

Overseas commercial surrogacy to be permitted under new law

Assisted Human Reproduction Bill amendments will allow surrogacy arrangements take place abroad but not in Ireland



Ciara Merrigan, chair of Irish Families Through Surrogacy, and her twins, Matthew and Clara: 'It is an absolutely monumental day for us all... I will be recognised as their mother. It's actually overwhelming.'

Pat Leahy
Kitty Holland

Sun Nov 13 2022 - 19:41

Commercial surrogacy is to be banned in Ireland but permitted abroad in legislation likely to come before the Cabinet for approval next week.

The prospect of international commercial surrogacy being recognised and regulated in legislation, with a mechanism to recognise both Irish parents, has been welcomed as a “huge Christmas present” for thousands of families.

Ciara Merrigan, chairwoman of Irish Families Through Surrogacy, said she had been getting phone calls from early morning on Sunday from families “in tears”.

“It is an absolutely monumental day for us all. I have had phone calls from families in tears today, including myself looking at my children finally knowing I will be recognised as their mother. It’s actually overwhelming.”

Two senior government sources confirmed weekend media reports that forthcoming amendments to the Assisted Human Reproduction Bill would effectively allow foreign surrogacy arrangements, where women in other countries are paid to be surrogate mothers for Irish parents who subsequently bring their children home to Ireland, while such commercial arrangements will remain banned in Ireland.

‘Double standard’

Officials in the Department of Justice had previously advised that it would be “difficult to justify” the “double standard” of permitting commercial surrogacy arrangements abroad while banning them at home.

But an Oireachtas committee which examined the issue earlier this year heard that banning commercial arrangements for surrogacy would effectively end the service that is used by hundreds of Irish couples, usually in Ukraine. Its report called for international surrogacy arrangements to be allowed and regulated.

Now it is understood the Government will bring forward amendments to the Bill which will allow for a system of pre-approval for international surrogacy agreements, and allow the Irish parents to be registered as the child’s parents in Ireland.

It will also allow for parents of existing children born abroad via surrogacy agreements to be recognised in Irish law as the parents.

A new State regulator, the Assisted Human Reproduction Regulatory Authority, is to be set up under the proposed legislation.

Legal limbo

Currently, surrogacy is entirely unregulated in Irish law, leaving thousands of couples who have had children via this route in a legal limbo regarding their status as parents.

Ms Merrigan, who has twins aged four born to a surrogate in Ukraine (now living in Poland) said she was not their legal mother in Ireland and so could not do such things as sign consent forms or apply for passports for her children, as their mother. Her husband, as their legal father, must sign everything.

“My parents too, they have not legal grandparent relationship with our twins, so it’s the extended family that is affected too.”

She said it was difficult to know how many families stood to gain legal recognition as there was no central register.

“But from my own experience over the last couple of years, we are talking the guts of a thousand families.”

The new authority and legislation will mean she can then seek recognition that she is their legal mother. “We are just so grateful to have had Minister [for Justice Helen] McEntee, Minister [for Health Stephen] Donnelly and Minister [for Children Roderic] O’Gorman, that they have made this a priority.”



Pat Leahy

Pat Leahy is Political Editor of The Irish Times



Kitty Holland

Kitty Holland is Social Affairs Correspondent of The Irish Times