

### Surrogacy in Queensland

After much heated debate in State parliament on 11 February, 2010, the laws making altruistic surrogacy a criminal offence in Queensland will be repealed within the next year. Surrogacy for payment or financial benefit will remain a criminal offence. "The new laws will enable parents who, for whatever reason, are unable to conceive and have their own children, to start a family with the assistance of a surrogate," says Amy Sanders-Robbins, family lawyer at **msl | michael sing lawyers**.

Ms Sanders-Robbins continues, "Altruistic surrogacy will not be limited to opposite-sex couples as the new laws will provide same-sex couples and single people with the same opportunity to start a family."

It is important to note that the surrogate and intended parents will need to be at least 25 years of age prior to entering into a surrogacy arrangement. The surrogacy arrangement will be a formal agreement between the birth mother, her spouse (if any) and the intended parents and will include provision for the birth mother to be paid "reasonable birth costs" in relation to the birth of the child. Upon the birth the child, the birth mother will be considered the child's legal parent and guardian, irrespective of the intended parents' biological connection to the child.

The birth mother will be required to transfer parentage of the child to the intended parents by way of an Application to the Children's Court of Queensland. Prior to transferring parentage of the child to the intended parents, the Court will need to be satisfied that the birth mother, her spouse (if any) and the intended parents have participated in counselling, have obtained independent legal advice and that the transfer is in the best interest and wellbeing of the child.

"One of the issues that may taint the implementation of altruistic surrogacy in Queensland is that the proposed legislation provides that a surrogacy agreement is not enforceable," says Ms Sanders-Robbins

"In essence, the birth mother will not be required, at law, to relinquish the child to the intended parents, the biological parents, if she changes her mind. This will be a great worry for some parents, particularly as surrogacy may be their last chance to start a family."

"It is strongly recommended that if you or your partner is considering starting a family with the assistance of a surrogate that you obtain legal advice to ensure that you are fully aware of the legal implications before committing to a surrogacy agreement," warned Ms Sanders-Robbins.

Similarly, if you are considering being a surrogate then you should also be aware of your legal position.



**Amy Sanders-Robbins** holds degrees in Law and Behaviour Science and is a staunch advocate for her clients. Amy has a diligent and relentless approach to fight exceptionally hard to achieve client goals. Amy's approach echoes the culture of the **msl** family law team, who have demonstrated their abilities as formidable litigators with strong trial capacity, and ability to obtain exceptional results. With expertise in child protection, domestic violence, parenting matters, family law property disputes and de facto property matters, Amy has a meticulous approach to all of her cases.

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For more information on surrogacy and the law, email us at [info@msslawyers.com.au](mailto:info@msslawyers.com.au) or visit our website [www.msslawyers.com.au](http://www.msslawyers.com.au). Alternatively, contact our professional team at our Gold Coast or Brisbane office.

#### Gold Coast Office

Corporate Centre One,  
Cnr Bundall Road & Slatyer Avenue  
Bundall QLD 4217  
PO Box 9073 GCMC QLD 9726  
T +61 7 5597 8888  
F +61 7 5597 8899

#### Brisbane Office

Level 10,  
410 Queen Street  
Brisbane QLD 4000  
PO Box 3246 Brisbane QLD 4001  
T +61 7 3229 6099  
F +61 7 3226 9001