#)

I agree above,

Proposal 28

Medicare entitlements

Proposal 28

The *Health Insurance (General Medical Services Table) Regulations 2021* (Cth) should be amended to allow Medicare rebates for assisted reproductive services to apply to treatment carried out for the purpose of surrogacy.

Source: <https://www.alrc.gov.au/publication/review-of-surrogacy-laws-discussion-paper-2025/>

comments

I agree above, Medicare supports on more surrogacy process related costs are suggested to be provided.

Proposal 25

Cost recovery for surrogates

Reimbursing surrogates for expenses

Proposal 25

Legislation should provide that:

1. a surrogacy arrangement that entitles surrogates to the reimbursement of payments provided for in this proposal is not, for that reason only, for impermissible profit or reward;
2. consistent with this proposal, intended parents must reimburse the surrogate for all expenses reasonably incurred by the surrogate or their partner (if any) in relation to the surrogacy arrangement. This must include, but is not limited to:
 - a. costs related to assessments and other preconditions that are required for a surrogacy agreement to be compliant with the legislative requirements and eligible for approval (such as counselling, medical and psychological assessments, and legal advice);
 - b. medical and wellbeing costs;
 - c. pregnancy-related items, including dietary items and supplements;
 - d. care of dependants;
 - e. additional assistance if unable to perform daily tasks (such as meal delivery and house cleaning);
 - f. travel and accommodation for the surrogate and any necessary support person;
 - g. loss of earnings (including superannuation contributions);
 - h. health, life, and income protection insurance during the surrogacy arrangement and following the birth of a child, miscarriage, or stillbirth;
 - i. birth support;
 - j. any product or service recommended by the surrogate's healthcare provider; and
 - k. medical expenses following:
 - i. the birth of a child, miscarriage, or stillbirth (such as counselling or physiotherapy); and
 - ii. in the case of no successful pregnancy occurring, parties agreeing to cease attempts to achieve a pregnancy.
3. the period during which intended parents must reimburse the surrogate's reasonable expenses must be agreed upon by the parties to a surrogacy arrangement, but may be extended after commencement of the agreement if all parties agree; and
4. the National Regulator (or alternative) (see [Proposal 2](#)) should be empowered to develop standards and guidelines in relation to the expenses, costs, or losses which are to be regarded as reasonably incurred in relation to a surrogacy arrangement, as well as formulate a monthly allowance to cover any common incidental expenses for which receipts are difficult or inconvenient to obtain.

Source: <https://www.alrc.gov.au/publication/review-of-surrogacy-laws-discussion-paper-2025/>

comments

I agree above, I also suggest during pregnancy, agreed reasonable costs between IPs and surrogate be remitted to surrogate's bank account in advance to minimize the stress of surrogate hard to talk about money with IPs situation. this distribution process should be documented in the surrogacy agreement.

Proposal 26

Reimbursement for hardship, at the surrogate's election

Proposal 26

1. Legislation should provide that a surrogacy arrangement is not for impermissible profit or reward by reason only of the entitlement to the hardship payments provided for in this proposal.
2. Legislation should provide that, where a surrogate has elected to receive one or both of the hardship payments listed below, the intended parents must pay the surrogate:
 - a. a payment to recognise loss incurred by reason of the commonly experienced discomfort, pain, suffering, and assumption of risk involved in pregnancy and childbirth;
 - b. an additional payment made to acknowledge an extraordinary loss associated with the surrogacy arrangement, including pain and suffering caused by serious medical complications arising from the pregnancy or childbirth (such as stillbirth or hysterectomy). This is only payable if and when extraordinary loss occurs.
3. The National Regulator (or alternative) (see **Proposal 2**) should be empowered to set a maximum cap for the hardship payment (see paragraph 2(a)). This should be set at a level that fairly approximates the likely loss experienced by a surrogate.
4. The National Regulator (or alternative) should also be empowered to develop guidelines to identify events that would give rise to the hardship payment (see paragraph 2(b)), and set a maximum cap for permitted payments. This should be set at a level that fairly approximates a surrogate's loss in a given situation.

Source: <https://www.alrc.gov.au/publication/review-of-surrogacy-laws-discussion-paper-2025/>

 comments

I agree.

Proposal 30

Administrative pathway to legal parentage

Proposal 30

1. The *Family Law Act 1975* (Cth) should be amended to provide that:
 - a. where there is an approved surrogacy arrangement and a child is born, the intended parent(s) who are parties to that agreement are, upon birth (including stillbirth), the legal parent(s) of the child;
 - b. within three months of the birth (or stillbirth) of the child, the surrogate may apply for a declaration that the surrogate (and the surrogate's partner, if any) be declared the legal parent(s) of the child; and
 - c. the Federal Circuit and Family Court of Australia is empowered to consider and determine the application taking into account all relevant considerations, but giving paramount consideration to the best interests of the child.
2. The Federal Circuit and Family Court of Australia should create a specialist list for dealing with surrogacy-related applications.

Source: <https://www.alrc.gov.au/publication/review-of-surrogacy-laws-discussion-paper-2025/>

█ comments

I agree above, I suggest above obtaining legal parentage process be clearly documented.

In surrogacy agreement, signed by both IPs and surrogate.

Proposal 34

Accessing information through a Surrogacy Register

Proposal 34

1. Legislation should require the following information to be provided to the National Regulator (or alternative) for inclusion on a surrogacy register (or state and territory donor conception register — see **Proposal 35**) within three months of the birth of a child through surrogacy:
 - a. identifying information about the surrogate, including:
 - i. full name;
 - ii. date and place of birth;
 - iii. home address; and
 - iv. ethnicity and physical characteristics;
 - b. whether the surrogacy was a traditional surrogacy or gestational surrogacy; and
 - c. details of the relevant fertility clinic and doctor (if any).
2. Legislation should provide that if a parentage order is obtained (see **Proposals 30 to 32**), it must be provided to the surrogacy register in addition to the information listed in paragraph 1(a) to 1(c) above.

Source: <https://www.alrc.gov.au/publication/review-of-surrogacy-laws-discussion-paper-2025/>

 [comments](#)

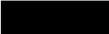
[I agree.](#)

Proposal 35

Proposal 35

1. Legislation should require the information listed in Proposal 34 to be included in either of the following:
 - **Option 35.1 (preferred)** A national surrogacy register established for this purpose; or
 - **Option 35.2** Existing state and territory donor conception registers (the Northern Territory and Tasmania, which have not established donor conception registers, should establish them).
2. Legislation should provide that:
 - a. people born through surrogacy have a right to access the information contained in the register from age 16 (or in the case of Option 35.2, the age at which the relevant legislation allows access to information held on the register); and
 - b. a person born through surrogacy who is under the age of 16 may access this information if the National Regulator (or alternative) is satisfied that such access would not be harmful to that person's welfare. The regulatory body may request that a counselling certificate or similar documentation from an accredited counsellor be provided to assist in its assessment.

Source: <https://www.alrc.gov.au/publication/review-of-surrogacy-laws-discussion-paper-2025/>

 [comments](#)

I agree.

Proposal 36

Ensuring information is collected

Proposal 36

1. Legislation should impose sanctions for the failure to collect and provide information to include in the national, or state or territory-based, surrogacy register as required by **Proposal 34**.
2. Legislation should provide that failure to comply with the requirement will be enforced through:
 - **Option 36.1** A civil penalty regime; or
 - **Option 36.2** Criminal sanctions.

Source: <https://www.alrc.gov.au/publication/review-of-surrogacy-laws-discussion-paper-2025/>

 [comments](#)

[I agree.](#)

Question A

What are important design principles or safeguards for any regulatory body to have? You might think about measures to ensure the body is efficient, accessible, accountable, and transparent.

Suggestions to Question A

Any regulatory body overseeing surrogacy should be founded on strong ethical, administrative, and human-centred design principles to ensure it is efficient, accessible, accountable, and transparent, while protecting all parties.

e.g.

design a Accessible and trauma-informed processes: recognising the emotional, physical, and psychological dimensions of surrogacy for surrogates, intended parents, and families.

Strong data governance and privacy safeguards

Given the sensitivity of surrogacy information, the regulator should operate under strict data protection, confidentiality, and cybersecurity standards, with clear rules on data access, retention, and disclosure.

Question B

How can we minimise overlap in functions with other organisations, such as assisted reproductive technology service providers?

Suggestions to Question B

1. *Regular Review and Feedback Mechanism*

- Establish a working group with representatives from SSOs, ART providers, and the National Regulator to periodically review operational overlaps and propose adjustments.
- Include a feedback loop in the regulatory framework to address emerging overlaps in real time.

2. *Clear Legislative Delineation of Roles*

- Legislation should explicitly define the functions of SSOs versus assisted reproductive technology (ART) service providers.
- SSOs should focus on non-medical supports: matching, legal and psychological screening, agreement approval, case management, conflict resolution, and trust account management.
- ART providers should focus on medical and clinical aspects: fertility assessments, IVF procedures, pregnancy monitoring, and childbirth care.

3. Above should be clearly documented in surrogacy agreements.

Question C

Do you think it is appropriate for SSOs to approve surrogacy agreements (where they are compliant with the legislative requirements), or should this responsibility sit with a different entity, such as the National Regulator (or alternative)?

Suggestions to Question C

1. Hybrid Model for Efficiency and Accountability

- A two-tier system could be implemented:
 - Tier 1: SSOs approve standard, fully compliant domestic agreements.
 - Tier 2: National Regulator handles non-standard, overseas, or appealed cases.
- This balances efficiency with strong regulatory oversight.

2. Accreditation and Training of SSOs

- SSOs should be licensed and accredited by the National Regulator specifically for approval functions.
- Staff involved in approval decisions must undergo standardised training on legal requirements, ethical assessment, and impartial decision-making.

3. Transparency and Appeal Mechanisms

- All SSO approval decisions should be documented and accessible (with privacy protections) for regulatory review.
- Parties should have a clear, accessible pathway to appeal an SSO decision to the National Regulator.

Question D

Should both the surrogate and the intended parent(s) be required to undergo a psychological assessment?

Suggestions to Question D

1. *Yes, Both Should Undergo Psychological Assessment*

- Reason: Surrogacy is a complex emotional and relational arrangement that impacts all parties profoundly.
- For the surrogate: Ensures she fully understands the emotional, psychological, and social implications of carrying a child for others, and is making an informed, autonomous decision free from coercion or undue pressure.
- For the intended parent(s): Confirms they are psychologically prepared for the surrogacy journey, including potential relationship dynamics, attachment issues, and the long-term emotional needs of the child.

2. *Not a Barrier but a Support Mechanism*

- Assessments should be non-punitive and supportive—aimed at ensuring well-being, not excluding participants unnecessarily.
- Where concerns are raised, the assessor may recommend further counselling or mediation rather than outright rejection.

3. *Consistency with International Best Practice*

- Many jurisdictions with well-regulated surrogacy frameworks (e.g., UK, Canada) require psychological screening for all parties to promote ethical and sustainable arrangements.

Question E

If [Option 19.2](#) is adopted:

- should the criminal history check be limited to specific offences, such as those relating to children or violent offences?; and
- what should be the purpose of the criminal history check? You might want to consider if it should be provided to the surrogate to facilitate informed consent to the arrangement, to the psychologist undertaking the psychological assessments, or to the Surrogacy Support Organisation to determine if the arrangement should be approved.

Suggestions to Question E

Yes, checks should be limited to relevant and serious offences that directly relate to the safety and welfare of the child, surrogate, and others involved.

The primary purpose should be risk assessment by the Surrogacy Support Organisation (SSO) to determine whether the surrogacy arrangement should be approved. The purposes are to:

- To ensure child protection and surrogate safety.
- To support informed decision-making by professionals (SSO, psychologist) rather than placing the burden on the surrogate and IPs.

Question F

Should the surrogate's partner (if any) be required to undergo implications counselling?

Question G

Should there be additional counselling requirements? If so, what should these requirements be? You may wish to consider whether post-birth counselling should be optional or mandatory, or for how long after the birth the intended parent(s) should be required to cover the cost of the surrogate's counselling.

Suggestions to question F.

Yes, the surrogate's partner should be required to undergo at least one implications counselling in most cases, but with flexibility for specific circumstances.

Suggestions to Question G

Yes, additional counselling requirements should be introduced to better support all parties throughout the entire surrogacy journey, with a focus on post-birth emotional adjustment and long-term wellbeing.

Question H

In relation to surrogacy agreements, should:

- any other subject matter or requirements be included;
- any of the subject matter or requirements identified be removed; or
- any clauses be prohibited, taking into account **Proposal 23**?

Suggestions to question H.

The current framework under Proposal 22 is comprehensive, but certain clarifications, additions, and prohibitions should be considered to enhance clarity, fairness, and enforceability.

Proposed Additions to Surrogacy Agreements

1. Communication and Contact Plan

- Why: To manage expectations and reduce future conflict.

- Proposed Clause:

The agreement should include a “non-binding communication and contact plan” outlining:

- Frequency and mode of updates during pregnancy.

- Post-birth contact (e.g., photos, updates, visits).

- Agreement on whether the surrogate will be named/acknowledged to the child.

2. Dispute Resolution Mechanism

- Why: To provide a clear, pre-agreed process for resolving disagreements.

- Proposed Clause:

A step-by-step dispute resolution process, including:

- Informal negotiation between parties.
- Mediation facilitated by the SSO or an independent mediator.
- Arbitration or court action as a last resort.

3. Insurance and Liability Provisions

- Why: To clarify coverage in case of medical complications or unforeseen events.

- Proposed Clause:

Details of:

- Health, life, and income protection insurance (as per Proposal 25).
- Liability waivers for inherent pregnancy/birth risks (where lawful).
- Responsibility for uncovered medical costs.

4. Clause Regarding Pregnancy with Multiples

- Why: To address selective reduction or medical decisions in cases of multiple embryos.

- Proposed Clause:

A statement of mutual understanding regarding:

- The surrogate's right to make medical decisions (per Proposal 23).
- Whether selective reduction is acceptable to all parties.
- How additional costs and risks of multiples will be managed.

5. Post-Birth Support Duration

- Why: To specify the period during which intended parents will cover the surrogate's counselling and medical costs.

- Proposed Clause:

- Clear end dates or conditions for the cessation of financial support for:
- Counselling (e.g., 12 months post-birth).
- Medical expenses related to the pregnancy/birth.

Subject Matter or Requirements That Could Be Removed

1. Overly Prescriptive Lifestyle Clauses

- Why: To respect the surrogate's autonomy and avoid unenforceable or intrusive terms.
- Example: Overly specific dietary restrictions, activity limitations, or social conduct not directly related to medical advice.

2. Mandatory Disclosure of Non-Relevant Personal Information

- Why: To protect privacy unless directly relevant to the arrangement.
- Example: Detailed financial history, non-relevant medical history, or unrelated family background.

Key Principles for Drafting Surrogacy Agreements:

- Clarity: Language should be plain and understandable.
- Fairness: Terms should protect all parties' rights and wellbeing.
- Flexibility: Allow for amendments with mutual consent and SSO oversight.
- Compliance: All clauses must align with Proposals 23–27 and national standards.

Question I

Should the following be enforceable:

- Surrogacy agreements that do not comply with the legislative requirements but are otherwise lawful?
- Certain provisions within unlawful surrogacy agreements, for example, cost recovery provisions?

Question J

For otherwise compliant surrogacy agreements, should there be any provisions that are unenforceable, other than those captured by **Proposal 23**?

Question K

What is the best method of enforcement? For example, by a court?

Suggestions to Question I

A balanced and principled approach should be taken, prioritizing safety, fairness, and the best interests of the child, while avoiding undue punishment for technical non-compliance.

Suggestions to Question J

Yes, certain provisions in otherwise compliant surrogacy agreements should be explicitly deemed unenforceable—even if they do not directly violate Proposal 23—to protect the rights, welfare, and autonomy of all parties, particularly the surrogate and the child.

Suggestions to Question K

A hybrid enforcement model should be adopted, combining administrative, judicial, and alternative dispute resolution (ADR) mechanisms to ensure accessibility, efficiency, and fairness.

Recommended Enforcement Sequence

1. **Internal Resolution:** Parties attempt to resolve the issue directly or with SSO assistance.
2. **SSO/Regulator Intervention:** If unresolved, the SSO or National Regulator investigates and issues a compliance order.
3. **Mediation:** If still unresolved, parties attend mandatory mediation.
4. **Court Proceedings:** As a last resort, parties may apply to the specialized family court for determination.

Question L

Should the National Regulator (or alternative) set caps on the amounts that can be recovered for specific costs, and for the monthly allowance?

Suggestions to Question L

Yes, the National Regulator should establish flexible and evidence-based caps or guidelines for reimbursable costs and the monthly allowance, but these should be regularly reviewed and allow for exceptions based on individual circumstances.

For Specific Reimbursable Costs (Proposal 25):

- Recommended: Set maximum reimbursement rates for common expenses, based on:
 - Medical fee schedules (e.g., Medicare, private health rates).
 - Travel and accommodation benchmarks (e.g., government travel rates).
 - Local cost-of-living data for items like meal delivery, childcare, etc.
- Allow for exceptions where:
 - A healthcare provider recommends a higher-cost treatment or product.
 - The surrogate lives in a high-cost area (e.g., remote communities).
 - Pregnancy complications necessitate additional expenses.
- Require documentation for expenses above the cap, subject to SSO or Regulator approval.

2. For the Monthly Allowance (Proposal 25(4)):

- Recommended Set a standard monthly allowance to cover incidental pregnancy-related expenses (e.g., maternity clothing, vitamins, extra food, minor comforts).
- Allow for adjustment based on:
 - Number of fetuses (e.g., twins/triplets).
 - Stage of pregnancy (higher allowance in later trimesters).
 - Surrogate's individual needs (e.g., dietary restrictions, mobility aids).
- Index the allowance to inflation or average wage growth to maintain fairness over time.

3. For Hardship Payments (Proposal 26):

- Set clear maximum caps for:
 - Standard hardship payment (for discomfort/pain/risk): e.g., a lump sum tied to a percentage of average weekly earnings.
 - Extraordinary hardship payment (for serious complications): e.g., a higher cap with clear qualifying criteria (e.g., stillbirth, hysterectomy, severe disability).

- Allow for discretionary increases in exceptional cases, subject to Regulator or SSO review.

Question M

Should legislation allow intended parents to pay the surrogate an additional support payment beyond reimbursement for the costs and losses outlined in **Proposals 25** and **26**, to recognise the surrogate's time, effort, inconvenience, and unique contribution to the surrogacy arrangement?

Suggestions to Question M

No, legislation should not permit additional voluntary payments beyond the reimbursement of expenses and hardship payments outlined in Proposals 25 and 26, as this risks blurring the line between altruistic and commercial surrogacy and could lead to exploitation, coercion, or inequity, some exceptions include acknowledging surrogate in child's story, offer modest gifts or

If any additional payment were to be considered, it should be:

- Capped symbolically (e.g., a "thank you" gift up to a modest amount, such as \$500–\$1,000).
- Given after birth and completion of the arrangement, not as an incentive during pregnancy.
- Disclosed to and approved by the SSO/Regulator to ensure no coercion or expectation.

Question N

In relation to approved surrogacy arrangements, where intended parents are the legal parents upon the birth of the child, should the surrogate have a right to seek a declaration that they are the parent (per **Proposal 30(1)(b)**)?

Suggestions to Question N

No, because the new surrogacy legal framework is to assist IPs build family,

Encourage surrogates courageous support, if surrogate declare parents, it won't support the initial objectives.

Question O

When there is an application to determine legal parentage (see **Proposals 30, 31, and 32**), should judicial officers of the Federal Circuit and Family Court of Australia be required to consider any specific factors when determining the application? If so, what should those factors be?

Question P

Should there be a simpler pathway to legal parentage for intended parents who have engaged in a registered overseas surrogacy agreement (see **Proposal 31**); and are recognised in the birth country as the legal parents of the child? For example, should legal parentage be recognised in Australia without the need for a court order?

Suggestions to question O.

Judicial officers should be required to consider a defined set of factors that are child-focused, evidence-based, and context-sensitive. This ensures that parentage decisions are made fairly, transparently, and in the best interests of the child, while respecting the rights and intentions of all parties involved.

Suggestions to question P.

Yes, a streamlined administrative pathway to legal parentage should be established for intended parents in registered overseas surrogacy arrangements where they are already recognised as legal parents in the birth country—without requiring a court order, provided strict safeguards are met.

Question Q

What changes (if any) should be made to laws, policies, or practices to ensure that intended parent(s) have access to fair and adequate parental leave and surrogates have access to fair and adequate leave to recover from pregnancy and childbirth?

Suggestions to question Q.

Significant reforms are needed to ensure both intended parents and surrogates have access to fair, inclusive, and adequate leave entitlements that recognise the unique nature of surrogacy arrangements.

Question R

In relation to **Proposal 34**:

- does it capture all the appropriate and relevant information that should be included on the surrogacy register; and
- who should be responsible for providing that information? For example, the relevant Surrogacy Support Organisation, assisted reproductive technology service provider, or the legal parents?

Suggestions to question R.

Proposal 34 provides a solid foundation, but additional information should be included to ensure the register is comprehensive, child-centred, and useful for those born through surrogacy. Responsibility for providing information should be clearly allocated and legally mandated to ensure accuracy and timeliness.

Aspect	Recommendation
Additional info to include	Genetic donor details, medical history, contact preferences, sibling info, legal documents.
Responsibility model	Shared between surrogate, SSO, ART providers, intended parents, and courts.
Compliance	Legally mandated with penalties for non-compliance (Proposal 36).
Child access	Information accessible from age 16 (or earlier with counselling)

Question S

In relation to the registration process in **Proposal 37**:

- which entity should be responsible? For example, the National Regulator (or alternative) (see **Proposal 2**); a Surrogacy Support Organisation (see **Proposal 3**); or a different government department or entity?
- what factors should the registration entity consider, when determining which destinations should be 'permitted destinations'? For example, should these be destinations with laws that require the surrogate's informed consent, or transparent gamete donation?
- do you think the registration process would work in practice? Are there any changes you would suggest to improve how it works and its effectiveness?
- should intended parents be required to demonstrate, as a precondition to registration, that they have made reasonable efforts to engage in domestic surrogacy before they can engage in a registered overseas surrogacy arrangement?

Suggestions to question S.

The registration process for overseas surrogacy can be effective and protective if led by a specialised National Regulator, guided by clear ethical criteria, supported by user-friendly systems, and focused on education rather than restriction. This approach balances oversight with practicality, protecting all parties while respecting intended parents' autonomy.

Aspect	Recommendation
Responsible Entity	National Regulator (centralised, specialised).
Permitted Destination Criteria	Based on legal, ethical, medical, and child-rights safeguards.
Process Improvements	Digital portal, pre-application guidance, fast-tracking, audits, international partnerships.
Domestic Surrogacy First?	No mandate; encourage through information and counselling.

Question T
Are there other ways that the applications listed in **Proposal 39** could be streamlined or further aligned, in terms of the process or documentation required?

Question U
Could limiting access to this streamlined process to registered overseas surrogacy arrangements have any unintended consequences?

Question V
Should citizenship by descent also be recognised for children born through overseas surrogacy to Australian Permanent Residents?

Question W
Should there be a retrospective process for children who are stateless, who have been born through overseas surrogacy to intended parents who are Australian citizens or permanent residents, to obtain Australian citizenship? If so, how would this work?

Question X
Should a temporary visa, which allows children born through surrogacy to enter Australia, be introduced?

Suggestions to question T.

Yes, several additional measures could be implemented to further streamline and harmonise the citizenship, passport, and visa application processes for children born through registered overseas surrogacy, making them more efficient, user-friendly, and secure.

Suggestions to question U.

While limiting streamlined processes to registered arrangements is a sound policy in principle, it must be implemented with flexibility, equity, and child-centred safeguards to avoid unintended harm. A balanced approach—combining incentives for registration with compassionate exceptions and robust oversight—will best serve the interests of children, surrogates, and intended parents.

Suggestions to question V

Yes, citizenship by descent should be available to children born through overseas surrogacy to Australian permanent residents, subject to the same safeguards and registration requirements as for Australian citizens, but with clear pathways to prevent statelessness and ensure family unity.

Suggestions to question W

1. **Establish a retrospective citizenship pathway** for stateless children born via overseas surrogacy to Australian citizens/permanent residents.
2. **Prioritise child's best interests** and humanitarian protection over procedural perfection.
3. **Combine citizenship grants with ethical reviews** to ensure compliance with modern surrogacy standards.
4. **Provide support services** to help families navigate the process.
5. **Set a time-limited application window** to encourage resolution of legacy cases.

Suggestions to question X

A temporary surrogacy visa would provide a practical, humane, and regulated pathway for children born through overseas surrogacy to enter Australia safely and lawfully. It would fill a critical gap in the current immigration system, support family unity, and reinforce Australia's commitment to ethical surrogacy practices and child rights.