

SARAH JEFFORD

The Australian Surrogacy Handbook

Helping intended parents and surrogates to
navigate surrogacy in Australia





About Sarah Jefford OAM

Sarah Jefford OAM (she/her) is a family creation lawyer, helping families across Australia with surrogacy, donor conception and co-parenting arrangements. Sarah is an IVF mum, an egg donor and a surrogate.

Sarah advocates for positive, best practice surrogacy arrangements within Australia, and provides support and education to help intended parents make informed decisions when pursuing international surrogacy.

Sarah promotes the best interests of the child and the bodily autonomy of the surrogate, and supports parties to build a relationship that lasts.

Sarah produces the **Australian Surrogacy Podcast**, sharing stories from intended parents and surrogates from around Australia.

Sarah has also published a book, **More Than Just a Baby, a guide to surrogacy for intended parents and surrogates**.

Welcome to the Australian Surrogacy Handbook

Helping you navigate surrogacy in Australia

Sarah Jefford
Surrogate and Surrogacy Lawyer

This is the **Australian Surrogacy Handbook**, published to help intended parents and surrogates understand surrogacy requirements, options and processes.

Starting out in surrogacy can feel a little overwhelming. Don't worry, you are in the right place. Think of this as a beginner's handbook, to get you started.

This book focuses on surrogacy in Australia and is not intended to replace individual advice from a lawyer or a clinician.

You can listen to the **Australian Surrogacy Podcast** at www.sarahjefford.com and on all listening apps.

For more comprehensive information and advice, you can purchase my book, **More Than Just a Baby**, a guide to surrogacy for intended parents and surrogates.

And download my **Surrogacy Pregnancy and Birth Planning** guide for surrogacy teams and healthcare providers.

Some parts of the Handbook are **hyperlinked** so you can find more information.

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Language and definitions

The following terms are used in this document and are consistent with most surrogacy legislation:

Birth mother: the pregnant person, also referred to as the surrogate in this document. Some surrogates dislike being referred to as the birth mother, however, the legislation often refers to them in this manner.

Birth parents: the birth mother and their partner.

Traditional Surrogacy (TS): This type of surrogacy involves a surrogate who has provided the egg for conception, fertilised with sperm from an intended father or a donor.

Intended parent/s: the intended parents of the baby, who will take care of the child from birth.

Gestational Surrogacy (GS): This type of surrogacy involves a surrogate who is not the genetic mother of the child. An egg is provided by the intended mother or a donor, which is fertilised with sperm from an intended father or a donor.

Parentage Order: The intended parents apply for a parentage order after the birth, to transfer parentage from the birth parents to the intended parents.

Surrogacy in Australia

A quick overview

Surrogacy is legal across Australia. Surrogacy arrangements have the following elements:

- **Intended parents** can be gay or heterosexual, single or coupled.
- The laws that apply are that where the intended parents live.
- The arrangement is altruistic. Commercial surrogacy is illegal. Surrogates can be reimbursed for surrogacy-related expenses.
- The parties receive counselling with a surrogacy counsellor prior to entering the arrangement.
- The parties receive **legal advice** prior to entering the arrangement, and often have a written surrogacy agreement.
- The arrangement is not enforceable.
- The birth mother retains her bodily autonomy throughout pregnancy and birth.
- The birth is registered by the birth parents, with the full name chosen by the intended parents.
- The birth parents are the **legal parents** at the time of birth.
- The intended parents apply for a Parentage Order after the birth, which transfers parentage from the birth parents to the intended parents.

So you want to be a surrogate?

Are you considering becoming a surrogate, for a friend, family member, or someone you hope to meet on the internet?

Surrogates must usually be over the age of 25. In some cases, they need to have had their own children.

We have a saying in the surrogacy community – it's a marathon, not a sprint. Take your time, absorb the information, ask lots of questions. And, get advice.

I want to promote positive, empowered altruistic surrogacy arrangements in Australia, and to do that I think everyone needs to be fully prepared before they jump in.

I provide initial surrogacy consults to any potential surrogate. I'll take you through the laws, the criteria, the processes...and add a dash of personal experience to help you on your way.

I'll help you make informed decisions so you can build a surrogacy arrangement on a strong foundation. Because I want you to know if surrogacy is right for you before you take the leap. I want you to have a positive experience, and I'll do what it takes to get you there.

If you are a wannabe surrogate, you can book in for an **initial advice session** with me. .

Eligibility for surrogacy

Intended parents may be married, single, in a opposite or same-sex relationship. Intended parents are usually over the age of 25.

Intended parents must **be eligible for surrogacy**. Eligibility for surrogacy may involve having a medical or a social need for surrogacy. This means that you:

- cannot conceive or carry a pregnancy to term, or
- to do so is risky to you or for the baby.

A **medical** reason for surrogacy can be for many different reasons, including infertility, pregnancy loss, cancer treatment. It might be a medical condition that makes pregnancy risky for you, or you might have been born without a uterus (such as MRKH).

A medical reason for surrogacy must be determined by your doctor.

Other intended parents have a **social** reason for surrogacy. They may be fertile, but unable to carry because they are a single man or in a same-sex male relationship.

Note that ACT and WA do not require intended parents to prove infertility to be eligible for surrogacy.

Finding a surrogate or intended parents

Many surrogacy arrangements are formed through existing relationships - friends and family and extended networks like work colleagues and community groups.

Other surrogacy teams are founded in dedicated surrogacy social media groups such as the **Australian Surrogacy Community** on Facebook. You can also find state-based Facebook groups across the country.

Sarah does **not** recommend **Surrogacy Australia's Support Service** for finding a surrogate.

There are some things you can do to find a surrogate or intended parents:

- **Share your story** with your friends and family to let them know your hopes to grow your family.
- Be active in the social media groups and get to know the community.

You can also use your time to learn, listen to the **Surrogacy Podcast** and get advice from a fertility doctor and a lawyer about your options and the processes.

The Surrogacy Process

The surrogacy process can differ between clinics and states but generally follows these steps.

1

Qualify for surrogacy

The intended parents must qualify for surrogacy

2

Medical Assessment

The surrogate undergoes a medical assessment

3

Counselling

The parties attend for counselling and psychological assessments

4

Legal Advice

The parties seek legal advice and sign an agreement

5

Approval

The clinic or committee approves the arrangement before pregnancy attempts

Traditional surrogacy

Traditional surrogacy involves a surrogate conceiving with their **own egg**, and sperm from an intended parent or a donor. **15%** of all surrogacy arrangements in Australia involve traditional surrogacy.

Traditional surrogacy is **legal** across Australia. However, many clinics refuse to assist with traditional surrogacy arrangements and conception often happens via **self-insemination**.

While the conception might be done in private, the process is the same as gestational surrogacy. **Before conception**, all parties must:

- be eligible for surrogacy
- engage in surrogacy counselling
- receive independent legal advice

Most surrogates are more comfortable with gestational surrogacy. If you need an **egg donor**, you can join **Egg Donation Australia** on Facebook.

How much does it cost?

Surrogates are unpaid, but the intended parents must cover the costs and make sure their surrogate is not out of pocket.

It can be difficult to predict how much a surrogacy arrangement will cost, as it can vary greatly. Most Australian surrogacy arrangements cost between \$15,000 and \$80,000. The biggest expense is usually fertility treatment.

You can expect surrogacy costs to include:

Fertility treatment: this will depend on the type of treatment and how many cycles are needed, and what rebates are available.

Legal Advice: Intended parents have a lawyer, and the birth parents have a separate lawyer.

Counselling and Psychological Assessments: some services are provided within the clinic and others are private.

Pregnancy and Birth: surrogates are eligible for Medicare. Any private healthcare or out of pockets must be covered by the intended parents.

Parentage Order: after the birth, the intended parents apply for a parentage order and this can involve lawyers and further counselling.

Other costs the surrogate might need include:

- travel and accommodation
- life insurance
- lost income
- maternity clothing
- a cleaner
- pregnancy massage and allied healthcare

Visit [the Blog](#) for more resources about the costs of surrogacy.

Counselling

All parties must attend for **surrogacy counselling** before proceeding with any pregnancy attempts.

The counsellor must be a qualified surrogacy counsellor, usually registered with ANZICA. There are specific surrogacy guidelines the counsellor follows when counselling a team.

Counselling may be provided by the fertility clinic or by a private counsellor.

Counselling involves individual and group counselling before conception. Many teams benefit from counselling during the fertility journey and pregnancy.

In some states, further counselling is required after the birth and before the parentage order is made.

A counsellor can be a crucial part of a successful and happy surrogacy arrangement. Embrace the counselling process and use it to build a strong team!

Legal Agreements

The intended parents will have one lawyer, and the birth parents will have a separate, independent lawyer.

Usually, the intended parents' lawyer will draft a surrogacy agreement, and the birth parents' lawyer will review the agreement and provide advice.

There are few experienced surrogacy lawyers in Australia - let me know if you need a suggestion. **! practice across Australia** in all state surrogacy arrangements.

The surrogacy agreement is not enforceable, but is a piece of evidence of the surrogacy arrangement and will be used for the parentage order.

Everyone must sign and date the agreement:

- **after** completing counselling
- **after** receiving legal advice
- **before** pregnancy attempts.

The agreement can be useful to share with the clinic and the hospital to help with pregnancy care.

Applying for a Parentage Order

After a baby is born through a surrogacy arrangement, the intended parents apply for a Parentage Order in their home state. The Parentage Order transfers parentage from the birth parents to the intended parents.

Intended parents can start the paperwork before the birth, but cannot lodge the application until at least one month after the birth and can be made up to 6 months (or 12 months) of the birth.

Documents required for the Parentage Order vary between the states, but can include:

- a signed copy of the **Surrogacy Agreement**
- the **pre-conception counselling** report
- statements of **legal advice** from both lawyers
- a copy of the intended parents' drivers licences
- **medical evidence** of the need for surrogacy if applicable
- the baby's **birth certificate**
- a letter from the **IVF clinic** confirming the embryo transfer and pregnancy
- the Victorian **PRP** certificate (if applicable).

International Surrogacy

Many intended parents pursue surrogacy overseas. The landscape has changed many times in recent years. It is important to research all the options before deciding the right path for you.

Some countries offering surrogacy include the **United States, Canada, Georgia, Mexico, Colombia** and **Argentina**.

Speak to other intended parents who have gone to the same destination and can share their experiences - you can join Facebook groups dedicated to each country.

More information is available [on the Blog](#).

Not all programs are equal, and several options come with considerable risk to the surrogate, baby and the intended parents.

Consider the following factors:

- whether your surrogate can give **informed consent**.
- standard of **healthcare** for the surrogate and the baby
- **legal** framework
- the **exit process** to bring baby home
- the **cost** - financial and emotional risks of each option

You should seek **legal** and **migration** advice before pursuing international surrogacy. **Beware** that many consultants will receive a commission for directing you to an agency or clinic.

Resources and Information

Further information and resources can be found:

- **[The Australian Surrogacy Podcast](#)**
- **[Surrogacy Pregnancy and Birth Planning guide](#)**
- **[More Than Just a Baby: A Guide to Surrogacy for intended parents and surrogates](#)**
- **[Egg Donation Australia](#)** on Facebook
- The **[Australian Surrogacy Community](#)** on Facebook

You can also find surrogacy groups in each state, on Facebook.

You can contact Sarah Jefford at **hello@sarahjefford.com** and follow her across social media.

