



Surrogacy: legal rights of parents and surrogates

NOTES

1. Overview

If you use a surrogate they will be the legal mother of any child they carry.

Mother's rights

The woman who gives birth is always treated as the mother in UK law and has the right to keep the child - even if they're not genetically related. However, parenthood can be transferred by [parental order or adoption](#).

Surrogacy contracts aren't enforced by UK law, even if you've a signed deal with your surrogate and have paid for her expenses.

! It's illegal to pay a surrogate in the UK, except for their reasonable expenses.

Father's rights

The child's legal father or 'second parent' will be the surrogate's husband or partner unless:

- legal rights are given to someone else through a [parental order](#) or [adoption](#)
- the surrogate's husband or civil partner didn't give their permission to their wife or partner

! If your surrogate has no partner, or they're unmarried and not in a civil partnership, the child will have no legal father or second parent unless the partner actively consents.

Read ['The Surrogacy Arrangements Act 1985'](#) for more information about surrogacy laws.

2. Become the child's legal parent

You must apply for a parental order if you want to become the legal parent of the child.

Parental orders

You must be genetically related to a child to apply for a parental order, ie the egg or sperm donor, and in a relationship where you and your partner are either:

- husband and wife
- civil partners
- living as partners

You and your partner must also:

- have the child living with you
- reside permanently in either the UK, Channel Islands or Isle of Man

You can't apply for a parental order if you're single.

How to apply

You must fill in a '[C51 application form for a parental order](#)' and give this to a [family proceedings court](#) within 6 months of the child's birth.

! You don't have to use your local family proceedings court, but you'll need to explain why not if you don't.

You'll need to provide the child's full birth certificate and will also be charged a court fee of £200.

The court will then set a date for the hearing and issue you with a 'C52 acknowledgement form' that you must give to the child's legal parent, ie your surrogate.

The birth mother and anyone else who's a parent of the child must agree to the parental order [in writing](#).

! You can't apply for a parental order once the child is older than 6 months.

Adoption

If neither you or your partner are related to the child, or you're single, [adoption](#) is the only way you can become the child's legal parent.

Donor's rights

If you use donated sperm or eggs with your surrogate, read about the [rights of your donor](#).

! Find out more about surrogacy on the [Human Fertilisation and Embryology Authority website](#).

3. Children born outside the UK

If your surrogate gives birth abroad, you can only apply for a [parental order](#) if you and your partner are living in the UK.

! The child will need a visa to enter the UK during this process.

Using a surrogate abroad can be complicated because different countries have different rules. You may want to [get legal advice](#) or contact the [The Human Fertilisation and Embryology Authority](#) for more information.

You can also read about [returning to the UK with your child](#).

4. Maternity leave

You or your partner won't be entitled to [maternity leave](#), [paternity leave](#) or [statutory adoption leave](#) if you use a surrogate.

You could qualify for [parental leave](#).

! You can still use [annual leave](#) if you don't qualify for parental leave.

Surrogates

Every pregnant employee has the right to 52 weeks' [maternity leave](#) and to return to their job after this.

What a birth mother does after the child is born has no impact on her right to maternity leave.

Last updated: 27 June 2014

© Crown Copyright