

MEDIA RELEASE

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LAW COMMISSION PROPOSES CHANGES TO SURROGACY LAWS

Te Aka Matua o te Ture | Law Commission is proposing a new legal framework to provide legal recognition for the parents of surrogate-born children. The Commission has today published [an Issues Paper](#) and is [seeking feedback](#) on options to change how surrogacy is regulated in Aotearoa New Zealand.

Surrogacy is an arrangement where a woman (the surrogate) agrees to become pregnant and carries and delivers a child for another person or couple (the intended parents) who intend to raise the child from birth. Surrogacy is legal in Aotearoa New Zealand and is becoming more common as a method of family-building.

Principal Adviser, Nichola Lambie, said the laws around surrogacy are outdated and need to be improved to safeguard the best interests of children and meet the needs and expectations of New Zealanders.

“Reform of surrogacy law has been the subject of a previous Law Commission report in 2005, three Members’ Bills over the past decade and a petition to Parliament in 2019 that gained over 30,000 signatures. It is also a topic of academic research and multiple reform initiatives in other jurisdictions. The Commission has drawn on all these sources to present a comprehensive set of options that address current problems and provide for regulation of surrogacy into the future.

“A key problem with the current law is that intended parents must adopt the child in order to be recognised as the child’s legal parents. The surrogate and her partner (if she has one) are the legal parents at birth. The rules were not designed with surrogacy in mind and we think it is time the law caught up with the reality of surrogacy arrangements.”

The Commission is proposing a new legal framework to address the issue of surrogacy and legal parenthood. The new framework would introduce two pathways for intended parents to gain legal parenthood. In the first pathway, if the surrogacy arrangement meets certain criteria and the surrogate confirms her consent after the child is born, then intended parents can be recognised as the legal parents without the need for a court order. In the second pathway, intended parents can apply to the Family Court after the child is born in order to be recognised as the child’s legal parents.



The Commission is seeking views on legal parenthood and six other matters, including:

- the approval process for surrogacy arrangements,
- what financial support surrogates should be entitled to,
- whether tikanga Māori is provided for under current law,
- how to ensure children born through surrogacy receive information about their origins,
- how New Zealand law should provide for surrogacy arrangements that occur overseas, and
- how to address various barriers to pursuing a surrogacy arrangement in Aotearoa New Zealand.

“Submissions and feedback on our draft proposals will help the Commission determine its final recommendations. In particular, we encourage children born through surrogacy and those who have been involved in a surrogacy arrangement to have their say on our proposals.”

The Government formally requested that the Commission conduct a review of surrogacy laws in July 2020. The release of the Issues Paper marks the beginning of a consultation period where the Commission accepts feedback on its proposals. The consultation period closes on 23 September 2021. The Law Commission will report to the Minister with its final recommendations in 2022.

ENDS

Background:

Te Aka Matua o te Ture | Law Commission is an Independent Crown Entity operating under its own statute, the Law Commission Act 1985. It reports to the Minister responsible for the Law Commission. The Commission's statutory purpose is to "promote the systematic review, reform and development of the law of New Zealand". The Law Commission receives its work programme for reform and development work as references from the responsible Minister under section 7 of the Law Commission Act and from Parliament. Visit lawcom.govt.nz for more information.

For further information and comment, contact:

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For further information about the project, see <https://www.lawcom.govt.nz/our-projects/review-of-surrogacy>

