

Most Immediate

No. V.25011/119/2015-HR  
Government of India  
Ministry of Health & Family Welfare  
(Department of Health Research)

2<sup>nd</sup> Floor, IRCS Building,  
Red Cross Road, New Delhi-110001.  
Dated, the 04<sup>th</sup>, November, 2015

To


1. Chief Secretaries of all States / Administrators of UTs
2. Principal Secretaries / Secretaries of Health & Family Welfare Department of all States / Union Territories Governments.

Subject: Commissioning of surrogacy-instructions regarding

Sir / Madam,

In continuation of this Department's letter of even no. dated 23<sup>rd</sup> June, 2015 regarding the "Guidelines for Accreditation, Supervision and Regulation of ART Clinics in India", this Department has taken the policy decision, in consultation with various Ministries/Departments of the Government, not to support commercial surrogacy. It is further stated that the enactment of the proposed "Assisted Reproductive Technology (Regulation) Bill" is under consideration in the Department of Health Research (DHR) under Ministry of Health and Family Welfare. Till enactment of the said legislation, the following instructions of this Department will prevail and be applicable to Surrogacy Clinics/ART Clinics/IVF Clinics/Genetic Counselling Centers/Genetic Laboratories/ART Banks or such other clinical establishment of any kind offering surrogacy services/Assisted Reproduction Services. The instructions are as under:

- i) that as per the Ministry of Commerce & Industry, Department of Commerce, Directorate General of Foreign Trade Notification No. 25/2015-2020, dated 26.10.2015, import of 'Human Embryo' is prohibited except for research purposes based on the guidelines to be issued by DHR. The guidelines of DHR for import of Human Embryo for research purposes will be issued separately and in due course of time after consultation with various Ministries / Departments of the Union Government.
- ii) that the Surrogacy Clinics/ ART Clinics/ IVF Clinics/ any Centre / Genetic Counselling Centers / other clinical establishments, by whatsoever name they may be called, offering surrogacy services/ Assisted Reproduction Services will not import human embryo for offering surrogacy services or in connection thereto

  
4/11/15

iii) that the Ministry of Home Affairs has now issued instructions *vide* their letter No. 25022/74/2011-F.1 (Vol.III), dated 03.11.2015, addressed to all States/ UTs/ Indian Missions abroad, etc., that Indian Missions/ Posts/FRROs/FROs shall ensure the following with immediate effect;

(a) No visa should be issued by the Indian Missions / Posts to foreign nationals intending to visit India for commissioning surrogacy.

(b) No permission should be granted by the Foreigners Regional Registration Officers (FRROs) / Foreigners Registration Officers (FROs) to Overseas Citizen of India (OCI) cardholders to commission surrogacy in India.

(c) No exit permission should be granted by the FRROs / FROs to the child / children to be born through surrogacy to foreign nationals including OCI cardholders. However, for child / children born through surrogacy already commissioned on or before issue of this circular, exit permission will be decided by FRROs / FROs on case-to-case basis.

(d) Visa, if any, granted by the Indian Missions /Posts to foreign nationals and permission, if any, granted by the FRROs / FROs to OCI cardholders, for commissioning surrogacy in India, from the date of issue of this Circular and date of receipt of the Circular, may be cancelled and the applicants may be informed of the position immediately.

The above instructions contained in the Ministry of Home Affairs circular dated 3.11.2015 may please be brought to the notice of the Surrogacy Clinics/ART Clinics/IVF Clinics/Genetic Counselling Centres/Genetic Laboratories/ART Banks or such other clinical establishment offering surrogacy services/Assisted Reproduction Services in your respective State jurisdictions.

(iv) However, there may be cases where - prior to issue of this letter action might have been initiated/taken by surrogacy Clinics/ART Clinics/IVF Clinics/Genetic Counselling Centres/Genetic Laboratories/ART Banks or such other clinical establishment to commission surrogacy, including import of 'Human Embryo' and implantation thereof into surrogate mother or child/children born from it. Such cases will be allowed to complete the processes already started to avoid medical complications. However, all such cases will approach the State Health Authorities for permission. The State Health Authorities will decide such cases on case to case basis.

2. Unethical practices in surrogacy, including illegal determination of sex by such clinical establishments, will continue to be dealt with as per existing MCI guidelines and existing provisions of the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 in force.

  
4/11/15

3. In this connection, it is also stated that the "Guidelines for Accreditation, Supervision and Regulation of ART Clinics in India" circulated by this Ministry to all the States/UTs will remain in force till enactment of the legislation. However, in case any of the provisions contained in those guidelines come into conflict with the instructions being issued herewith, the instructions contained in this letter shall prevail over the corresponding provisions in the said guidelines.

4. These instructions will come into force with immediate effect. However, the Notification issued by the Department Commerce and the circular issued by the Ministry of Home Affairs, as mentioned above, will take their effect from the dates as mentioned in their respective Notification /Circular.

5. All state Governments are requested that the contents of this letter may be given wide circulation among all stakeholders in their respective State / UT and suitably conveyed to all ART / Surrogacy clinics/ IVF centres and other bodies and clinical establishments, by whatsoever name, in the State /UT, who are offering and conducting surrogacy services in the State / UT.

This issues with the approval of competent authority.

Yours faithfully,

(Sanjeev Chadha)

Director

Tel. No. : 011-23736218

Copy to:

1. Secretary (Coordination), Cabinet Secretariat, Rashtrapati Bhavan, New Delhi. *Their OM No. 272/1/2/2015-CA.V, dated 23.10.2015 refers.*
2. Secretary, Ministry of Home Affairs, North Block, New Delhi.
3. Secretary, Department of Health and Family Welfare, Nirman Bhawan, New Delhi.
4. Secretary, Ministry of External Affairs, South Block, New Delhi.
5. Secretary, Department of Legal Affairs, Shastri Bhawan, New Delhi.
6. Secretary, Department of Commerce, Udyog Bhawan, New Delhi.
7. Secretary, Department of Revenue, North Block, New Delhi.
8. Secretary, Ministry of Women & Child Development, Shastri Bhawan, N.D.
9. Secretary, Ministry of Overseas Indian Affairs, Akbar Bhawan, Chankya Puri, New Delhi-110021.
10. Secretary, Medical Council of India, New Delhi.
11. Director General, Indian Council of Medical Research, New Delhi
12. FFROs- (Ministry of Home Affairs), Delhi, Mumbai, Chennai, Kolkata, Amritsar, Bangalore, Hyderabad, Kochi, Thiruvananthapuram, Calicut, Goa, Lucknow and Ahmedabad.
13. NIC, Department of Health Research, with the request to host the contents on the website of DHR.

(Sanjeev Chadha)

Director

Tel. No. : 011-23736218

(120)

CIRCULAR NO. 462  
MOST IMMEDIATE

No. 25022/74/2011-F.I (Vol.III)  
Government of India  
Ministry of Home Affairs  
(Foreigners Division)  
\*\*\*\*\*

NDCC-II Building, Jai Singh Road  
—New Delhi -110001, the 3<sup>rd</sup> November, 2015.

To

1. All Indian Missions/Posts abroad
2. All State Governments/Union Territory Administrations
3. FRROs - Delhi, Mumbai, Chennai, Kolkata, Amritsar, Bangalore, Hyderabad, Kochi, Thiruvananthapuram, Calicut, Goa, Lucknow and Ahmedabad.

**Subject:** Foreign nationals [including Overseas Citizen of India (OCI) cardholders] intending to visit India for commissioning surrogacy

\*\*\*\*\*

Sir,

Please to refer to this Ministry's letter of even number dated 9.7.2012 conveying instructions relating to grant of Medical Visa to foreign nationals intending to visit India for commissioning surrogacy and to this Ministry's subsequent letter of even number dated 19/21.2.2014 conveying the provisions applicable to OCI/PIO cardholders for commissioning surrogacy in India (A copy each of this Ministry's letters dated 9.7.2012 and 19/21.2.2014 is enclosed for reference).

2. The matter has been further examined in consultation with all stakeholders. It has accordingly been decided, with the approval of the competent authority, to withdraw this Ministry's letters of even number dated 9.7.2012 and 19/21.2.2014 referred to in para 1 above, with immediate effect.

119

The Indian Missions/ Posts/ FRROs/ FROs are directed to ensure the following, with immediate effect:-

- (i) No visa should be issued by the Indian Missions/ Posts to foreign nationals intending to visit India for commissioning surrogacy
- (ii) No permission should be granted by the Foreigners Regional Registration Officers (FRROs)/ Foreigners Registration Officers (FROs) to Overseas Citizen of India (OCI) cardholders to commission surrogacy in India.
- (iii) No exit permission should be granted by the FRROs/ FROs to the child/ children to be born through surrogacy to foreign nationals including OCI cardholders. However, for child/children born through surrogacy already commissioned on or before issue of this Circular, exit permission will be decided by FRROs/FROs on case to case basis.

3. Visa, if any, granted by the Indian Missions/ Posts to foreign nationals and permission, if any, granted by the FRROs/ FROs to OCI cardholders, for commissioning surrogacy in India, from the date of issue of this Circular and date of receipt of the Circular, may please be cancelled and the applicants may be informed of the position immediately.

4. All authorities concerned are requested to strictly comply with the above mentioned instructions.

Yours faithfully

*B. V. R. Murthy*  
(B.V.R.Murthy)

Under Secretary to the Govt. of India

118

Copy forwarded for information and necessary action to:

- (6) Secretary (Coordination), Cabinet Secretariat, Rashtrapati Bhavan, New Delhi
- (2) Secretary, Department of Health Research, Ministry of Health & Family Welfare, Indian Red Cross Society Building, 1 Red Cross Road, New Delhi with the request to issue suitable guidelines for compliance by ART Clinics. These instructions may be given wide publicity through website/ media.
- (3) Shri P. Kumaran, Joint Secretary (CPV), Ministry of External Affairs – with the request to circulate these instructions to all Indian Mission/Posts for strict compliance. It is requested that these instructions may be given wide publicity through the website of MEA and Indian Missions/Posts.
- (4) Joint Director, Bureau of Immigration with the request to circulate these instructions to all FRROs/ FROs for strict compliance. It is requested that these instructions may be given wide publicity through the website of Bureau of Immigration.
- (5) ICMR [Dr. R.S.Sharma, DDG(SG)]
- (6) DDG, NIC – with the request to place this Circular on the online Notice Board of C-Visa and C-FRO immediately.

*B.V.R. Murthy*  
( B.V.R. Murthy )  
Under Secretary (Foreigners)

Internal distribution:-

JS (F)/ Dir(Visa)/ Dir I/ Dir (FC)/DS(MU)/ DS(I)/US (V)  
All Sections of Foreigners Division.

*B.V.R. Murthy*  
( B.V.R. Murthy )  
Under Secretary (Foreigners)

To be Published in the Gazette of India Extraordinary Part-II, Section - 3, Sub-Section (ii)

Government of India  
Ministry of Commerce & Industry  
Department of Commerce  
Directorate General of Foreign Trade

Notification No. 25/2015-2020  
New Delhi, Dated: 26 October, 2015

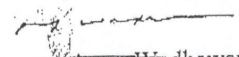
**Subject:** Amendment in import policy of Human Embryo classified under Exim Code 0511 99 99 of Chapter 05 of ITC (HS), 2012 – Schedule – 1 (Import Policy).

**S.O. (E):** In exercise of powers conferred by Section 3 of FT (D&R) Act, 1992, read with paragraph 1.02 and 2.01 of the Foreign Trade Policy, 2015-2020, as amended from time to time, the Central Government hereby amends the import policy of 'Human Embryo' classified under Exim Code 0511 99 99 of Chapter 05 of ITC (HS), 2012 – Schedule – 1 (Import Policy).

2. Import policy of the item 'Human Embryo' classified under EXIM Code 0511 99 99 in Chapter 05 of ITC (HS), 2012 Schedule I (Import Policy) is revised from "free" subject to a 'No Objection Certificate' from Indian Council of Medical Research (ICMR)" to "Prohibited" except for research purposes based on the guidelines of the Department of Health Research. After revision, the import policy is as under:

Exim Code	Item Description	Policy	Existing Policy Conditions	Revised Policy Condition
0511 99 99	Other	Free	Import of Human Embryo will be free subject to a 'No Objection Certificate' from Indian Council of Medical Research (ICMR).	Import of Human Embryo is "Prohibited" except for research purposes based on the guidelines of the Department of Health Research.

3. **Effect of this Notification:** Import policy of the item 'Human Embryo' classified under EXIM Code 0511 99 99 has been changed from "free" subject to a 'No Objection Certificate' from Indian Council of Medical Research (ICMR)" to "Prohibited" except for research purposes based on the guidelines of the Department of Health Research.

  
(Anup Wadhawan)  
Director General of Foreign Trade

[Issued from F.No. 01/89/180/01/AM-16/PC-2 (A)]

BY SPEED POST

96

No. V.25011/119/2015-HR  
Government of India  
Ministry of Health & Family Welfare  
(Department of Health Research)

2<sup>nd</sup> Floor, IRCS Building,  
Red Cross Road, New Delhi-110001.  
Dated, the 9<sup>th</sup> October, 2015

To

All Principal Secretaries / Secretaries,  
Health and Family Welfare Department,  
Governments of all States / Union Territories.

( Other than Daman & Diu and Puducherry)


Subject: Guidelines for Accreditation, Supervision and Regulation of ART Clinics  
in India.

Sir / Madam,

The undersigned is directed to refer to this Department's letter No. V.25011/119/2015-HR, dated 23.06.2015 on the above subject, wherein the States / UTs were requested to nominate 'State Nodal Officer' for ART matters and to forward contact details of such officers to this Department as well as to the Ministry of Health and Family Welfare and the Ministry of Home Affairs. This request was followed up with this Department's letters of even number, dated 23.07.2015 and 10.08.2015. However, these details have not so far been received from your Government.

2. It is once again requested that State Nodal Officers for ART matters may please be nominated, if not already nominated, and their contact details forwarded to this Department as well as to the Ministry of Health and Family Welfare and the Ministry of Home Affairs, at the earliest.

Yours faithfully,

  
(Sanjeev Chadha)  
Director

Tel. No. 011-23736218



S.No. 8 (1)

32

BY SPEED POST

No. V.25011/119/2015-HR  
Government of India  
Ministry of Health & Family Welfare  
(Department of Health Research)

2<sup>nd</sup> Floor, IRCS Building,  
Red Cross Road, New Delhi-110001.  
Dated, the 23rd June, 2015

To

All Principal Secretaries,  
Health and Family Welfare Department,  
Governments of all States / Union Territories.

Subject: Guidelines for Accreditation, Supervision and Regulation of ART Clinics  
in India.

Sir / Madam,

The undersigned is directed to refer to the D.O. letter No. N.11027/59/2003-T.O., dated 29.11.2005 from Shri Prasanna Hota, Secretary, Ministry of Health & Family Welfare, Government of India, forwarding therewith two copies of the 'National Guidelines for Accreditation, Supervision and Regulation of ART Clinics in India', brought out jointly by the Indian Council of Medical Research and the National Academy of Medical Sciences (India). This was followed up with another letter of even number, dated 03.03.2006 from the Ministry of Health and Family Welfare. A typed copy each of these two letters are enclosed, along with a copy of the said Guidelines, for ready reference.

2. Through this letter, the State Governments / Union Territory Administrations were requested to regulate and supervise the functioning of 'Assisted Reproductive Technology' (ART) clinics in the States / UTs in accordance with the said Guidelines. They were also requested to initiate action to set up State Accreditation Authority and Appropriate Authority for regulation of ART procedure and ART Clinics in accordance with these guidelines.

3. While it is hoped that necessary action, as requested, has since been taken by you in the matter, and the provisions contained in the said guidelines are being followed by all concerned, you are now also requested to please nominate a State Nodal Officer for ART matters, who can co-ordinate all ART related matters at the State level. Contact details of the State Nodal Officer may please be intimated to this Department as well as to the Ministry of Health and Family Welfare and the Ministry of Home Affairs.

...P/2

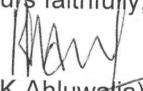
P.18/cor

P.19/cor

31

4. This issues with the approval of the Secretary, Department of Health Research.

Yours faithfully,

  
(R.K.Ahluwalia) 23/6/7

Under Secretary to the Government of India  
Tel. No. 011-23736090

Encl. : As stated.

- Copy to :
1. Ministry of Home Affairs [Shri G.K.Dwivedi, Joint Secretary (Foreigners)], NDCC-II Building, Jai Singh Road, New Delhi.
  2. Ministry of External Affairs [Shri P.Kumaran, Joint Secretary (CPV) ], Patiala House Annexe, Tilak Marg, New Delhi.
  3. Department of Health and Family Welfare, [Dr. Rakesh Kumar , Joint Secretary (RCH) ], Nirman Bhawan, New Delhi
  4. Director General, Indian Council of Medical Research, New Delhi.
  5. Secretary, National Academy of Medical Sciences (India), New Delhi.