

Instructions relating to foreign nationals intending to visit India for commissioning surrogacy

1. Detailed guidelines regarding grant of visa to foreign nationals intending to visit India for commissioning surrogacy were issued by the Ministry of Home Affairs on 9th July, 2012. A copy of these guidelines is attached.
2. Subsequently, in respect of cases where the baby has already been born through commissioning of surrogacy or the birth of the baby was expected shortly, certain relaxations were allowed up to **31.10.2013**.
3. The MHA guidelines of 9th July, 2012 have been widely circulated to all Indian Missions and Clinics through the Ministry of External Affairs, ICMR/ Ministry of Health & Family Welfare and Bureau of Immigration. This has also been placed on the MHA website www.mha.nic.in.
4. This is to inform that **w.e.f. 1.11.2013**, the guidelines issued by the Ministry of Home Affairs on 9th July 2012 would be strictly followed, including in **all cases where surrogacy has already been commissioned prior to 1.11.2013**, and there shall be no further relaxation in the conditions to be fulfilled for grant of Medical Visa/ exit permission, etc.

Dated : 11th October, 2013

Guidelines issued by the Ministry of Home Affairs vide letter no. 25022/74/2011-F.I dated 9th July 2012 regarding foreign nationals intending to visit India for commissioning surrogacy

It has come to the notice of this Ministry that some foreign nationals are visiting India on Tourist Visa for commissioning surrogacy. This is not the appropriate visa category and such foreigners will be liable for action for violation of visa conditions. The appropriate visa category will be a medical visa. It will also be necessary in such cases to ensure that the surrogate mother is not cheated. Therefore, such a visa may only be granted if the following conditions are fulfilled:-

- (i) The foreign man and woman are duly married and the marriage should have sustained at least for 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 recognises 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 registered ART clinics recognised by ICMR (The list of such clinics will be shared with MEA from time to time).
- (v) The couple should produce a duly notarised 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 the grant of visa, the foreign couple need to be told that before leaving India for their return journey, 'exit' permission from the FRRO/FRO would be required. Before granting 'exit', the FRRO/ FRO will see whether the foreign couple is carrying a certificate from the ART clinic concerned regarding the fact that 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. It may be noted that for drawing up and executing the agreement cited at para 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.
