



## Information Sheet: International Surrogacy in India

*This information sheet advises New Zealanders of new surrogacy guidelines issued by India. We cannot advise on Indian law and any individual considering pursuing international surrogacy should exercise extreme caution, seek independent legal advice and keep up to date with any developments.*

The Indian Government has issued new requirements for foreign nationals pursuing surrogacy in India and any New Zealander considering surrogacy in India must familiarise themselves with the new requirements. The new guidelines require foreign nationals traveling to India for surrogacy to apply for a medical visa, rather than a tourist visa, and put restrictions on eligibility for a medical visa.

The new guidelines from the Indian Government are listed in Text Box One.

### **Text Box One: New guidelines issued by the Indian Government for foreign nationals traveling to India for surrogacy.**

1. The appropriate category of visa for foreign nationals travelling to India for surrogacy will be a **Medical Visa**. A Medical Visa may be granted if the applicants fulfil the following conditions:
  - (i) The foreign man and woman are duly married and should have sustained their marriage for at least two years.
  - (ii) A letter from the Embassy of the foreign country in India or the Foreign Ministry of the country should be enclosed with the visa application stating clearly that;
    - (a) the country recognizes surrogacy and
    - (b) the child/children to be born to the commissioning couple through the Indian surrogate mother will be permitted entry into their country as a biological child/children of the couple commissioning surrogacy.
  - (iii) The couple will furnish an undertaking that they would take care of the child/children born through surrogacy.
  - (iv) The treatment should be done only at one of the registration Assisted Reproductive Technology (ART) clinics recognized by the Indian Council of Medical Research.
  - (v) The couple should produce a duly notarized agreement between the applicant couple and the prospective Indian surrogate mother.
2. If any of the above conditions are not fulfilled, the visa application shall be rejected.
3. Before leaving India for their return journey, 'exit' permission from the Foreigners Registration Offices/Foreign Regional Registration Offices (FRO/FRRO) would be required. Before granting 'exit', the FRO/FRRO will see whether the foreign couple is carrying a certificate from the ART clinic concerned regarding the fact the child/children have been duly taken custody of by the foreigner and that the liabilities towards the Indian surrogate mother have been fully discharged as per the agreement. A copy of the birth certificate(s) of the surrogate child/children will be retained by the FRRO/FRO along with photocopies of the passport and visa of the foreign parents.
4. For drawing up and executing the agreement cited at paragraph 1(v) above, the foreign couple can be permitted to visit India on a reconnaissance trip on Tourist Visa, but no samples may be given to any clinic during such preliminary visit.

Please be advised that the New Zealand government cannot produce the letter requested in paragraph 1(ii). This is because commercial surrogacy is prohibited under New Zealand law and because the child/children will not be permitted entry into New Zealand as the biological child/children of the commissioning couple because under New Zealand law the surrogate mother and her partner are the legal parents.

The New Zealand government can, however, provide a letter outlining surrogacy law in New Zealand. To request this letter please contact the Ministry of Foreign Affairs and Trade.

It is the responsibility of the intending parents to provide the remaining evidence requested from India in order to apply for a medical visa.

There is no guarantee that an exit visa will be granted for a child born in India. This is a significant risk and of considerable concern because it may leave the child in a very vulnerable position.

We cannot advise on how India is implementing the new guidelines and failure to abide by India's visa requirements may have significant consequences.

### **General information**

International surrogacy is very complex and carries significant risk for the child and the intending parents and there is no guarantee of a particular outcome. Please see our general information sheet on international surrogacy for further information about international surrogacy which is available at [www.cyf.govt.nz](http://www.cyf.govt.nz).

### **KEY CONTACTS**

Please contact the following agencies **before** you begin any surrogacy process.

**Immigration New Zealand**, a service line of the Ministry of Business, Innovation and Employment that takes care of all New Zealand immigration issues.

To send a query use the following link: <http://dol.govt.nz/immigration/knowledgebase/contact>

Visit: <http://www.immigration.govt.nz>

Phone: 0508 558 855 within New Zealand but outside Auckland

Phone: 09 914 4100 Auckland

Phone: +64 9 924 4100 from outside New Zealand

**Child, Youth and Family**, a service line of the Ministry of Social Development that takes care of domestic and intercountry adoption processes.

Email: [webadoption@cyf.govt.nz](mailto:webadoption@cyf.govt.nz)

Phone: 0508 FAMILY (0805 326 459) from within New Zealand

Phone: +64 9 912 3820 from outside New Zealand.

**Department of Internal Affairs** administers applications for New Zealand citizenship and issues New Zealand passports.

Email: [staykiwi@dia.govt.nz](mailto:staykiwi@dia.govt.nz)

Freephone 0800 22 51 51 (New Zealand only)

Phone: +64 4 463 9361 (outside New Zealand)

**Ministry of Foreign Affairs and Trade**, has a New Zealand High Commission in India.

Email: [cons@mfat.govt.nz](mailto:cons@mfat.govt.nz)

Phone: 04 439 8000

Phone: +64 4 439 8000 from outside New Zealand

**The New Zealand government will not participate in the irregular movement of children.**