

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 3rd 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.

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

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)

F.No.25022/74/2011-F.I
Government of India
Ministry of Home Affairs

NDCC-II Building, Jai Singh Road,
Near NDMC Pakika Kendra, New Delhi-110001.
Dated 9th July, 2012.

To

Shri Amarendra Khatua
Additional Secretary (PV),
Ministry of External Affairs,
Government of India,
Patiala House, New Delhi.

Subject : Foreign nationals intending to visit India for commissioning surrogacy.

Sir,

With reference to the above, I am directed to state that it has come to the notice of this Ministry that some foreign nationals are visiting India on Tourist visa for commissioning surrogacy. This is not the appropriate visa category and such foreigners will be liable for action for violation of visa conditions. The appropriate visa category will be a medical visa. It will also be necessary in such cases to ensure that the surrogate mother is not cheated. Therefore, such a visa may only be granted if the following conditions are fulfilled :-

- (i) The foreign man and woman are duly married and the marriage should have sustained atleast for two years.
- (ii) A letter from the Embassy of the foreign country in India or the Foreign Ministry of the country should be enclosed with the Visa application stating clearly that (a) the country recognises surrogacy and (b) the child/children to be born to the commissioning couple through the Indian surrogate mother will be permitted entry into their country as a biological child/children of the couple commissioning surrogacy.

- (iii) The couple will furnish an undertaking that they would take care of the child/children born through surrogacy.
- (iv) The treatment should be done only at one of the registered ART clinics recognised by ICMR. (The list of such clinics will be shared with MEA from time to time).
- (v) The couple should produce a duly notarised agreement between the applicant couple and the prospective Indian surrogate mother.

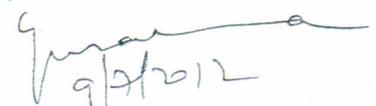
3. If any of the above conditions are not fulfilled, the visa application shall be rejected.

4. Before the grant of visa, the foreign couple need to be told that before leaving India for their return journey, 'exit' permission from FRRO/FRO would be required. Before granting 'exit', the FRRO/FRO will see whether the foreign couple is carrying a certificate from the ART clinic concerned regarding the fact that the child/children have been duly taken custody of by the foreigner and that the liabilities towards the Indian surrogate mother have been fully discharged as per the agreement. A copy of the birth certificate(s) of the surrogate child/children will be retained by the FRRO/FRO alongwith photocopies of the passport and visa of the foreign parents.

5. It may be noted that for drawing up and executing the agreement cited at para 2 (v) above, the foreign couple can be permitted to visit India on a reconnaissance trip on Tourist visa, but no samples may be given to any clinic during such preliminary visit.

6. These guidelines may kindly be circulated to all the Missions for strict compliance.

Yours faithfully,



(G.V.V. Sarma)
Joint Secretary (Foreigners)
DH-22438034

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

NDCC-II Building, Jaisingh Road
New Delhi, the 19th February, 2014

Speedy
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To

- (1) All Indian Missions/ Posts
- (2) Principal Secretary (Home) of all State Governments/ UT Administrations
- (3) FRROs – Delhi, Mumbai, Chennai, Kolkata, Amritsar, Bangalore Hyderabad, Kochi, Thiruvananthapuram, Calicut, Panaji and Lucknow.

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Subject : Foreign nationals intending to visit India for commissioning surrogacy

Sir,

I am directed to refer to this Ministry's letter no. 25022/74/2011-F.I dated 9th July, 2012 on the above mentioned subject (copy enclosed for reference) and to say that a number of references have been received from various Indian Missions/ Posts seeking clarifications as to whether OCI/ PIO Cardholders can travel to India for commissioning surrogacy on the basis of their OCI/ PIO card or whether they would require a separate Medical Visa for this Purpose.

2. The matter has been examined. It has been decided, with the approval of the competent authority, that OCI/ PIO Cardholders intending to visit India for commissioning surrogacy would not require a separate Medical Visa. It has been further decided that the following provisions shall be applicable to OCI/ PIO Cardholders for commissioning surrogacy in India:-

Provisions applicable to OCI/PIO Cardholders for commissioning surrogacy in India

OCI/PIO Cardholders coming to India for commissioning surrogacy will not require a separate Medical Visa. However, on arrival to India and before commissioning surrogacy, they will have to obtain a special permission from the FRRO/ FRO concerned. Such permission may be granted by the FRRO/ FRO concerned subject to the following conditions:-

- (i) The couple should be duly married and the marriage should have sustained at least for two years.

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- (ii) They should enclose a letter from the Embassy of the foreign country in India or the Foreign Ministry of the country with the application stating clearly that (a) the country recognizes surrogacy and (b) the child/ children to be born to the commissioning couple through the Indian surrogate mother will be permitted entry into their country as a biological child/ children of the couple commissioning surrogacy.
 - (iii) The couple should furnish an undertaking that they would take care of the child/ children born through surrogacy.
 - (iv) The treatment should be done only at one of the registered ART Clinics recognized by ICMR.
 - (v) The couple should produce a duly notarized agreement between the applicant couple and the prospective Indian surrogate mother.

Before granting exit to the child/children born through commissioning of surrogacy in such cases, the FRRO/FRO concerned will ensure the following:-

- (a) The OCI/PIO Cardholder had obtained the requisite prior permission from the FRRO/FRO concerned for commissioning surrogacy as mentioned above.
- (b) The OCI/PIO Cardholder is carrying a certificate from the ART clinic concerned regarding the fact that the child/children have been duly taken custody of by the OCI/PIO Cardholder and the liabilities towards the Indian surrogate mother have been fully discharged as per the Agreement.
- (c) A copy of the Birth Certificate (s) of the surrogate child/children will be retained by the FRRO/FRO along with photocopies of the passport and OCI/PIO card of the OCI/PIO cardholder.

3. In partial modification of the conditions stipulated in this Ministry's letter no. 25022/74/2011-F.I dated 9th July, 2012, it has been decided, with the approval of the competent authority, that the wife of a foreign national or OCI/PIO cardholder (who does not have an OCI/PIO card), who is not involved with the treatment in any way, may not require a specific Medical Visa.

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

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6. These instructions shall come into force with immediate effect.

Yours faithfully

Vikas Srivastava

(Vikas Srivastava)

Under Secretary (Foreigners)

Copy forwarded for information to:

- P.B. 5/11-12
20/2 (1) Ministry of External Affairs [Ms. Mukta Tomar, Joint Secretary (CPV)] with the request that these instructions may kindly be conveyed to all Indian Missions/Posts.
- P.B. 2/13-14
20/2 (2) Joint Director, Bureau of Immigration – with the request to circulate these instructions to all FRROs/ FROs.
- P.B. 7/13-14
20/2 (3) Ministry of Health & Family Welfare [Shri S.K.Rao, Joint Secretary]
- P.B. 19/12-13
20/2 (4) ICMR [Dr. R.S.Sharma, DDG(SG)]

Vikas Srivastava

(Vikas Srivastava)

Under Secretary (Foreigners)

Internal Distribution

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Vikas Srivastava

(Vikas Srivastava)

Under Secretary (Foreigners)

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