



**Law  
Commission**  
Reforming the law



Scottish Law Commission  
*promoting law reform*

# The law about surrogacy

Our ideas for change



**Easy  
Read**

# Easy Read



This is an Easy Read version of some hard information. It may not include all of the information but will tell you about the important parts.



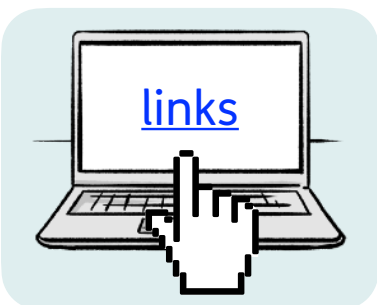
This Easy Read information uses easier words and pictures. You may still want help reading it.



Some words are in **bold** - this means the writing is thicker and darker.



These are words that some people will find hard. When you see a bold word, we will explain it in the next sentence.



Blue and underlined words show links to websites and email addresses. You can click on these links on a computer.

# What is in this booklet

About this booklet .....	4
Surrogacy.....	5
The law about surrogacy .....	6
Problems with the law.....	9
Ideas for a new law .....	12
The surrogacy agreement.....	16
A new parental order .....	19
Regulated Surrogacy Organisations (RSOs) .....	22
Payments to surrogates.....	23
Information about surrogacy.....	25
Other changes to the law.....	26
Surrogacy in another country.....	27
What happens next .....	29
To find out more .....	30

# About this booklet



This information is from the Law Commission of England and Wales and the Scottish Law Commission.



We think that there should be a change in the law about **surrogacy**.

**Surrogacy** is when a woman becomes pregnant and has a child for you if you can't give birth to a child yourself.



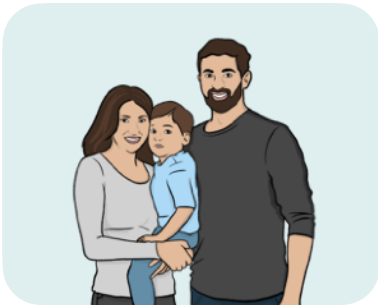
This Easy Read report explains the main ways that we want to change the law to help you if you want a **surrogate** to give birth to a baby for you.

A **surrogate** is a woman who has a baby for you.

# Surrogacy



Surrogacy helps people who are not able to have their own babies.



Only a small number of children are being born by surrogacy.



The number of children being born using surrogacy has gone up over the last 10 years.

# The law about surrogacy

## Being paid to be a surrogate



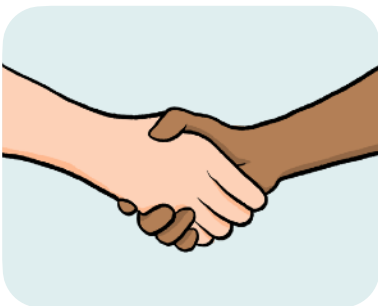
You are not allowed to pay someone to be a surrogate.



You can pay their **expenses**.

**Expenses** are what you have to pay to do something.

## Handing over the baby



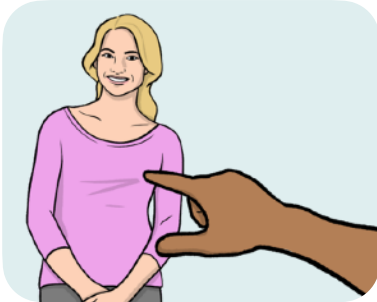
Surrogates usually agree to hand over the baby to you when the child is born.



The law does not make a surrogate hand over the baby if she does not wish to do so.

# Who are the legal parents

**Legal** means 'by law'.



The law at the moment says that the surrogate is the legal parent when the baby is born.



If the surrogate has a partner, the law at the moment says that they are also a parent and have legal rights and responsibility for the baby.

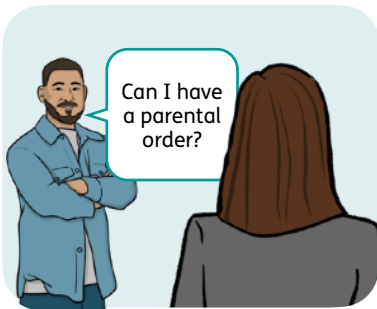


The law at the moment says you have no legal rights or responsibility for the baby when they are born.

# Parental orders



**Parental orders** are where the courts say who should be the parents of the baby.

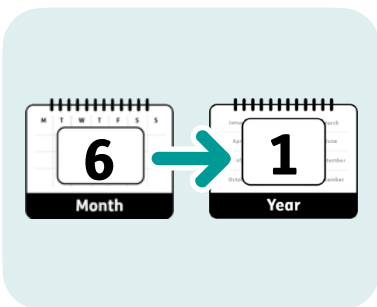


After the baby is born, you have to ask the court for a parental order.

You need a parental order so you can become the legal parent of the baby.



The court cannot make a parental order until 6 weeks after the baby is born.



It usually takes between 6 months to 1 year to get a parental order.



The court will not let you be the legal parent if the surrogate or their partner doesn't agree.



# Problems with the law



Usually, the surrogate gives the baby to you when they are born.



But, currently, the law does not say that you are the legal parent until there is a parental order.



This means that you cannot make any legal decisions about the baby.



This may mean that the baby doesn't get the medical treatment they need.

## Expenses



You cannot pay a woman to be a surrogate, but you can give her expenses.



The law does not say how much money can be paid as expenses.



Sometimes surrogates are being paid a lot of money and they are calling it expenses. This should not be allowed.

## Going abroad to find a surrogate



Many people go to another country to find a surrogate.

In other countries, you can be the legal parent as soon as the baby is born.



People often go abroad to find a surrogate because of the problems with the law in the UK.

## Other laws



Some other UK laws are affected by the problems with surrogacy.

For example, the law that gives you the right to get information about your birth parents.

# Ideas for a new law



These are our ideas for a new law about surrogacy.

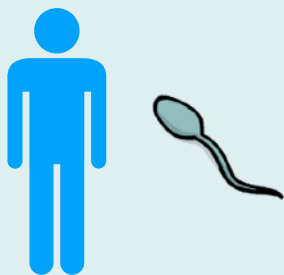
## Who should be able to take part in surrogacy?

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- The surrogate must be at least 21 years old.

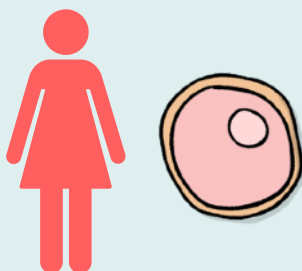
18

- If you want to be a parent, you must be at least 18 years old.

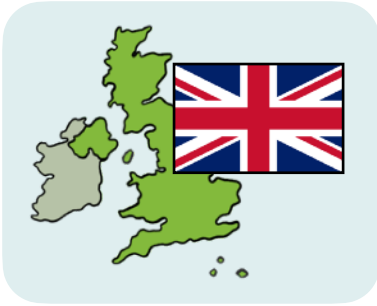


- You must provide either the **sperm** or the **egg** for the baby.

**Sperm** comes from a man. Sperm is the seed that can join with a woman's egg to make a baby.



The **egg** comes from a woman. When the egg joins with sperm it can make a baby.



- You or your partner must be British or live in Britain.



## New organisations

We think there should be new organisations to check that surrogacy is being done properly.



These organisations would be called Regulated Surrogacy Organisations (RSOs).

## Before you start

Before you start to look for a surrogate, we think you should have to:

- Have a check to make sure you can look after a child properly.



- Get advice from a lawyer.

We think that both you and the surrogate should:



- Talk with a counsellor. They will help you think about having a baby with a surrogate.



- Have a health check by a doctor.

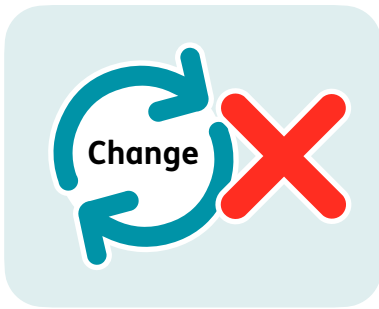


- Get a check to make sure you and the surrogate have not been in trouble with the law.



- Get the agreement of the Regulated Surrogacy Organisation.

## Changing your mind



We think that you should not be allowed to change your mind after the surrogate has become pregnant.

But, we think that the surrogate should be able to change her mind:



- While she is pregnant, and
- Up to 6 weeks after the birth of the child.

If the surrogate changes her mind:



- While she is pregnant, we think that she should keep the baby.

You will have to ask the court for a parental order to become the baby's legal parent.



- In the first six weeks after the baby is born, you will be the legal parent.

The surrogate will have to ask the court for a parental order to keep the baby.

# The surrogacy agreement



We think that you should make a legal agreement with the surrogate.



The legal agreement should say that:

- You are the legal parents of the baby when they are born.



- The surrogate will not be the legal parent of the baby when they are born.



- There has been a check that you can look after the child properly.



- Both you and the surrogate have had a medical check.



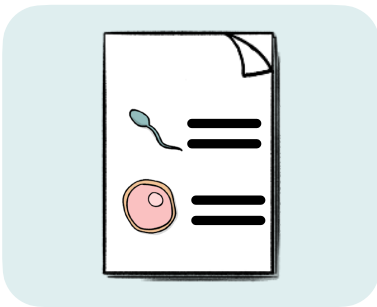


The agreement should also:

- Say that the baby will live with you when they are born.



- Say what payments are going to be made to the surrogate.



- Give information about whose sperm and whose egg is being used.



- Include the surrogate's name and address.



- Include your name and address.

The agreement should also include the names and addresses of:

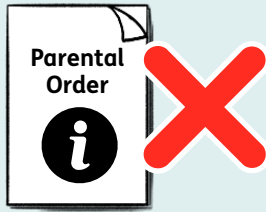


- The health professionals that are helping you.



- The Regulated Surrogacy Organisation that is helping you.

# A new parental order

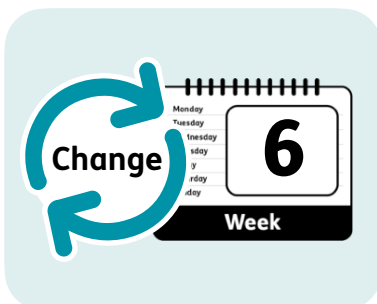


With our changes to the law, you probably will not need a parental order.

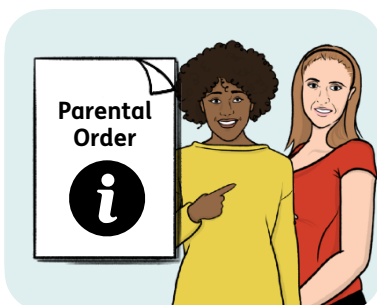


But you might still need a parental order if:

- The surrogate changes her mind before the baby is born.



- The surrogate changes her mind in the 6 weeks just after the baby is born.



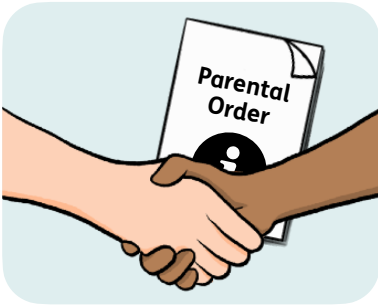
- You and the surrogate want to have a parental order.



- A surrogate from another country is helping you to have a baby.

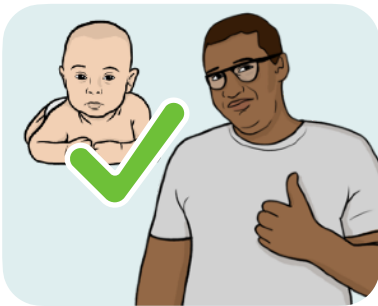


We think that you must live in the UK to ask for a parental order.



Currently, you can only get a parental order if the surrogate agrees.

We think that the court should:



- Look at what is best for the child.



- Be able to give you a parental order, even if the surrogate does not agree, if this is what is best for the child.



We think that the surrogate's partner should not be:

- A legal parent of the child.



- Asked if they agree to the parental order.

# Regulated Surrogacy Organisations (RSOs)



We think that the new RSOs should:

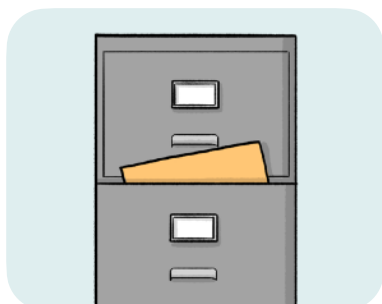
- Check that you and the surrogate are doing everything you need to do.



- Make sure that everyone is safe.



- Look for new and better ways to do surrogacy.



- Keep records about surrogacy.



- Keep records that can be given to children who have been born by surrogacy when they get older.

# Payments to surrogates



We think that you should pay money to the surrogate to cover the cost of:

- Their life assurance - which would pay out if they die.



- Any insurance which would pay out if they become very ill.



- Anything they have to pay out to become a surrogate.



- Anything they have to pay to keep safe.

## Small gifts



We think that you should be allowed to give small gifts to the surrogate.

## Payments that are not allowed

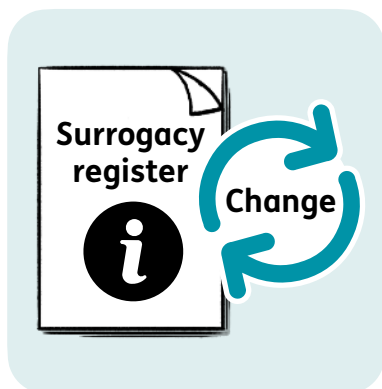
We think that you should not be allowed to pay the surrogate:

- The cost of their daily living.
- For being pregnant and giving birth.





# Information about surrogacy



We think that there should be a new **surrogacy register**.

A **surrogacy register** keeps information about all surrogacy agreements.



This will provide information to the government about surrogacy agreements.



This will also help people who have been born by surrogacy to find out more about their birth.

# Other changes to the law



We think that there should be some other changes to the law to help you if you have a child by surrogacy.

These include:



- You should be allowed **Maternity Allowance** if you have a baby by surrogacy.

**Maternity Allowance** is money from the government given to mothers.



- You should be allowed to take time off work to go to medical appointments before the baby is born.



- You should be allowed to take up to 14 days off work when the baby is born by surrogacy.

# Surrogacy in another country



At the moment, about half of the people who want a baby by surrogacy do this with help from a surrogate who lives in another country.

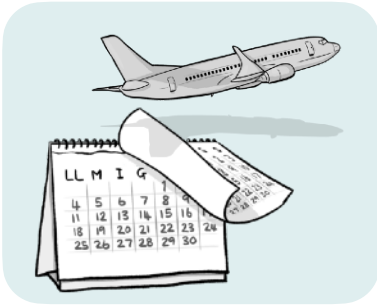


We hope that these changes to the law will encourage people to have a child with help from a surrogate from this country.



We think that you should have a parental order if your child has been born by a surrogate in another country.

## Bringing the baby to this country



Currently, it can take some time before a child born by surrogacy in another country comes to this country.

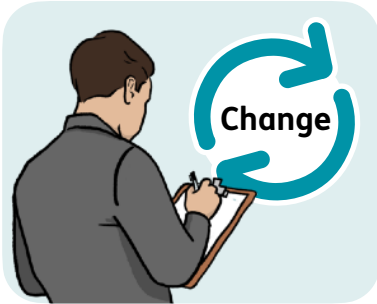


This is because the baby needs a passport and maybe some other documents before they are allowed into this country.



We think that the government should give passports quickly to babies that have been born by surrogacy in another country.

# What happens next



We want the government to look at our ideas for changing the law.



We want the government to tell us what they think about our ideas.



We have given the government our ideas for the wording of a new law.



We hope the government starts to change the law in the way that we want as soon as possible.

# To find out more



You can look at our websites here:

- The Law Commission:  
[www.lawcom.gov.uk](http://www.lawcom.gov.uk)



- The Scottish Law Commission:  
[www.scotlawcom.gov.uk](http://www.scotlawcom.gov.uk)

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