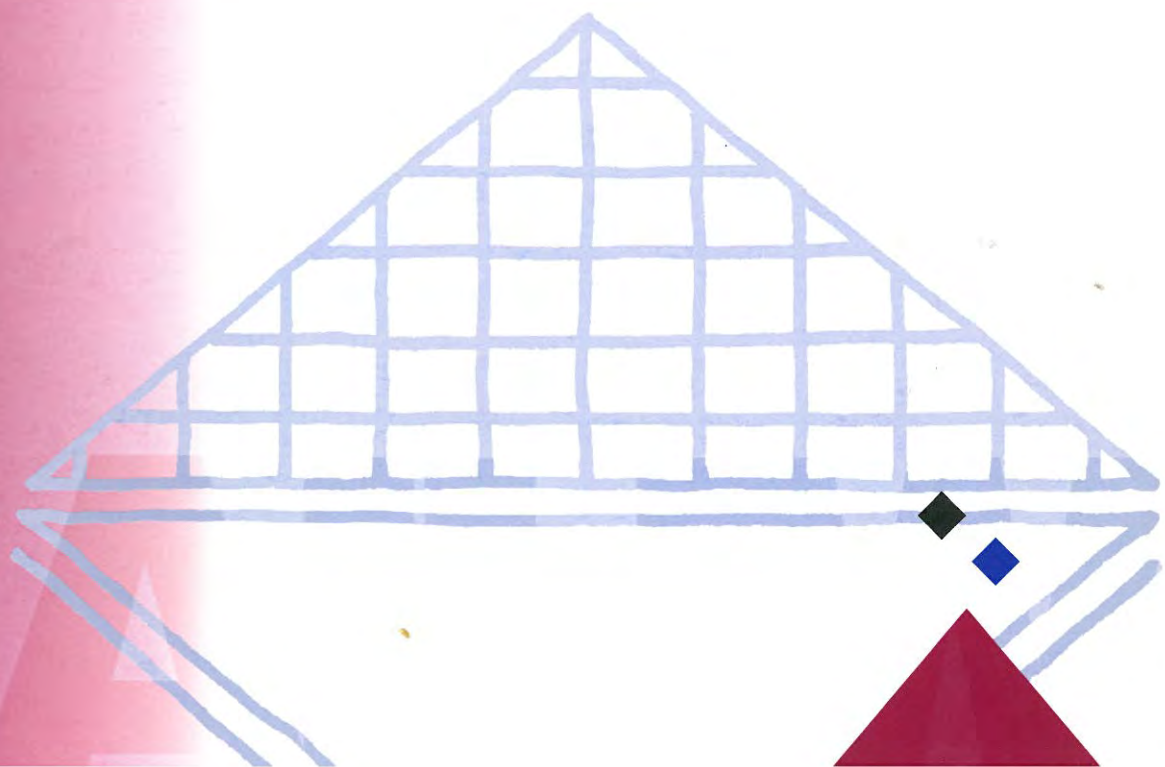


**Adoptions  
Australia  
1996-97**





CHILD WELFARE SERIES  
Number 20

# **Adoptions Australia 1996–97**

Australian Institute of Health and Welfare  
Canberra

AIHW Catalogue No. CWS 4

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This is the 20th publication of the Australian Institute of Health and Welfare's Child Welfare Series. A complete list of the Institute's publications is available from the Publications Unit, Australian Institute of Health and Welfare, GPO Box 570, Canberra ACT 2601, or via the Institute's web-site at <http://www.aihw.gov.au>.

ISSN 1320-081X  
ISBN 0 642 24765X

### **National Library of Australia Cataloguing-in-Publication data**

Australian Institute of Health and Welfare  
Adoptions Australia 1996–97

### **Suggested citation**

Australian Institute of Health and Welfare 1998. *Adoptions Australia 1996–97*. AIHW Cat. No. CWS 4. Canberra: Australian Institute of Health and Welfare (Child Welfare Series No. 20).

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Published by Australian Institute of Health and Welfare

Printed by CPN Publications

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## Abbreviations

|       |   |
|-------|---|
| ABS   | Australian Bureau of Statistics   |
| AICAN | Australian Inter-Country Adoption Network                                   |
| CYFSB | Children's, Youth and Family Services Bureau (Australian Capital Territory) |
| DCHS  | Department of Community and Health Services (Tasmania)                      |
| DCS   | Department of Community Services (New South Wales)                          |
| DFCS  | Department of Family and Community Services (South Australia)               |
| DFYCC | Department of Families, Youth and Community Care (Queensland)               |
| DHS   | Department of Human Services (Victoria)                                     |
| FCS   | Family and Children's Services (Western Australia)                          |
| THS   | Territory Health Services (Northern Territory)                              |

## Symbols

|      |                        |
|------|------------------------|
| –    | nil or rounded to zero |
| ..   | not applicable         |
| n.a. | not available          |
| M    | males                  |
| F    | females                |
| P    | persons                |

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## Acknowledgements

Many people have contributed to this and previous issues of the Australian Institute of Health and Welfare's Child Welfare Series. This issue has been prepared by Carolyn Dunn and Anne Broadbent.

Thanks are extended to the following State and Territory departments for providing the data for this report:

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# 1 Introduction

## Background

The Australian Institute of Health and Welfare is funded by the community services department in each State and Territory to collect and publish national data on child protection and adoptions. This publication, which presents adoption statistics for the period 1 July 1996 to 30 June 1997, is the Institute's seventh annual report on adoptions and the twentieth in the Child Welfare Series. The data included in this report are collected from each of the State and Territory community services departments and collated by the Institute for the purposes of this report.

## Scope and coverage

The statistics in this publication cover all finalised adoptions recorded by State and Territory community services departments for the period 1 July 1996 to 30 June 1997 and all children legally available for adoption at 30 June 1997. It also covers the number of requests made for information and the number of contact and information vetoes lodged by adopted persons, adoptive parents, birth parents and other relatives.

Data in this report were sought from State and Territory community services departments according to definitions and counting rules agreed to by those departments and the Institute. Definitions of terms used in the collection are provided in the Glossary (Appendix 1). It should be borne in mind when comparing across jurisdictions that each State and Territory has its own legislation regarding adoption orders (see Appendix 2) and its own policies and practices.

Data provided in this report for the period before 1985-86 are from the Australian Bureau of Statistics publication *Adoptions, Australia* (catalogue number 4406.0). Data for the years 1987-88 to 1989-90 are from The Standardisation of Social Welfare Statistics Project (WELSTAT) publication *Adoptions: National Data Collection*.

## 2 What is adoption?

When an adoption order is granted, the legal relationship between the biological parents and the child is severed. The legal rights of the adopted child are as if he or she had been born to the adoptive parents, and the legal rights that exist from birth with regard to the birth parents (inheritance and name, for instance) are removed. A new birth certificate is issued to the child bearing the name(s) of his or her adoptive parent(s) as the natural parent(s), and the new name of the child, where a change has occurred.

Access by the birth parents/relatives to the adopted child is encouraged in many States and Territories. In some jurisdictions these access conditions form part of the adoption order, while in others there is no legal relationship as such, but rather an understanding between the parties involved. This type of adoption is sometimes called 'open adoption'.

Each State and Territory in Australia has responsibility for all aspects of adoption within its jurisdiction and has its own legislation regarding adoption (see Appendix 2).

In this collection, adoptions are categorised into three groups: adoption of Australian-born children by relatives; adoption of Australian-born children by non-relatives; and adoption of overseas-born children by non-relatives. A fourth group, adoption of overseas-born children by relatives, has been excluded from this collection, as data are not collected by the States and Territories.

# 3 Adoptions in Australia 1996–97

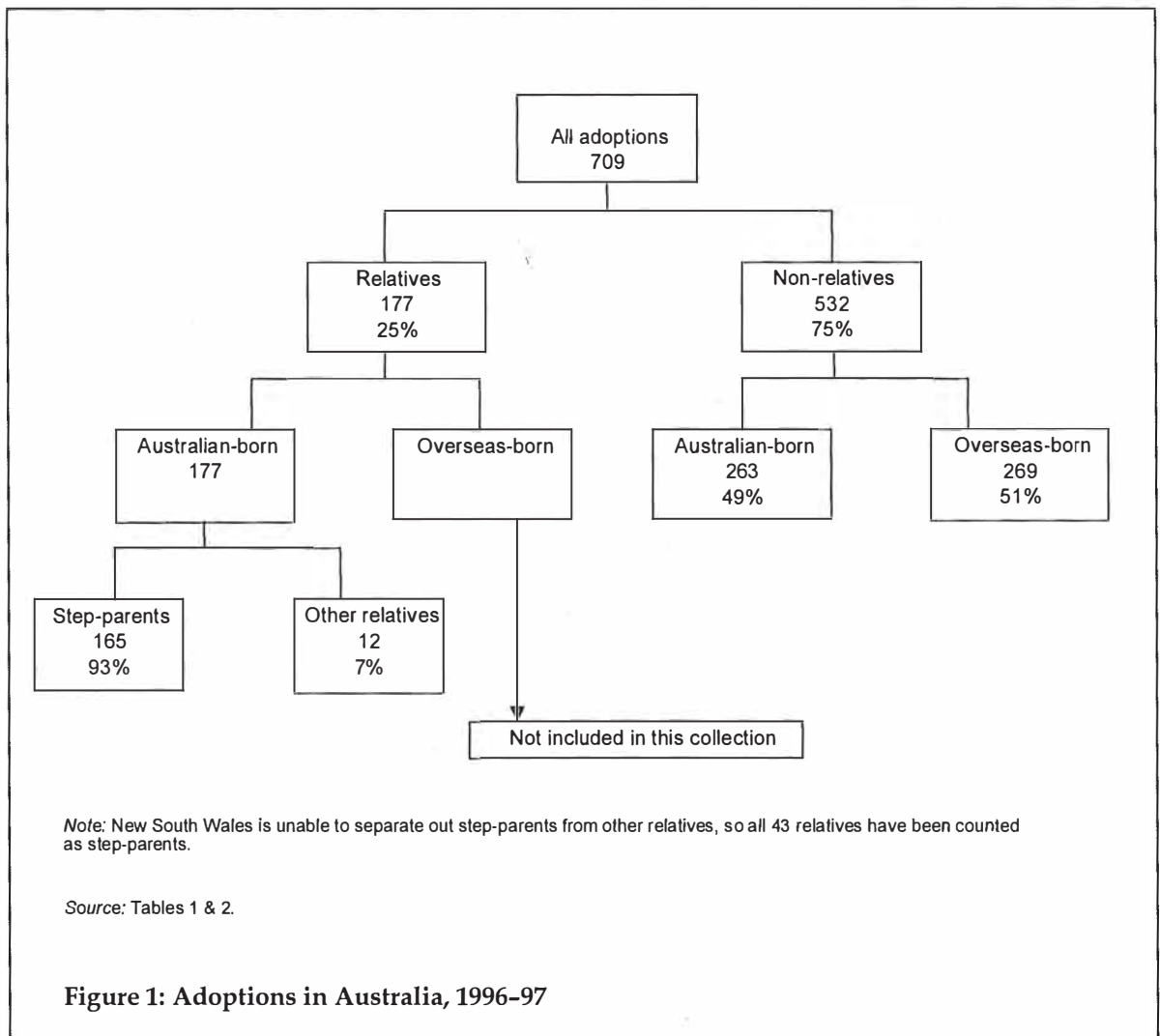
## 3.1 Overview

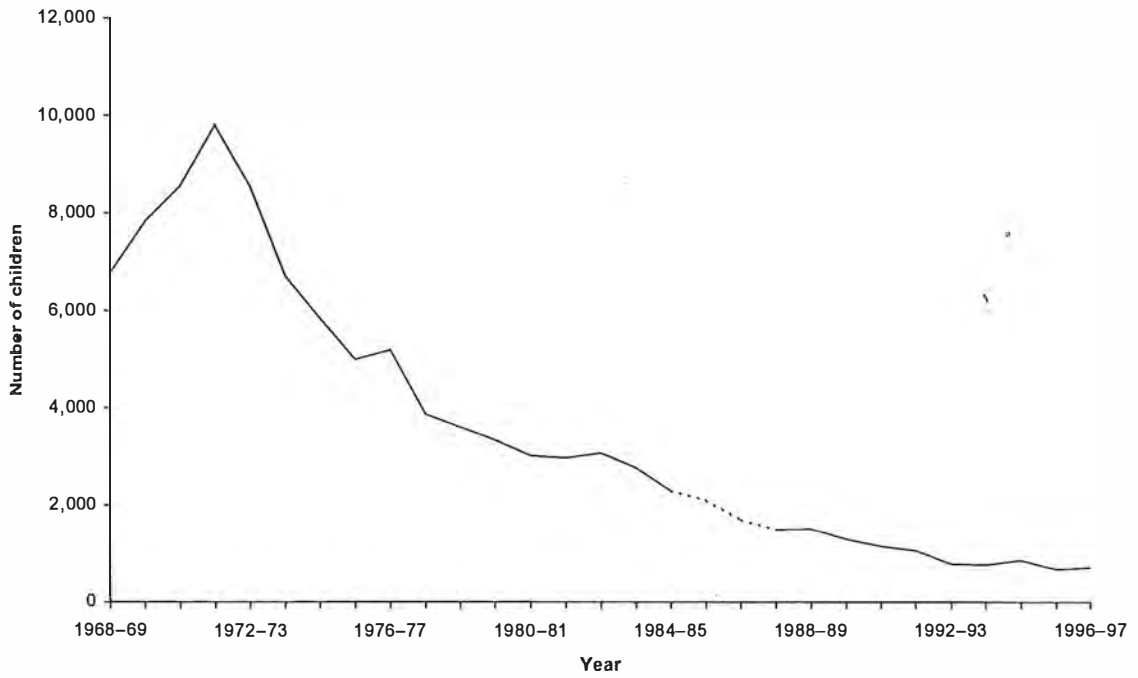
In 1996–97 there were 709 adoptions of children in Australia. This is an increase of 6% over 668 in 1995–96. As stated above this excludes adoptions of overseas-born children by relatives.

The main features to be noted regarding adoptions in 1996–97 are:

- of adoptions in 1996–97, 75% were by non-relatives, and 25% by relatives (Figure 1);
- of adoptions in 1996–97, 62% were of Australian-born children (440), and 38% were of overseas-born children (269);
- the number of adoptions of children aged 0–17 years in each State and Territory was roughly proportional to its respective population aged 0–17 years, with the exceptions of Victoria where there were fewer adoptions than would be expected, and the Australian Capital Territory where there were twice as many adoptions as would be expected based on population (Table 3);
- there were 177 adoptions of Australian-born children by relatives and 93% of these adoptions were by step-parents;
- there were 263 adoptions of Australian-born children by non-relatives and 269 adoptions of overseas-born children by non-relatives;
- of the 709 adoptions in 1996–97, 75% were arranged by government agencies, and 20% were arranged by non-government agencies (Table 1);
- whereas the majority of Australian-born children adopted by relatives were 5–14 years of age, most children adopted by non-relatives were in the younger age group (less than 1 year of age for Australian-born children adopted by non-relatives and less than 4 years of age for overseas-born children adopted by non-relatives) (Table 2);
- compared with 1995–96, adoptions of Australian-born children by relatives remained the same (177 adoptions for both years); adoptions of Australian-born children by non-relatives increased by 21%; and adoptions of overseas-born children by non-relatives fell by 2%;
- adoptions arranged through non-government bodies increased from 10% of adoptions in 1995–96 to 20% in 1996–97 (Table 5);
- there were 4,176 applications made for access to information by adopted persons, birth parents, other birth relatives and adoptive parents (Table 20);
- there has been a substantial fall in the number of adoptions since the early 1970s (Figure 2) – factors contributing to this overall fall in adoptions of children include:
  - effective birth control leading to a decrease in the number of unplanned pregnancies;

- the provision of income support for single parents and changed community attitudes to single parenthood, resulting in other alternatives to adoption;
- the development of, and increased accessibility to, alternative reproductive technology such as in-vitro fertilisation (IVF);
- changes to legislation relating to adoption by relatives, particularly step-parents (refer to Bentley & Broadbent 1997, Section 2.3);
- the introduction of alternative legal orders which transfer permanent guardianship and custody of a child to a person other than the parent (for example, permanent care orders in Victoria).





Source: Table 4.

**Figure 2: Adoptions in Australia, 1968-69 to 1996-97**

**Table 1: Adoptions by relationship of adoptive parents, arranging body responsible for adoption and State and Territory, 1996-97**

| Relationship of adoptive parents | Arranging body | NSW <sup>(a)</sup> | Vic        | Qld        | WA        | SA        | Tas       | ACT <sup>(b)</sup> | NT       | Total      |
|----------------------------------|----------------|--------------------|------------|------------|-----------|-----------|-----------|--------------------|----------|------------|
| <b>Step-parents</b>              |                |                    |            |            |           |           |           |                    |          |            |
|                                  | Government     | 43                 | 5          | 48         | —         | 12        | 6         | 11                 | 1        | 126        |
|                                  | Non-government | —                  | 10         | —          | —         | —         | —         | —                  | —        | 10         |
|                                  | Other          | —                  | —          | —          | 29        | —         | —         | —                  | —        | 29         |
|                                  | <b>Total</b>   | <b>43</b>          | <b>15</b>  | <b>48</b>  | <b>29</b> | <b>12</b> | <b>6</b>  | <b>11</b>          | <b>1</b> | <b>165</b> |
| <b>Other relatives</b>           |                |                    |            |            |           |           |           |                    |          |            |
|                                  | Government     | —                  | 2          | —          | —         | 7         | —         | 1                  | —        | 10         |
|                                  | Non-government | —                  | 1          | —          | —         | —         | —         | —                  | —        | 1          |
|                                  | Other          | —                  | —          | —          | 1         | —         | —         | —                  | —        | 1          |
|                                  | <b>Total</b>   | <b>—</b>           | <b>3</b>   | <b>—</b>   | <b>1</b>  | <b>7</b>  | <b>—</b>  | <b>1</b>           | <b>—</b> | <b>12</b>  |
| <b>Non-relatives</b>             |                |                    |            |            |           |           |           |                    |          |            |
|                                  | Government     | 173                | 72         | 81         | 23        | 11        | 18        | 14                 | 2        | 394        |
|                                  | Non-government | 47                 | 32         | —          | —         | 49        | 6         | —                  | —        | 134        |
|                                  | Other          | —                  | —          | —          | 3         | —         | —         | —                  | —        | 3          |
|                                  | Unknown        | —                  | 1          | —          | —         | —         | —         | —                  | —        | 1          |
|                                  | <b>Total</b>   | <b>220</b>         | <b>105</b> | <b>81</b>  | <b>26</b> | <b>60</b> | <b>24</b> | <b>14</b>          | <b>2</b> | <b>532</b> |
| <b>Total</b>                     |                |                    |            |            |           |           |           |                    |          |            |
|                                  | Government     | 216                | 79         | 129        | 23        | 30        | 24        | 26                 | 3        | 530        |
|                                  | Non-government | 47                 | 43         | —          | —         | 49        | 6         | —                  | —        | 145        |
|                                  | Other          | —                  | —          | —          | 33        | —         | —         | —                  | —        | 33         |
|                                  | Unknown        | —                  | 1          | —          | —         | —         | —         | —                  | —        | 1          |
|                                  | <b>Total</b>   | <b>263</b>         | <b>123</b> | <b>129</b> | <b>56</b> | <b>79</b> | <b>30</b> | <b>26</b>          | <b>3</b> | <b>709</b> |

(a) New South Wales could not separate step-parent adoptions from other relative adoptions. Since step-parent adoptions represent the majority of relative adoptions, all relative adoptions have been classified as adoptions by step-parents.

(b) Includes two validations of overseas adoptions.

Note: Six persons aged 18 years or older have been included in this table.



**Table 2: Adoptions by age, relationship to adoptive parents and sex, 1996-97**

| Age (years)  | Australian-born adoptions by relatives |            |            | Australian-born adoptions by non-relatives |            |            | Overseas-born adoptions by non-relatives |            |            | Total      |            |            |
|--------------|--|------------|------------|--|------------|------------|--|------------|------------|------------|------------|------------|
|              | M                                      | F          | P          | M  | F          | P          | M  | F          | P          | M          | F          | P          |
|              | <b>Number</b>                          |            |            |  |            |            |  |            |            |            |            |            |
| Under 1      | —                                      | —          | —          | 85   | 74         | 159        | 41                                       | 39         | 80         | 126        | 113        | 239        |
| 1-4          | 12                                     | 9          | 21         | 21   | 6          | 27         | 75                                       | 58         | 133        | 108        | 73         | 181        |
| 5-9          | 36                                     | 33         | 69         | 16   | 18         | 34         | 21                                       | 20         | 41         | 73         | 71         | 144        |
| 10-14        | 26                                     | 41         | 67         | 9  | 17         | 26         | 8  | 6          | 14         | 43         | 64         | 107        |
| 15+          | 9                                      | 7          | 16         | 5  | 9          | 14         | 1  | —          | 1          | 15         | 16         | 31         |
| Unknown      | —                                      | 4          | 4          | 2  | 1          | 3          | —  | —          | —          | 2          | 5          | 7          |
| <b>Total</b> | <b>83</b>                              | <b>94</b>  | <b>177</b> | <b>138</b>                                 | <b>125</b> | <b>263</b> | <b>146</b>                               | <b>123</b> | <b>269</b> | <b>367</b> | <b>342</b> | <b>709</b> |
|              | <b>Percentage</b>                      |            |            |  |            |            |  |            |            |            |            |            |
| Under 1      | —                                      | —          | —          | 62   | 59         | 60         | 28                                       | 32         | 30         | 34         | 33         | 34         |
| 1-4          | 14                                     | 10         | 12         | 15   | 5          | 10         | 51                                       | 47         | 49         | 29         | 21         | 26         |
| 5-9          | 43                                     | 35         | 39         | 12   | 14         | 13         | 14                                       | 16         | 15         | 20         | 21         | 20         |
| 10-14        | 31                                     | 44         | 38         | 7  | 14         | 10         | 5  | 5          | 5          | 12         | 19         | 15         |
| 15+          | 11                                     | 7          | 9          | 4  | 7          | 5          | 1  | —          | —          | 4          | 5          | 4          |
| Unknown      | —                                      | 4          | 2          | 1  | 1          | 1          | —  | —          | —          | 1          | 1          | 1          |
| <b>Total</b> | <b>100</b>                             | <b>100</b> | <b>100</b> | <b>100</b>                                 | <b>100</b> | <b>100</b> | <b>100</b>                               | <b>100</b> | <b>100</b> | <b>100</b> | <b>100</b> | <b>100</b> |

Note: New South Wales, South Australia and Western Australia have included persons aged 18 years or older (six in total).

**Table 3: Distribution of adoptions for the year ended 30 June 1997 and population aged 0-17 years at 31 December 1996, by State and Territory**

|                                      | NSW               | Vic        | Qld        | WA        | SA        | Tas       | ACT       | NT       | Total      |
|--------------------------------------|-------------------|------------|------------|-----------|-----------|-----------|-----------|----------|------------|
|                                      | <b>Number</b>     |            |            |           |           |           |           |          |            |
| Relative                             | 43                | 18         | 48         | 30        | 19        | 6         | 12        | 1        | 177        |
| Non-relative                         | 220               | 105        | 81         | 26        | 60        | 24        | 14        | 2        | 532        |
| <b>Total adoptions</b>               | <b>263</b>        | <b>123</b> | <b>129</b> | <b>56</b> | <b>79</b> | <b>30</b> | <b>26</b> | <b>3</b> | <b>709</b> |
| Population 0-17 years <sup>(a)</sup> | 1,572,603         | 1,135,826  | 886,437    | 471,797   | 357,909   | 126,181   | 81,591    | 57,447   | 4,689,791  |
|                                      | <b>Percentage</b> |            |            |           |           |           |           |          |            |
| Relative                             | 24                | 10         | 27         | 17        | 11        | 3         | 7         | 1        | 100        |
| Non-relative                         | 41                | 20         | 15         | 5         | 11        | 5         | 3         | —        | 100        |
| <b>Total adoptions</b>               | <b>37</b>         | <b>17</b>  | <b>18</b>  | <b>8</b>  | <b>11</b> | <b>4</b>  | <b>4</b>  | <b>—</b> | <b>100</b> |
| Population 0-17 years <sup>(a)</sup> | 34                | 24         | 19         | 10        | 8         | 3         | 2         | 1        | 100        |

(a) ABS: Estimated resident population at 31 December 1996.

Note: Six persons aged 18 years or older have been included in this table.

**Table 4: Adoptions by State and Territory, 1968–69 to 1996–97**

| Year           | NSW <sup>(a)</sup> | Vic        | Qld        | WA        | SA        | Tas       | ACT       | NT       | Total      |
|----------------|--------------------|------------|------------|-----------|-----------|-----------|-----------|----------|------------|
| 1968–69        | 1,715              | 1,789      | 1,448      | 540       | 797       | 348       | 100       | 36       | 6,773      |
| 1969–70        | 2,346              | 2,031      | 1,500      | 703       | 834       | 243       | 102       | 61       | 7,820      |
| 1970–71        | 3,275              | 2,057      | 1,562      | 301       | 879       | 289       | 122       | 68       | 8,553      |
| 1971–72        | 4,539              | 1,768      | 1,774      | 457       | 776       | 303       | 127       | 54       | 9,798      |
| 1972–73        | 3,315              | 1,765      | 1,678      | 717       | 649       | 268       | 121       | 29       | 8,542      |
| 1973–74        | 1,936              | 1,557      | 1,458      | 783       | 558       | 268       | 120       | 25       | 6,705      |
| 1974–75        | 1,799              | 1,168      | 1,394      | 528       | 551       | 243       | 123       | 33       | 5,839      |
| 1975–76        | 1,449              | 1,032      | 1,112      | 531       | 549       | 211       | 87        | 19       | 4,990      |
| 1976–77        | 1,770              | 908        | 1,014      | 497       | 658       | 185       | 82        | 74       | 5,188      |
| 1977–78        | 1,068              | 951        | 660        | 417       | 506       | 164       | 55        | 46       | 3,867      |
| 1978–79        | 1,020              | 956        | 563        | 380       | 415       | 173       | 56        | 40       | 3,603      |
| 1979–80        | 853                | 914        | 450        | 387       | 475       | 148       | 85        | 25       | 3,337      |
| 1980–81        | 794                | 711        | 454        | 305       | 505       | 140       | 74        | 35       | 3,018      |
| 1981–82        | 855                | 753        | 467        | 261       | 396       | 119       | 81        | 39       | 2,971      |
| 1982–83        | 926                | 692        | 555        | 270       | 424       | 117       | 59        | 29       | 3,072      |
| 1983–84        | 698                | 686        | 517        | 250       | 438       | 87        | 51        | 43       | 2,770      |
| 1984–85        | 623                | 631        | 331        | 293       | 222       | 97        | 74        | 23       | 2,294      |
| 1985–86        | n.a.               | n.a.       | 359        | n.a.      | n.a.      | n.a.      | n.a.      | n.a.     | n.a.       |
| 1986–87        | n.a.               | n.a.       | 268        | n.a.      | n.a.      | n.a.      | n.a.      | n.a.     | n.a.       |
| 1987–88        | 280                | 114        | 306        | 191       | 416       | 120       | 36        | 28       | 1,491      |
| 1988–89        | 335                | 288        | 353        | 147       | 221       | 85        | 47        | 25       | 1,501      |
| 1989–90        | 360                | 212        | 278        | 128       | 174       | 71        | 50        | 21       | 1,294      |
| 1990–91        | 329                | 258        | 210        | 136       | 103       | 61        | 25        | 20       | 1,142      |
| 1991–92        | 310                | 185        | 232        | 120       | 112       | 58        | 23        | 12       | 1,052      |
| 1992–93        | 209                | 101        | 222        | 87        | 111       | 23        | 20        | 10       | 783        |
| 1993–94        | 188                | 112        | 206        | 85        | 106       | 37        | 21        | 9        | 764        |
| 1994–95        | 260                | 145        | 179        | 127       | 108       | 12        | 18        | 6        | 855        |
| 1995–96        | 204                | 131        | 170        | 75        | 48        | 17        | 19        | 4        | 668        |
| <b>1996–97</b> | <b>263</b>         | <b>123</b> | <b>129</b> | <b>56</b> | <b>79</b> | <b>30</b> | <b>26</b> | <b>3</b> | <b>709</b> |

(a) Data on adoptions by step-parents for New South Wales were not included from 1987–88 to 1993–94.

Sources: ABS Cat. no. 4406.0, 1979–80 to 1984–85; WELSTAT 1987–88 to 1989–90; Bentley & Broadbent 1997.

**Table 5: Adoptions by arranging body, 1979–80 to 1996–97**

| Year                   | Government | Non-government | Other     | Total                    |
|------------------------|------------|----------------|-----------|--------------------------|
| 1979–80                | 1,909      | 528            | 900       | 3,337                    |
| 1980–81                | 1,802      | 446            | 770       | 3,018                    |
| 1981–82                | 1,670      | 430            | 871       | 2,971                    |
| 1982–83                | 1,827      | 435            | 810       | 3,072                    |
| 1983–84                | 1,567      | 449            | 754       | 2,770                    |
| 1984–85                | 1,270      | 369            | 655       | 2,294                    |
| 1985–86                | n.a.       | n.a.           | n.a.      | n.a.                     |
| 1986–87                | n.a.       | n.a.           | n.a.      | n.a.                     |
| 1987–88 <sup>(a)</sup> | 1,246      | 243            | 2         | 1,491                    |
| 1988–89 <sup>(a)</sup> | 1,118      | 240            | 143       | 1,501                    |
| 1989–90 <sup>(a)</sup> | 1,114      | 117            | 63        | 1,294                    |
| 1990–91 <sup>(a)</sup> | 955        | 132            | 55        | 1,142                    |
| 1991–92 <sup>(a)</sup> | 839        | 145            | 68        | 1,052                    |
| 1992–93 <sup>(a)</sup> | 635        | 95             | 53        | 783                      |
| 1993–94 <sup>(a)</sup> | 613        | 101            | 50        | 764                      |
| 1994–95                | 590        | 112            | 153       | 855                      |
| 1995–96                | 525        | 69             | 74        | 668                      |
| <b>1996–97</b>         | <b>530</b> | <b>145</b>     | <b>33</b> | <b>709<sup>(b)</sup></b> |

(a) Data on adoptions by step-parents for New South Wales were not included from 1987–88 to 1993–94.

(b) Total includes one adoption of unknown arranging body.

Sources: ABS Cat. no. 4406.0, 1979–80 to 1984–85; WELSTAT 1987–88 to 1989–90; Bentley & Broadbent 1997.

**Table 4: Adoptions by State and Territory, 1968-69 to 1996-97**

| Year           | NSW <sup>(a)</sup> | Vic        | Qld        | WA        | SA        | Tas       | ACT       | NT       | Total      |
|----------------|--------------------|------------|------------|-----------|-----------|-----------|-----------|----------|------------|
| 1968-69        | 1,715              | 1,789      | 1,448      | 540       | 797       | 348       | 100       | 36       | 6,773      |
| 1969-70        | 2,346              | 2,031      | 1,500      | 703       | 834       | 243       | 102       | 61       | 7,820      |
| 1970-71        | 3,275              | 2,057      | 1,562      | 301       | 879       | 289       | 122       | 68       | 8,553      |
| 1971-72        | 4,539              | 1,768      | 1,774      | 457       | 776       | 303       | 127       | 54       | 9,798      |
| 1972-73        | 3,315              | 1,765      | 1,678      | 717       | 649       | 268       | 121       | 29       | 8,542      |
| 1973-74        | 1,936              | 1,557      | 1,458      | 783       | 558       | 268       | 120       | 25       | 6,705      |
| 1974-75        | 1,799              | 1,168      | 1,394      | 528       | 551       | 243       | 123       | 33       | 5,839      |
| 1975-76        | 1,449              | 1,032      | 1,112      | 531       | 549       | 211       | 87        | 19       | 4,990      |
| 1976-77        | 1,770              | 908        | 1,014      | 497       | 658       | 185       | 82        | 74       | 5,188      |
| 1977-78        | 1,068              | 951        | 660        | 417       | 506       | 164       | 55        | 46       | 3,867      |
| 1978-79        | 1,020              | 956        | 563        | 380       | 415       | 173       | 56        | 40       | 3,603      |
| 1979-80        | 853                | 914        | 450        | 387       | 475       | 148       | 85        | 25       | 3,337      |
| 1980-81        | 794                | 711        | 454        | 305       | 505       | 140       | 74        | 35       | 3,018      |
| 1981-82        | 855                | 753        | 467        | 261       | 396       | 119       | 81        | 39       | 2,971      |
| 1982-83        | 926                | 692        | 555        | 270       | 424       | 117       | 59        | 29       | 3,072      |
| 1983-84        | 698                | 686        | 517        | 250       | 438       | 87        | 51        | 43       | 2,770      |
| 1984-85        | 623                | 631        | 331        | 293       | 222       | 97        | 74        | 23       | 2,294      |
| 1985-86        | n.a.               | n.a.       | 359        | n.a.      | n.a.      | n.a.      | n.a.      | n.a.     | n.a.       |
| 1986-87        | n.a.               | n.a.       | 268        | n.a.      | n.a.      | n.a.      | n.a.      | n.a.     | n.a.       |
| 1987-88        | 280                | 114        | 306        | 191       | 416       | 120       | 36        | 28       | 1,491      |
| 1988-89        | 335                | 288        | 353        | 147       | 221       | 85        | 47        | 25       | 1,501      |
| 1989-90        | 360                | 212        | 278        | 128       | 174       | 71        | 50        | 21       | 1,294      |
| 1990-91        | 329                | 258        | 210        | 136       | 103       | 61        | 25        | 20       | 1,142      |
| 1991-92        | 310                | 185        | 232        | 120       | 112       | 58        | 23        | 12       | 1,052      |
| 1992-93        | 209                | 101        | 222        | 87        | 111       | 23        | 20        | 10       | 783        |
| 1993-94        | 188                | 112        | 206        | 85        | 106       | 37        | 21        | 9        | 764        |
| 1994-95        | 260                | 145        | 179        | 127       | 108       | 12        | 18        | 6        | 855        |
| 1995-96        | 204                | 131        | 170        | 75        | 48        | 17        | 19        | 4        | 668        |
| <b>1996-97</b> | <b>263</b>         | <b>123</b> | <b>129</b> | <b>56</b> | <b>79</b> | <b>30</b> | <b>26</b> | <b>3</b> | <b>709</b> |

(a) Data on adoptions by step-parents for New South Wales were not included from 1987-88 to 1993-94.

Sources: ABS Cat. no. 4406.0, 1979-80 to 1984-85; WELSTAT 1987-88 to 1989-90; Bentley & Broadbent 1997.

**Table 5: Adoptions by arranging body, 1979–80 to 1996–97**

| Year                   | Government | Non-government | Other     | Total                    |
|------------------------|------------|----------------|-----------|--------------------------|
| 1979–80                | 1,909      | 528            | 900       | 3,337                    |
| 1980–81                | 1,802      | 446            | 770       | 3,018                    |
| 1981–82                | 1,670      | 430            | 871       | 2,971                    |
| 1982–83                | 1,827      | 435            | 810       | 3,072                    |
| 1983–84                | 1,567      | 449            | 754       | 2,770                    |
| 1984–85                | 1,270      | 369            | 655       | 2,294                    |
| 1985–86                | n.a.       | n.a.           | n.a.      | n.a.                     |
| 1986–87                | n.a.       | n.a.           | n.a.      | n.a.                     |
| 1987–88 <sup>(a)</sup> | 1,246      | 243            | 2         | 1,491                    |
| 1988–89 <sup>(a)</sup> | 1,118      | 240            | 143       | 1,501                    |
| 1989–90 <sup>(a)</sup> | 1,114      | 117            | 63        | 1,294                    |
| 1990–91 <sup>(a)</sup> | 955        | 132            | 55        | 1,142                    |
| 1991–92 <sup>(a)</sup> | 839        | 145            | 68        | 1,052                    |
| 1992–93 <sup>(a)</sup> | 635        | 95             | 53        | 783                      |
| 1993–94 <sup>(a)</sup> | 613        | 101            | 50        | 764                      |
| 1994–95                | 590        | 112            | 153       | 855                      |
| 1995–96                | 525        | 69             | 74        | 668                      |
| <b>1996–97</b>         | <b>530</b> | <b>145</b>     | <b>33</b> | <b>709<sup>(b)</sup></b> |

(a) Data on adoptions by step-parents for New South Wales were not included from 1987–88 to 1993–94.

(b) Total includes one adoption of unknown arranging body.

Sources: ABS Cat. no. 4406.0, 1979–80 to 1984–85; WELSTAT 1987–88 to 1989–90; Bentley & Broadbent 1997.

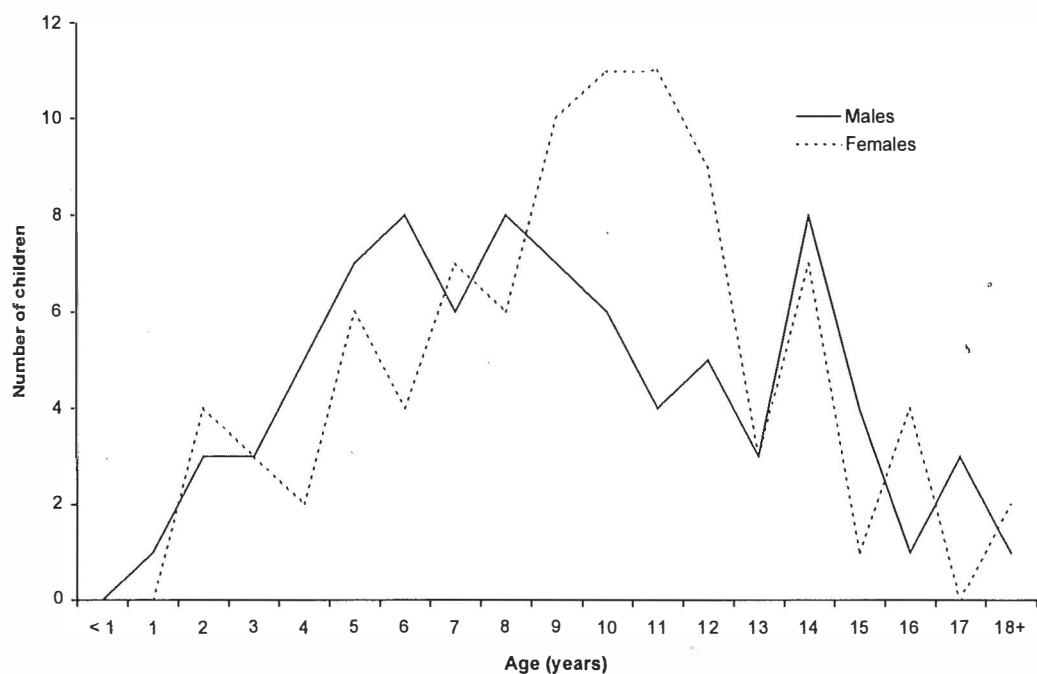
## 3.2 Adoptions by relatives—Australian-born children

The majority of adoptions of Australian-born children by relatives are adoptions by step-parents wishing to incorporate children into the new family. The aim of step-parent adoption is to provide the child with a clear legal position and status within the new family arrangement (Tasmania Department of Community and Health Services (DCHS) 1994).

Adoption by relatives other than step-parents is less common because most States and Territories have policies that promote the use of guardianship or custody orders, rather than adoptions, when placing children in the care of relatives other than parents (Stonehouse 1992). A summary of State and Territory legislation is included in Appendix 2. Adoption by relatives other than step-parents is generally discouraged because of the confusion and distortion that may occur to biological relationships. For example, if a child were adopted by his or her grandmother, then the birth mother would become the child's sibling. In Western Australia, adoptions by relatives other than step-parents are known as 'carer adoptions' and can occur only when the child has been in the care of the relative for at least 3 years. In all other States and Territories, legislative provisions allow for adoptions by relatives other than step-parents only in exceptional circumstances; that is, when a guardianship or custody order would not adequately provide for the welfare and interests of the adoptee.

In 1996–97 there were 177 adoptions of Australian-born children by relatives. The main points to be noted regarding these adoptions are:

- 93% of adoptions by relatives were adoptions by step-parents (Figure 1);
- there were fewer adoptions by relatives of Australian-born male children than of female children (83 compared with 94) (Table 2);
- 77% of adoptions of Australian-born children by relatives were of children aged between 5 and 14 years (Figure 3);
- there were no adoptions by relatives of Australian-born children under 1 year of age (Table 2);
- adoptions of Australian-born children by relatives have decreased overall over the past decade (from 605 in 1987–88 to 177 in 1996–97) (Table 6);
- the number of adoptions of Australian-born children by relatives did not change between 1995–96 and 1996–97;
- adoptions by relatives of Australian-born children increased in all States and Territories except Queensland;
- in Queensland, the number of adoptions of Australian-born children by relatives decreased from 88 in 1995–96 to 48 in 1996–97.



Note: Excludes 4 females of unknown age.

Source: AIHW unpublished data, 1996-97. See also Table 2.

**Figure 3: Age distribution of Australian-born children adopted by relatives, 1996-97**

**Table 6: Adoptions of Australian-born children by relatives by State and Territory, 1987-88 to 1996-97**

| Year    | NSW               | Vic | Qld | WA | SA  | Tas | ACT | NT | Total              |
|---------|-------------------|-----|-----|----|-----|-----|-----|----|--------------------|
| 1987-88 | 4                 | 5   | 131 | 89 | 301 | 57  | 10  | 8  | 605                |
| 1988-89 | 2                 | 112 | 146 | 60 | 131 | 20  | 19  | 10 | 500                |
| 1989-90 | n.a.              | 27  | 120 | 81 | 59  | 22  | 11  | 7  | n.a.               |
| 1990-91 | 9                 | 26  | 95  | 80 | 36  | 20  | 2   | 9  | 277                |
| 1991-92 | 13                | 27  | 109 | 77 | 33  | 29  | 2   | 5  | 295                |
| 1992-93 | 4                 | 21  | 124 | 55 | 37  | —   | 6   | 3  | 250                |
| 1993-94 | 1                 | 10  | 103 | 50 | 50  | 6   | 3   | 5  | 228                |
| 1994-95 | 48 <sup>(a)</sup> | 19  | 95  | 92 | 61  | 2   | 3   | —  | 320 <sup>(a)</sup> |
| 1995-96 | 32                | 15  | 88  | 21 | 14  | 1   | 6   | —  | 177                |
| 1996-97 | 43                | 18  | 48  | 30 | 19  | 6   | 12  | 1  | 177                |

(a) New South Wales includes data on adoptions by step-parents from 1994-95 onwards.

**Notes**

1. Figures relating to 1979-80 to 1984-85 are shown in previous issues of this publication.
2. The table does not include adoptions where the relationship of the adoptive parent was unknown.

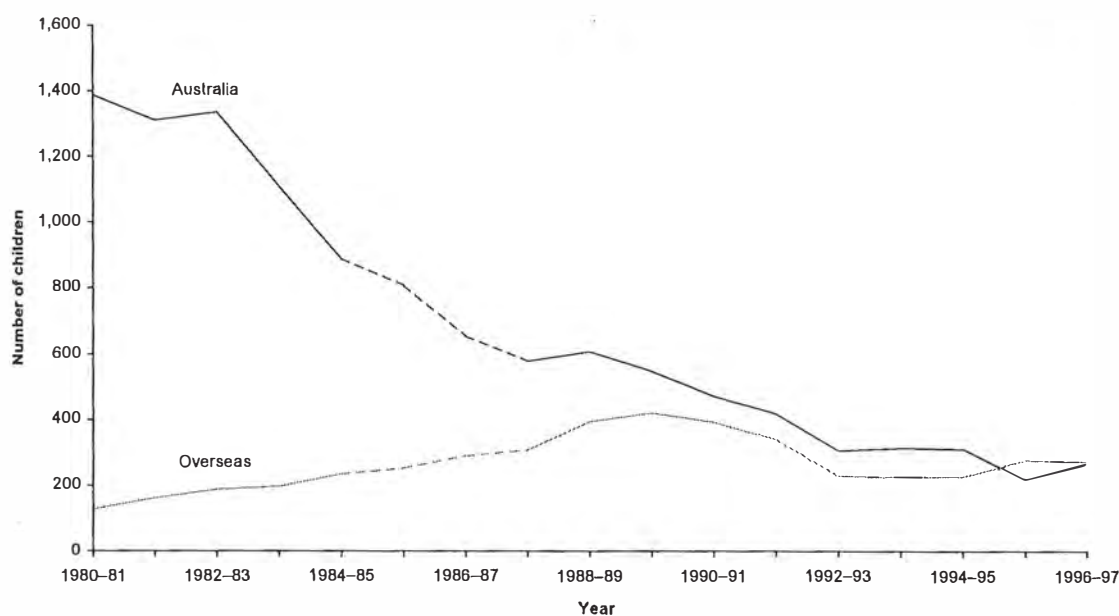
Sources: WELSTAT 1987-88 to 1989-90; Bentley & Broadbent 1997.

### 3.3 Adoptions by non-relatives

Data on adoptions by non-relatives includes adoptions of both Australian-born and overseas-born children. In recent years, a larger proportion of all adoptions by non-relatives has been of children from overseas. For example, in 1995–96, 56% of adoptions by non-relatives were of overseas-born children. However, in 1996–97 the proportions were roughly equal, with overseas-born children accounting for 51% of adoptions by non-relatives and Australian-born children accounting for 49% (Figure 4, Table 2).

Generally, the guardianship of a child for whom a general consent for adoption has been signed resides with the government department responsible for community services, or in the case of a non-government approved adoption agency, with the principal officer. The guardianship remains in force until the adoption order is made, the consent for adoption is revoked, or some other specified event occurs. In the case of adoption of overseas-born children, the Commonwealth Minister for Immigration assumes guardianship of the child for immigration purposes until an adoption order comes into effect. The Commonwealth Minister delegates such guardianship to the relevant State or Territory Minister, thereby allowing for the Director-General to give consent to the adoption (Boss 1992, p. 39).

As with adoptions by relatives, each State and Territory has its own legislation relating to the adoption of children by non-relatives. The process of adoption of an overseas-born child may also vary according to the requirements of different countries of origin. However, the main steps involved in the adoption by non-relatives of Australian-born and overseas-born children are similar across jurisdictions and are shown in Figure 5.



Note: Excludes one female and two males of unknown age.

Sources: Tables 8 & 12; ABS Cat. No. 4406.0, 1979–80 to 1984–85; WELSTAT 1987–88 to 1989–90; Bentley & Broadbent 1997.

Figure 4: Adoptions by non-relatives by birthplace of child, 1980–81 to 1996–97



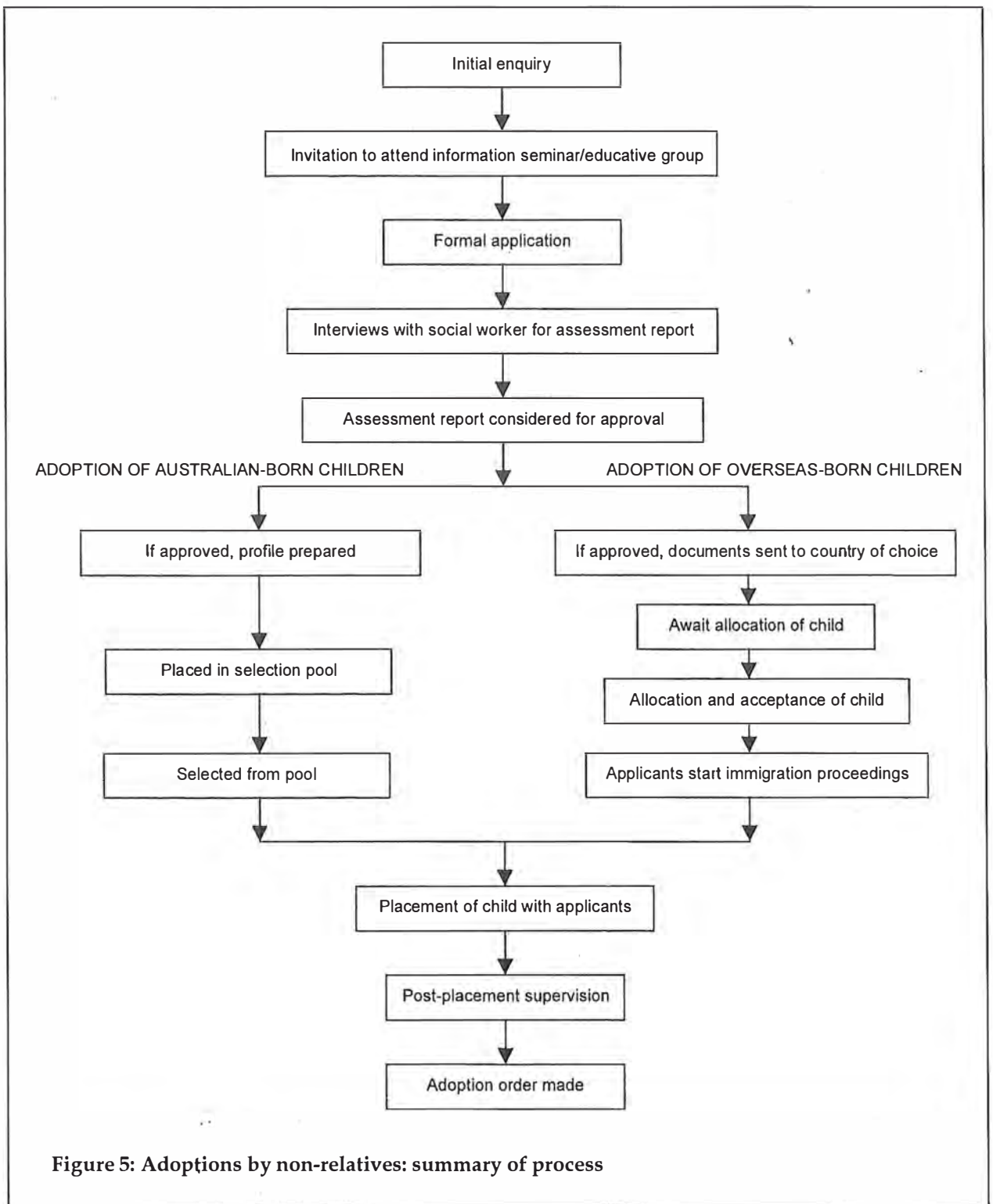


Figure 5: Adoptions by non-relatives: summary of process

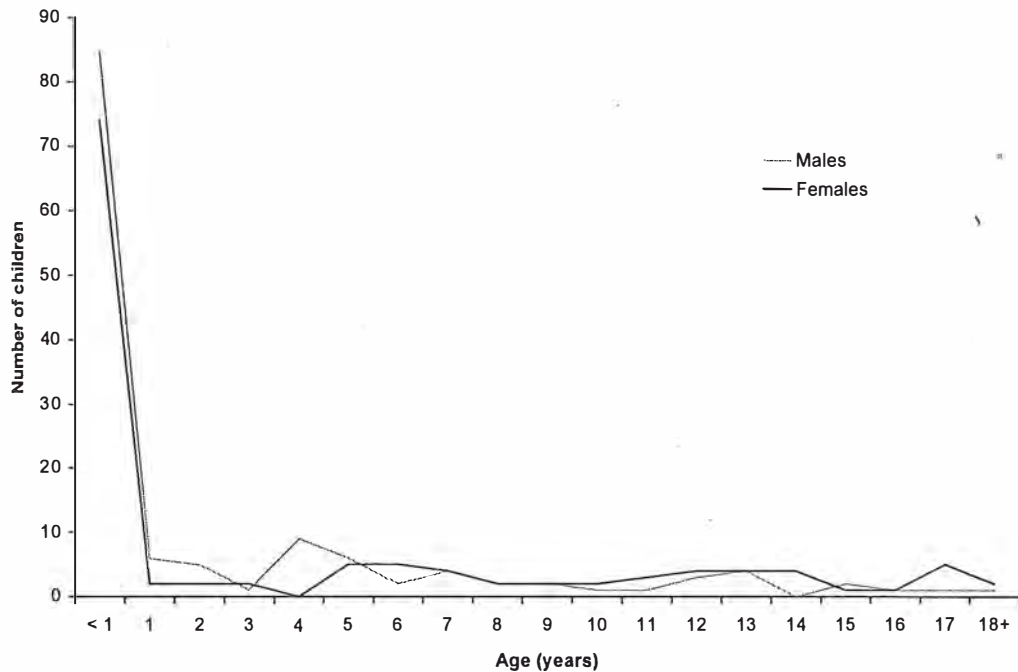
### 3.3.1 Australian-born children adopted by non-relatives

An Australian-born child is legally available for adoption by non-relatives if all the necessary consents to the child's adoption have been obtained or dispensed with. A couple wishing to adopt a child must satisfy the department or agency concerned that they will be suitable parents. Generally, only married couples are allowed to adopt unrelated children,

although de facto couples are eligible in New South Wales, Victoria, South Australia, Western Australia and the Australian Capital Territory (see Appendix 2). In New South Wales, Western Australia and the Australian Capital Territory, applications from single people are also accepted. Other factors considered in the assessment of the suitability of potential parents are their age, health, fertility, reasons for wanting to adopt, and the stability of their relationship.

In 1996-97, there were 263 adoptions of Australian-born children by non-relatives. The principle features of adoptions of Australian-born children by non-relatives are:

- 52% of adoptions by non-relatives of Australian-born children were of males, and 48% of females (Figure 6);
- 60% of adoptions by non-relatives of Australian-born children were of children aged under 1 year (Table 2);
- 10% of the 263 Australian-born children adopted by non-relatives were born to mothers who were married, 62% to mothers who were not married, with the remaining 28% of unknown marital status (Table 7);
- in States and Territories where the marital status of the mother was known for all adopted children, Tasmania and the Australian Capital Territory reported that all Australian-born children adopted by non-relatives were born to mothers who were not legally married and Queensland reported that 90% were born to mothers who were not legally married;
- it is important when looking at these data to keep in mind the large number of adoptions where marital status was unknown; it is also important to note that the term 'not married' births refers not only to single mothers, but also to women in de facto relationships.



Source: AIHW unpublished data, 1996-97. See also Table 2.

Figure 6: Age distribution of Australian-born children adopted by non-relatives, 1996-97

Table 7: Adoptions of Australian-born children by non-relatives by marital status of birth mother and State and Territory, 1996-97

|                   | NSW        | Vic        | Qld        | WA         | SA         | Tas        | ACT        | NT       | Total      |
|-------------------|------------|------------|------------|------------|------------|------------|------------|----------|------------|
| <b>Number</b>     |            |            |            |            |            |            |            |          |            |
| Married           | 11         | 6          | 4          | 2          | 3          | —          | —          | —        | 26         |
| Not married       | 72         | 28         | 36         | 8          | 8          | 9          | 2          | —        | 163        |
| Unknown           | 56         | 15         | —          | 3          | —          | —          | —          | —        | 74         |
| <b>Total</b>      | <b>139</b> | <b>49</b>  | <b>40</b>  | <b>13</b>  | <b>11</b>  | <b>9</b>   | <b>2</b>   | <b>—</b> | <b>263</b> |
| <b>Percentage</b> |            |            |            |            |            |            |            |          |            |
| Married           | 8          | 12         | 10         | 15         | 27         | —          | —          | —        | 10         |
| Not married       | 52         | 57         | 90         | 62         | 73         | 100        | 100        | —        | 62         |
| Unknown           | 40         | 31         | —          | 23         | —          | —          | —          | —        | 28         |
| <b>Total</b>      | <b>100</b> | <b>100</b> | <b>100</b> | <b>100</b> | <b>100</b> | <b>100</b> | <b>100</b> | <b>—</b> | <b>100</b> |

Note: Excludes Northern Territory as there was no adoptions of Australian-born children by non-relatives in that territory.

**Table 8: Adoptions of Australian-born children by non-relatives by State and Territory, 1987–88 to 1996–97**

| Year    | NSW | Vic | Qld | WA | SA <sup>(a)</sup> | Tas | ACT | NT | Total |
|---------|-----|-----|-----|----|-------------------|-----|-----|----|-------|
| 1987–88 | 171 | 109 | 153 | 65 | 32                | 29  | 11  | 8  | 578   |
| 1988–89 | 184 | 145 | 159 | 51 | 26                | 24  | 11  | 6  | 606   |
| 1989–90 | 144 | 135 | 128 | 27 | 74                | 26  | 7   | 6  | 547   |
| 1990–91 | 158 | 127 | 90  | 34 | 24                | 25  | 7   | 7  | 472   |
| 1991–92 | 151 | 91  | 96  | 19 | 29                | 16  | 11  | 5  | 418   |
| 1992–93 | 110 | 43  | 79  | 18 | 34                | 14  | 5   | 3  | 306   |
| 1993–94 | 98  | 72  | 77  | 35 | 22                | 17  | 8   | 1  | 314   |
| 1994–95 | 127 | 67  | 63  | 26 | 12                | 8   | 6   | 2  | 311   |
| 1995–96 | 67  | 59  | 45  | 25 | 5                 | 7   | 9   | —  | 217   |
| 1996–97 | 139 | 49  | 40  | 13 | 11                | 9   | 2   | —  | 263   |

(a) For this counting period, six adoptions by foster parents are included with adoptions of Australian-born children by non-relatives (previously adoptions by foster parents were included with adoptions of Australian-born children by relatives).

Note: Figures relating to 1979–80 to 1984–85 are shown in previous issues. No data on adoptions were collated nationally for 1985–86 to 1986–87. Table does not include adoptions where relationship to adoptive parents was unknown.

Sources: WELSTAT, 1987–88 to 1989–90; Bentley & Broadbent 1997.

**Table 9: Adoptions of Australian-born children by non-relatives by marital status of birth mother, 1987–88 to 1996–97**

| Year    | Married | Not Married | Unknown | Total |
|---------|---------|-------------|---------|-------|
| 1987–88 | 65      | 503         | 10      | 578   |
| 1988–89 | 73      | 528         | 5       | 606   |
| 1989–90 | 80      | 461         | 6       | 547   |
| 1990–91 | 72      | 397         | 3       | 472   |
| 1991–92 | 67      | 348         | 3       | 418   |
| 1992–93 | 45      | 259         | 2       | 306   |
| 1993–94 | 53      | 259         | 2       | 314   |
| 1994–95 | 55      | 243         | 13      | 311   |
| 1995–96 | 17      | 138         | 62      | 217   |
| 1996–97 | 26      | 163         | 74      | 263   |

Sources: WELSTAT, 1987–88 to 1989–90; Bentley & Broadbent 1997.

### 3.3.2 Adoption and placement of overseas-born children by non-relatives

#### Adoptions

The United Nations Convention on the Rights of the Child recognises:

...inter alia, that inter-country adoption may be considered as an alternative means of child care if the child cannot be placed in a foster or adoptive family, or cannot be cared for in any suitable manner in the child's country of origin. (United Nations General Assembly 1989)

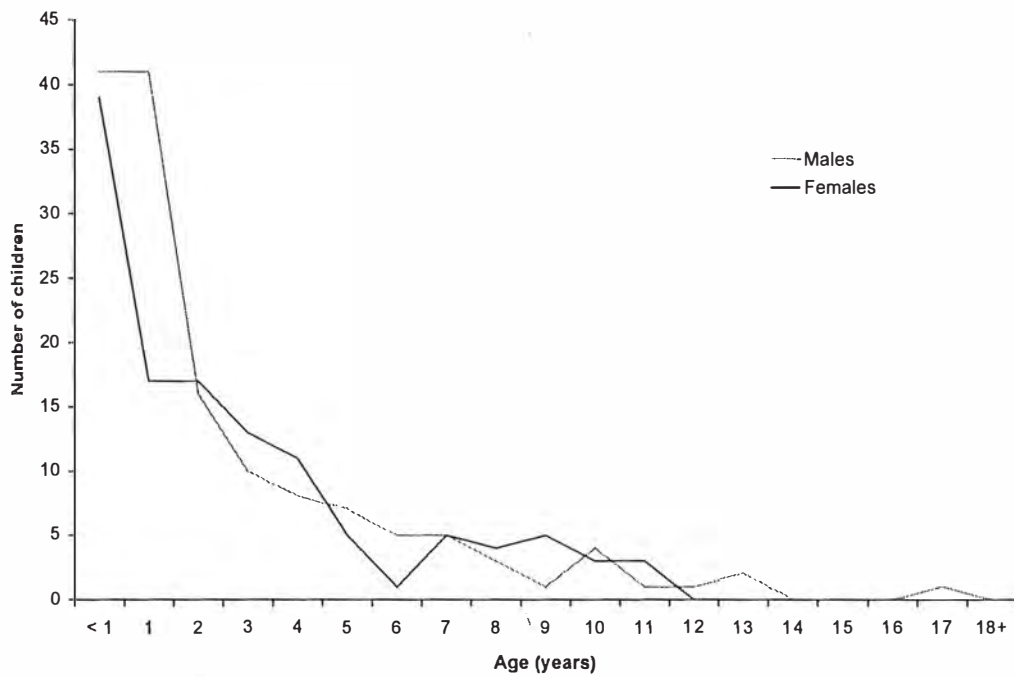
In Australia, from the mid-1970s to the mid-1980s, there was a substantial increase in the number of adoptions of children born overseas. The number declined somewhat in the early 1990s and has remained relatively stable over the past 5 years (Figure 4).

Since 1990-91, the majority of overseas-born children adopted by non-relatives have come from Columbia, India, Korea, the Philippines, Sri Lanka and Thailand. The process is strictly controlled by the Commonwealth under the *Immigration (Guardianship of Children) Act 1946* and adoption Acts in each State and Territory. Although the Commonwealth Government and State and Territory Governments are jointly responsible for investigating and approving overseas adoption programs, a suitable central agency in the overseas country is required to administer the program in accordance with Australian standards.

Children are usually placed with a family and, after a period of support and supervision, an adoption order is applied for. This is particularly the case for overseas-born children, who may be placed with the prospective adoptive parents a year or more before an adoption order is made.

The main points to be noted regarding adoption by non-relatives of overseas-born children are:

- in 1996-97, there were 269 adoptions of overseas-born children by non-relatives (Figure 1);
- 54% of overseas-born children adopted by non-relatives were male and 46% were female (Table 10);
- almost half the overseas-born children adopted by non-relatives were aged 1-4 years, and 30% were aged under 1 year (Figure 7);
- in 1996-97, 31% of overseas-born children adopted by non-relatives were from Korea, 13% from India and 13% from Thailand (Table 11);
- since 1990-91, 35% of the total number of overseas-born children adopted by non-relatives have been from Korea (Table 13).



Source: AIHW unpublished data, 1996-97. See also Table 2.

**Figure 7: Age distribution of overseas-born children adopted by non-relatives, 1996-97**

**Table 10: Adoptions of overseas-born children by non-relatives by country of birth and sex, 1996-97**

| Country of birth | Male       | Female     | Persons    |
|------------------|------------|------------|------------|
| Bolivia          | 1          | 2          | 3          |
| Brazil           | 2          | 1          | 3          |
| Cambodia         | 1          | —          | 1          |
| Chile            | —          | 2          | 2          |
| China            | —          | 1          | 1          |
| Colombia         | 13         | 10         | 23         |
| England          | 0          | 1          | 1          |
| Ethiopia         | 8          | 8          | 16         |
| Fiji             | 2          | 3          | 5          |
| Guatemala        | 2          | 5          | 7          |
| Honduras         | —          | —          | —          |
| Hong Kong        | 1          | 1          | 2          |
| India            | 6          | 29         | 35         |
| Korea            | 59         | 25         | 84         |
| Lebanon          | —          | —          | —          |
| Macedonia        | 2          | —          | 2          |
| Philippines      | 21         | 6          | 27         |
| Poland           | 2          | 1          | 3          |
| Romania          | 3          | 2          | 5          |
| Serbia           | —          | 1          | 1          |
| Sri Lanka        | 6          | 3          | 9          |
| Taiwan           | 2          | 2          | 4          |
| Thailand         | 14         | 20         | 34         |
| Ukraine          | 1          | —          | 1          |
| <b>Total</b>     | <b>146</b> | <b>123</b> | <b>269</b> |

**Table 11: Adoptions of overseas-born children by non-relatives by country of birth and State and Territory, 1996-97**

|                      | NSW        | Vic        | QLD        | WA         | SA         | Tas        | ACT        | NT         | Total      |
|----------------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|
| <b>Number</b>        |            |            |            |            |            |            |            |            |            |
| Colombia             | 20         | 1          | 2          | —          | —          | —          | —          | —          | 23         |
| Ethiopia             | 2          | 1          | 4          | —          | 5          | 4          | —          | —          | 16         |
| Fiji                 | 1          | 1          | 2          | —          | —          | 1          | —          | —          | 5          |
| Guatemala            | 1          | 6          | —          | —          | —          | —          | —          | —          | 7          |
| India                | 7          | 10         | 7          | 5          | 1          | 3          | 2          | —          | 35         |
| Korea <sup>(a)</sup> | 21         | 13         | 18         | 5          | 15         | 3          | 7          | 2          | 84         |
| Philippines          | 2          | 6          | 5          | —          | 12         | 2          | —          | —          | 27         |
| Romania              | 1          | 2          | —          | —          | —          | —          | 2          | —          | 5          |
| Sri Lanka            | 2          | 6          | 1          | —          | —          | —          | —          | —          | 9          |
| Thailand             | 8          | 5          | 2          | —          | 16         | 2          | 1          | —          | 34         |
| Other <sup>(b)</sup> | 16         | 5          | —          | 3          | —          | —          | —          | —          | 24         |
| <b>Total</b>         | <b>81</b>  | <b>56</b>  | <b>41</b>  | <b>13</b>  | <b>49</b>  | <b>15</b>  | <b>12</b>  | <b>2</b>   | <b>269</b> |
| <b>Percentage</b>    |            |            |            |            |            |            |            |            |            |
| Colombia             | 25         | 2          | 5          | —          | —          | —          | —          | —          | 9          |
| Ethiopia             | 2          | 2          | 10         | —          | 10         | 27         | —          | —          | 6          |
| Fiji                 | 1          | 2          | 5          | —          | —          | 7          | —          | —          | 2          |
| Guatemala            | 1          | 11         | —          | —          | —          | —          | —          | —          | 3          |
| India                | 9          | 18         | 17         | 38         | 2          | 20         | 17         | —          | 13         |
| Korea <sup>(a)</sup> | 26         | 23         | 44         | 38         | 31         | 20         | 58         | 100        | 31         |
| Philippines          | 2          | 11         | 12         | —          | 24         | 13         | —          | —          | 10         |
| Romania              | 1          | 4          | —          | —          | —          | —          | 17         | —          | 2          |
| Sri Lanka            | 2          | 11         | 2          | —          | —          | —          | —          | —          | 3          |
| Thailand             | 10         | 9          | 5          | —          | 33         | 13         | 8          | —          | 13         |
| Other <sup>(b)</sup> | 20         | 9          | —          | 23         | —          | —          | —          | —          | 9          |
| <b>Total</b>         | <b>100</b> | <b>100</b> | <b>100</b> | <b>100</b> | <b>100</b> | <b>100</b> | <b>100</b> | <b>100</b> | <b>100</b> |

(a) Includes North and South Korea.

(b) 'Other' includes Bolivia, Brazil, Cambodia, Chile, China, England, Hong Kong, Macedonia, Poland, Serbia, Taiwan and Ukraine.



**Table 12: Adoptions of overseas-born children by non-relatives by State and Territory, 1987–88 to 1996–97**

| Year           | NSW       | Vic       | Qld       | WA        | SA        | Tas       | ACT       | NT       | Total      |
|----------------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|----------|------------|
| 1987–88        | 105       | n.a.      | 22        | 37        | 83        | 34        | 15        | 12       | n.a.       |
| 1988–89        | 148       | 31        | 48        | 36        | 64        | 41        | 17        | 9        | 394        |
| 1989–90        | 216       | 50        | 30        | 20        | 41        | 23        | 32        | 8        | 420        |
| 1990–91        | 162       | 105       | 25        | 22        | 43        | 16        | 16        | 4        | 393        |
| 1991–92        | 145       | 67        | 27        | 24        | 50        | 13        | 10        | 2        | 338        |
| 1992–93        | 95        | 37        | 19        | 14        | 40        | 9         | 9         | 4        | 227        |
| 1993–94        | 89        | 30        | 26        | 16        | 34        | 14        | 10        | 3        | 222        |
| 1994–95        | 85        | 59        | 21        | 9         | 35        | 2         | 9         | 4        | 224        |
| 1995–96        | 105       | 57        | 37        | 29        | 29        | 9         | 4         | 4        | 274        |
| <b>1996–97</b> | <b>81</b> | <b>56</b> | <b>41</b> | <b>13</b> | <b>49</b> | <b>15</b> | <b>12</b> | <b>2</b> | <b>269</b> |

**Notes**

1. Figures relating to 1979–80 to 1984–85 are shown in previous issues.
2. Table does not include cases where relationship to adoptive parents was unknown.

Sources: WELSTAT 1987–88 to 1989–90; Bentley & Broadbent 1997.

**Table 13: Adoptions of overseas-born children by non-relatives, by country of birth and year, 1990–91 to 1996–97**

| Country of birth                | 1990–91    | 1991–92    | 1992–93    | 1993–94    | 1994–95    | 1995–96    | 1996–97    | Total        |
|---------------------------------|------------|------------|------------|------------|------------|------------|------------|--------------|
| <b>Number</b>                   |            |            |            |            |            |            |            |              |
| Chile                           | —          | 15         | —          | —          | —          | —          | —          | 15           |
| Columbia                        | —          | 14         | 26         | 22         | 16         | 40         | 23         | 141          |
| Fiji                            | —          | —          | —          | —          | —          | 13         | —          | 13           |
| India                           | 41         | 41         | 20         | 22         | 29         | 20         | 35         | 208          |
| Korea                           | 203        | 106        | 50         | 64         | 71         | 94         | 84         | 672          |
| Philippines                     | 30         | 37         | 17         | 14         | 22         | 22         | 27         | 169          |
| Sri Lanka                       | 24         | 43         | 38         | 33         | 18         | 14         | —          | 170          |
| Thailand                        | 15         | 34         | 26         | 20         | 25         | 18         | 34         | 172          |
| Other                           | 80         | 48         | 50         | 47         | 43         | 53         | 66         | 387          |
| <b>Total overseas adoptions</b> | <b>393</b> | <b>338</b> | <b>227</b> | <b>222</b> | <b>224</b> | <b>274</b> | <b>269</b> | <b>1,947</b> |
| <b>Percentage</b>               |            |            |            |            |            |            |            |              |
| Chile                           | —          | 4          | —          | —          | —          | —          | —          | 1            |
| Columbia                        | —          | 4          | 11         | 10         | 7          | 15         | 9          | 7            |
| Fiji                            | —          | —          | —          | —          | —          | 5          | —          | 1            |
| India                           | 10         | 12         | 9          | 10         | 13         | 7          | 13         | 11           |
| Korea                           | 52         | 31         | 22         | 29         | 32         | 34         | 31         | 35           |
| Philippines                     | 8          | 11         | 7          | 6          | 10         | 8          | 10         | 9            |
| Sri Lanka                       | 6          | 13         | 17         | 15         | 8          | 5          | —          | 9            |
| Thailand                        | 4          | 10         | 11         | 9          | 11         | 7          | 13         | 9            |
| Other                           | 20         | 14         | 22         | 21         | 19         | 19         | 25         | 20           |
| <b>Total overseas adoptions</b> | <b>100</b> | <b>100</b> | <b>100</b> | <b>100</b> | <b>100</b> | <b>100</b> | <b>100</b> | <b>100</b>   |

Sources: Angus & Golley 1996; Angus & Wilkinson 1994; Bentley & Broadbent 1997; Wilkinson & Angus 1993; Zabar & Angus 1994; Zabar & Angus 1995.

## **Visas granted**

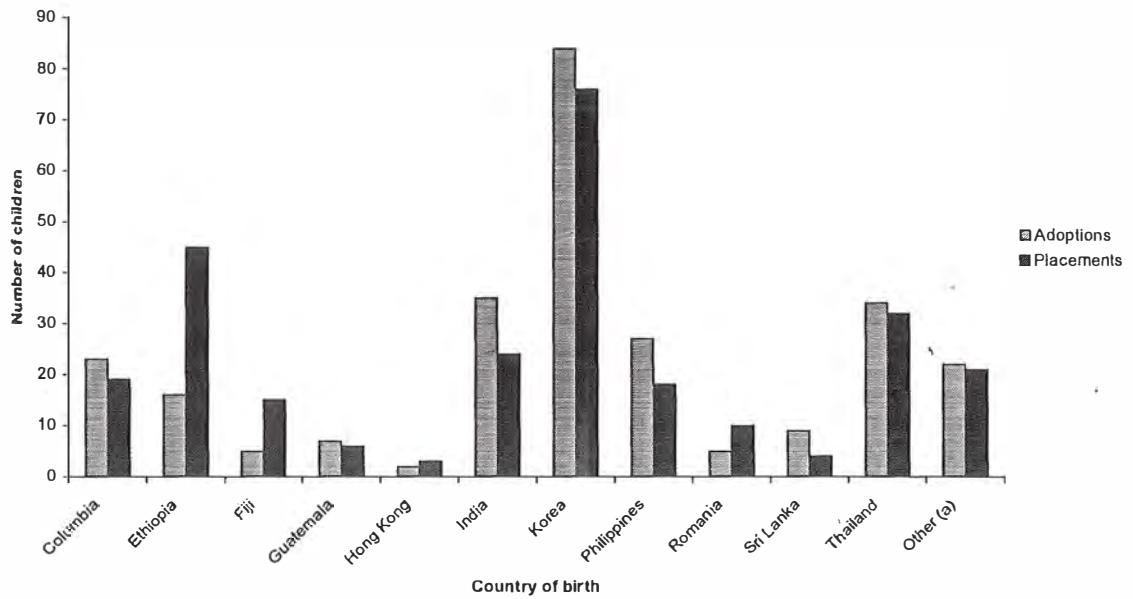
Once an application for an adoption of an overseas child by a non-relative is approved, a visa is required for the child to enter Australia. In 1996–97 there were 297 visas granted to overseas children for the purposes of adoption. This includes circumstances where the adoption was arranged through the State and Territory agencies in Australia (counted in this collection). The 297 visas also included a small number of adoptions that were not included in this collection. These were adoptions by Australian citizens or permanent residents who have lived overseas for 12 months or more and had adopted a child through an overseas agency. In such cases, the prospective adoptive parents are required to prove that they were not living overseas for the purpose of bypassing the legal requirements for the entry of adopted children into Australia, and that they have lawfully acquired full and parental rights in adopting the child.

## **Placement of overseas-born children**

In addition to data on overseas-born children adopted by non-relatives, data on the number of overseas-born children placed in Australia in 1996–97 before adoption were also collected by State and Territory community services departments. Note that although the adoption orders for some children placed for adoption in a particular year would be finalised during that year, other orders would not be finalised until later – it is usually in the following year. Therefore, children adopted in 1996–97 may have been placed either in that year or in the previous year.

The main points to note regarding placement of overseas-born children are:

- during 1996–97, there were 273 placements of overseas-born children (Table 14);
- distributions of country of birth of children in finalised adoptions and of children in placements mirrored one another to a large extent, a major exception being Ethiopia with 16 finalised adoptions by non-relatives in 1996–97 compared with 45 placements of overseas-born children in the same year (Figure 8).



(a) For adoptions, 'Other' includes Bolivia, Brazil, Cambodia, Chile, China, England, Macedonia, Poland, Serbia, Taiwan and Ukraine. For placements, 'Other' includes: Bolivia, England, Honduras, Lebanon, Macedonia, Poland, Serbia, Taiwan and Ukraine.

Source: Tables 10 and 14.

**Figure 8: Adoptions and placements of overseas-born children by country of birth, 1996-97**

**Table 14: Placements of overseas-born children by country of birth and State and Territory, 1996-97**

|                      | NSW        | Vic        | QLD        | WA         | SA         | Tas        | ACT        | NT         | Total      |
|----------------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|
| <b>Number</b>        |            |            |            |            |            |            |            |            |            |
| Columbia             | 19         | —          | —          | —          | —          | —          | —          | —          | 19         |
| Ethiopia             | 13         | 9          | 11         | 4          | 3          | 2          | 3          | —          | 45         |
| Fiji                 | 1          | 4          | 4          | —          | 3          | 2          | —          | 1          | 15         |
| Hong Kong            | —          | 1          | —          | —          | 2          | —          | —          | —          | 3          |
| India                | 3          | 8          | 2          | 6          | 4          | 1          | —          | —          | 24         |
| Korea <sup>(a)</sup> | 22         | 15         | 13         | 6          | 16         | —          | 4          | —          | 76         |
| Philippines          | 1          | 5          | 1          | 2          | 8          | 1          | —          | —          | 18         |
| Romania              | 4          | 4          | 1          | 1          | —          | —          | —          | —          | 10         |
| Thailand             | 7          | 5          | 3          | —          | 9          | 5          | 2          | 1          | 32         |
| Other <sup>(b)</sup> | 18         | 5          | 1          | 2          | 3          | —          | 2          | —          | 31         |
| <b>Total</b>         | <b>88</b>  | <b>56</b>  | <b>36</b>  | <b>21</b>  | <b>48</b>  | <b>11</b>  | <b>11</b>  | <b>2</b>   | <b>273</b> |
| <b>Percentage</b>    |            |            |            |            |            |            |            |            |            |
| Columbia             | 22         | —          | —          | —          | —          | —          | —          | —          | 7          |
| Ethiopia             | 15         | 16         | 31         | 19         | 6          | 18         | 27         | —          | 16         |
| Fiji                 | 1          | 7          | 11         | —          | 6          | 18         | —          | 50         | 5          |
| Hong Kong            | —          | 2          | —          | —          | 4          | —          | —          | —          | 1          |
| India                | 3          | 14         | 6          | 29         | 8          | 9          | —          | —          | 9          |
| Korea <sup>(a)</sup> | 25         | 27         | 36         | 29         | 33         | —          | 36         | —          | 28         |
| Philippines          | 1          | 9          | 3          | 10         | 17         | 9          | —          | —          | 7          |
| Romania              | 5          | 7          | 3          | 5          | —          | —          | —          | —          | 4          |
| Thailand             | 8          | 9          | 8          | —          | 19         | 45         | 18         | 50         | 12         |
| Other <sup>(b)</sup> | 20         | 9          | 3          | 10         | 6          | 0          | 18         | —          | 11         |
| <b>Total</b>         | <b>100</b> | <b>100</b> | <b>100</b> | <b>100</b> | <b>100</b> | <b>100</b> | <b>100</b> | <b>100</b> | <b>100</b> |

(a) Includes North Korea and South Korea.

(b) 'Other' includes: Bolivia, England, Guatemala, Honduras, Lebanon, Macedonia, Poland, Serbia, Sri Lanka, Taiwan and Ukraine.

### 3.3.3 Children legally available for adoption by non-relatives

Most children who are legally available for adoption live with prospective adoptive parents or in foster care. As in previous years, the summary data are for all States and Territories, excluding Victoria.

The principle features of children legally available for adoption by non-relatives are:

- at 30 June 1997, there were 295 children legally available for adoption by non-relatives, an increase of 29% from the 229 children legally available for adoption at 30 June 1996;
- at 30 June 1997 the majority of children legally available for adoption by non-relatives (81%) were living with their prospective adoptive parents (Table 15);
- since it is not general practice in Queensland to place children with prospective adoptive parents before adoption, there were no children legally available for adoption living with prospective parents, and 90% of children were living in foster care (Table 16).

**Table 15: Children legally available for adoption by non-relatives at 30 June 1997 (excluding Victoria): location of child by type of arranging body**

| Location of child                        | State/Territory<br>community service<br>department | Non-government<br>organisation | Total      |
|--|--|--------------------------------|------------|
|  | Number   |                                |            |
| Living with prospective adoptive parents | 155  | 85                             | 240        |
| Foster care                              | 49   | 2                              | 51         |
| Hospital/nursing home                    | 1  | —                              | 1          |
| Other                                    | 3  | —                              | 3          |
| <b>Total</b>                             | <b>208</b>   | <b>87</b>                      | <b>295</b> |
|  | Percentage   |                                |            |
| Living with prospective adoptive parents | 75   | 98                             | 81         |
| Foster care                              | 24   | 2                              | 17         |
| Hospital/nursing home                    | —  | —                              | —          |
| Other                                    | 1  | —                              | 1          |
| <b>Total</b>                             | <b>100</b>   | <b>100</b>                     | <b>100</b> |

*Notes*

1. Excludes Victoria as data were not available. See Appendix 1 for definition of 'other' locations.
2. Seven of the 12 children born overseas and placed in Australia at 30 June 1997 already had adoption orders that were awaiting validation by the Australian Capital Territory Supreme Court.

**Table 16: Children legally available for adoption by non-relatives by location of child and State and Territory (excluding Victoria) at 30 June 1993, 1994, 1995, 1996 and 1997**

|                              | NSW        | Qld       | WA        | SA        | Tas       | ACT <sup>(b)</sup> | NT        |
|------------------------------|------------|-----------|-----------|-----------|-----------|--------------------|-----------|
| <b>At 30 June 1993</b>       |            |           |           |           |           |                    |           |
| Prospective adoptive parents | 135        | —         | 39        | —         | 29        | 11                 | 10        |
| Foster care                  | 12         | 50        | 17        | —         | 2         | 1                  | —         |
| Other <sup>(a)</sup>         | 1          | 23        | 1         | —         | —         | —                  | —         |
| <i>Total</i>                 | <i>148</i> | <i>73</i> | <i>57</i> | <i>—</i>  | <i>31</i> | <i>12</i>          | <i>10</i> |
| <b>At 30 June 1994</b>       |            |           |           |           |           |                    |           |
| Prospective adoptive parents | 107        | —         | 31        | 49        | 4         | —                  | 1         |
| Foster care                  | 49         | 54        | 8         | —         | 1         | 1                  | 1         |
| Other <sup>(a)</sup>         | 1          | 8         | —         | —         | —         | —                  | —         |
| <i>Total</i>                 | <i>157</i> | <i>62</i> | <i>39</i> | <i>49</i> | <i>5</i>  | <i>1</i>           | <i>2</i>  |
| <b>At 30 June 1995</b>       |            |           |           |           |           |                    |           |
| Prospective adoptive parents | 60         | —         | 67        | 47        | 3         | 2                  | 5         |
| Foster care                  | 14         | 45        | 6         | —         | —         | 1                  | —         |
| Other <sup>(a)</sup>         | —          | 8         | 2         | —         | —         | —                  | —         |
| <i>Total</i>                 | <i>74</i>  | <i>53</i> | <i>75</i> | <i>47</i> | <i>3</i>  | <i>3</i>           | <i>5</i>  |
| <b>At 30 June 1996</b>       |            |           |           |           |           |                    |           |
| Prospective adoptive parents | 61         | 2         | 32        | 55        | 1         | 7                  | 8         |
| Foster care                  | 6          | 38        | 10        | —         | —         | 1                  | 1         |
| Other <sup>(a)</sup>         | —          | 5         | 1         | —         | —         | 1                  | —         |
| <i>Total</i>                 | <i>67</i>  | <i>45</i> | <i>43</i> | <i>55</i> | <i>1</i>  | <i>9</i>           | <i>9</i>  |
| <b>At 30 June 1997</b>       |            |           |           |           |           |                    |           |
| Prospective adoptive parents | 115        | —         | 46        | 62        | 3         | 13                 | 1         |
| Foster care                  | 8          | 28        | 9         | 3         | 3         | —                  | —         |
| Other <sup>(a)</sup>         | —          | 3         | 1         | —         | —         | —                  | —         |
| <i>Total</i>                 | <i>123</i> | <i>31</i> | <i>56</i> | <i>65</i> | <i>6</i>  | <i>13</i>          | <i>1</i>  |

(a) 'Other' includes hospital/nursing home.

(b) Seven of the 12 children born overseas and placed in Australia already had adoption orders, which were awaiting validation by the Australian Capital Territory Supreme Court

*Note:* Excludes Victoria as data were not available. See Appendix 1 for definition of 'other' locations.

*Source:* Bentley & Broadbent 1997.

### 3.4 Adoption of Indigenous children

Only a very small number of Indigenous children are adopted. Seven Indigenous children (two males and five females) were adopted in 1996–97, two by relatives and five by non-relatives (Table 17). Although the States and Territories have differing legislation and policies relating to the adoption of Indigenous children, the prevailing view is that, where possible, they should be adopted by Indigenous people so as to maintain their cultural integrity. However, such an option may not always be available, and they are then adopted by appropriate families. In Western Australia, legislation permits the birth parents to specify the type of adoptive family for their child.

In 1996–97, of the five Indigenous children adopted by non-relatives, three were adopted by Indigenous parents and two by other Australian parents.

**Table 17: Adoptions of Indigenous children by sex of adopted child, relationship to other Australian adoptive parents, 1996–97**

| Sex of adopted child | Adopted by relatives |                  | Adopted by non-relatives |                  | Total      |                  | Total    |
|----------------------|----------------------|------------------|--------------------------|------------------|------------|------------------|----------|
|                      | Indigenous           | Other Australian | Indigenous               | Other Indigenous | Indigenous | Other Australian |          |
| Males                | 2                    | —                | —                        | —                | 2          | —                | 2        |
| Females              | —                    | —                | 3                        | 2                | 3          | 2                | 5        |
| <b>Total</b>         | <b>2</b>             | <b>—</b>         | <b>3</b>                 | <b>2</b>         | <b>5</b>   | <b>2</b>         | <b>7</b> |

**Table 18: Indigenous adoptions by relationship to adoptive parents and Indigenous status of adoptive parents, 1991–92 to 1996–97**

| Relationship to adoptee/Indigenous status | 1991–92  | 1992–93  | 1993–94   | 1994–95   | 1995–96  | 1996–97  |
|---|----------|----------|-----------|-----------|----------|----------|
| <b>Relative</b>                           |          |          |           |           |          |          |
| Indigenous                                | 2        | —        | 1         | —         | —        | 2        |
| Other                                     | —        | —        | —         | —         | —        | —        |
| <i>Total relatives</i>                    | 2        | —        | 1         | —         | —        | 2        |
| <b>Non-relative</b>                       |          |          |           |           |          |          |
| Indigenous                                | 3        | 5        | 6         | 7         | 2        | 1        |
| Other                                     | 3        | 2        | 6         | 5         | 5        | 4        |
| <i>Total non-relatives</i>                | 6        | 7        | 12        | 12        | 7        | 5        |
| <b>Total</b>                              |          |          |           |           |          |          |
| Indigenous                                | 5        | 5        | 7         | 7         | 2        | 3        |
| Other                                     | 3        | 2        | 6         | 5         | 5        | 4        |
| <b>Total</b>                              | <b>8</b> | <b>7</b> | <b>13</b> | <b>12</b> | <b>7</b> | <b>7</b> |

Source: Bentley & Broadbent 1997.

### 3.5 Permanent care orders

Most alternatives to adoption (such as placing children on guardianship or custody orders) do not provide a permanent arrangement for the child or the 'new' family. In 1992, Victoria introduced permanent care orders to overcome this problem. Permanent care orders grant permanent guardianship and custody of a child to a third party. Unlike adoption orders, permanent care orders do not change the legal status of the child and they expire when the child turns 18 or marries. There is also provision for an application to be made to revoke or amend a permanent care order. The granting of a permanent care order is usually the final step in the process of permanent family placement for children who have been abused or neglected, or who are in need of care and protection for other reasons and are unable to remain safely within the birth family. The aim of placing a child on a permanent care order is to provide an opportunity for the child to develop a stable caring relationship with nurturing caregivers without severing the tie with the biological family.

The main features to be noted regarding permanent care orders are:

- in 1996-97 there were 95 permanent care orders granted in Victoria, bringing the total number since inception to 425 (Table 19);
- detailed data on these orders for 1996-97 have been included in the report *Child Protection Australia* (in press).

**Table 19: Number of permanent care orders granted in Victoria from 1992-93 to 1996-97**

| Year    | Males | Females | Total |
|---------|-------|---------|-------|
| 1992-93 | 7     | 4       | 11    |
| 1993-94 | 36    | 38      | 74    |
| 1994-95 | 65    | 70      | 135   |
| 1995-96 | 56    | 54      | 110   |
| 1996-97 | 54    | 41      | 95    |

Source: Bentley & Broadbent 1997.



## 3.6 Access to information

Adoption law in Australia has undergone significant change in the past decade, particularly in the area of access to information. Currently, all States and Territories have legislation that grants rights to information to adopted people who are 18 years or older, and to their birth parents. However, the extent of these rights and of the protection of the privacy of all parties varies among States and Territories.

In an attempt to achieve a balance between the right to information and the right to privacy, most States and Territories have limited the right to information. The States and Territories have achieved this by requiring the consent of the person to be identified and by giving that person the opportunity to apply for an information veto to prevent disclosure of information, and/or a contact veto to prevent contact.

In the case of a veto on identifying information, a party to an adoption may, in some States and Territories, make an application requesting that identifying information not be released to any other party to the adoption. A contact veto can be lodged when a person does not wish to be contacted by another party to the adoption. These vetoes are legally binding and if a person receives identifying information and goes on to contact the other party where a contact veto is in place, legal action can be taken. Contact and information vetoes can, however, be lifted by the person who lodged them. In some States and Territories, vetoes have a limited life and new applications need to be lodged for vetoes to continue.

### 3.6.1 Information applications

All States and Territories have established adoption information services or information and contact registers (or other similar systems). In Victoria, South Australia, Tasmania and the Northern Territory, people requesting information must attend an interview with an approved counsellor before the information can be released. The purpose of counselling is to ensure that the rights of all parties involved are fully understood and that people are made aware of some of the issues which may arise in the search and reunion process. In Western Australia, a person wishing to gain access to identifying information is not required to be interviewed by an approved counsellor. However, an interview is required if a person wishes to lodge an information veto and a counselling interview is offered to those wishing to lodge a contact veto.

A description of the policies and practices relating to access to information in each State and Territory is given in Appendix 3.

The main points to be noted regarding access to information for 1996-97 are:

- in 1996-97, there were 4,176 information applications made (New South Wales not included);
- 63% of the information applications were made by the adopted person, 28% by the birth parents, 7% by other birth relatives and 2% by adoptive parents (Table 20).

**Table 20: Information applications lodged by person lodging application and State and Territory, 1996–97**

| Person lodging application | NSW <sup>(a)</sup> | Vic          | Qld <sup>(b)</sup> | WA         | SA <sup>(c)</sup> | Tas        | ACT       | NT        | Total <sup>(d)</sup> |
|----------------------------|--------------------|--------------|--------------------|------------|-------------------|------------|-----------|-----------|----------------------|
| Adopted person             | n.a.               | 842          | 732                | 412        | 409               | 165        | 29        | 32        | 2,621                |
| Adoptive parents           | n.a.               | 18           | 1                  | 30         | —                 | 4          | 2         | 10        | 65                   |
| Birth parents              | n.a.               | 179          | 233                | 182        | 514               | 58         | 11        | 1         | 1,178                |
| Other birth relatives      | n.a.               | 146          | 32                 | 94         | 19                | 20         | 1         | —         | 312                  |
| <b>Total</b>               | <b>n.a.</b>        | <b>1,185</b> | <b>998</b>         | <b>718</b> | <b>942</b>        | <b>247</b> | <b>43</b> | <b>43</b> | <b>4,176</b>         |

(a) Information about the number of applications for information lodged is not available for the period 1996–97.

(b) Other birth relatives' includes ten applications from persons related to adopted child. The remainder are related to the birth mother. Total excludes 10 applications where the client type is yet to be validated.

(c) Under South Australian legislation, adoptive parents may not apply for identifying information.

(d) Total excludes New South Wales.

**Table 21: Information applications and contact and information vetoes lodged, 1995–96 and 1996–97**

| Year    | Information applications | Contact and information vetoes lodged <sup>(a)</sup> |
|---------|--------------------------|--|
| 1995–96 | 5,567                    | 426  |
| 1996–97 | 4,176 <sup>(b)</sup>     | 259  |

(a) Victoria and Tasmania are not included, as no veto system operates in either State.

(b) Total excludes New South Wales for 1996–97.

Source: Bentley & Broadbent 1997.

### 3.6.2 Contact and identifying information vetoes

Contact vetoes lodged do not necessarily relate directly to the information applications lodged – contact vetoes may have been lodged in relation to adoptions for which information may never be requested.

The principle features of contact and identifying information vetoes for 1996–97 are:

- there were 259 contact and identifying information vetoes lodged, comprising 117 contact vetoes and 142 identifying information vetoes (Table 22);
- the number of vetoes lodged fell by 39% from 1995–96 to 1996–97 (Table 21);
- as in previous years, the number of applications for information far exceeded the number of vetoes lodged against contact or the release of identifying information.

**Table 22: Contact or identifying information vetoes lodged: person lodging veto by State and Territory, 1996–97**

|  | NSW <sup>(a)</sup> | Qld <sup>(b)</sup> | WA <sup>(c)</sup> | SA <sup>(d)</sup> | ACT <sup>(e)</sup> | NT <sup>(f)</sup> | Total <sup>(g)</sup> |
|--|--------------------|--------------------|-------------------|-------------------|--------------------|-------------------|----------------------|
| <b>Lodgments of contact vetoes by:</b>                 |                    |                    |                   |                   |                    |                   |                      |
| Adopted person   | 33                 | 3                  | 19                | ..                | 3                  | —                 | 58                   |
| Adoptive parents                                       | —                  | —                  | 15                | ..                | 4                  | —                 | 19                   |
| Birth parents  | 15                 | 2                  | 18                | ..                | 2                  | 2                 | 39                   |
| Other birth relatives                                  | —                  | —                  | 1                 | ..                | —                  | —                 | 1                    |
| <b>Total</b>   | <b>48</b>          | <b>5</b>           | <b>53</b>         | <b>..</b>         | <b>9</b>           | <b>2</b>          | <b>117</b>           |
| <b>Lodgments of identifying information vetoes by:</b> |                    |                    |                   |                   |                    |                   |                      |
| Adopted persons  | ..                 | 47                 | 16                | 25                | ..                 | —                 | 88                   |
| Adoptive parents                                       | ..                 | —                  | 13                | —                 | ..                 | —                 | 13                   |
| Birth parents  | ..                 | 15                 | 11                | 13                | ..                 | 2                 | 41                   |
| Other birth relatives                                  | ..                 | —                  | —                 | —                 | ..                 | —                 | —                    |
| <b>Total</b>   | <b>..</b>          | <b>62</b>          | <b>40</b>         | <b>38</b>         | <b>..</b>          | <b>2</b>          | <b>142</b>           |

- (a) In New South Wales, only adopted persons and birth parents may lodge a contact veto and the release of identifying information cannot be vetoed.
- (b) In Queensland, only birth parents and adopted persons can lodge contact vetoes or contact and identifying information vetoes.
- (c) In Western Australia, other birth relatives (excluding birth parents) cannot lodge information vetoes unless they were party to the adoption. Different rules for veto lodgements apply to adoptions granted after 1 January 1995.
- (d) In South Australia, only identifying information vetoes can be lodged.
- (e) In the Australian Capital Territory, the release of identifying information cannot be vetoed.
- (f) In the Northern Territory, both contact and identifying information are vetoed in the same veto lodgement and only the adopted person and birth parent are able to lodge vetoes.
- (g) Victoria and Tasmania are not included in the total, as no veto system operates in either State.

# Appendix 1: Glossary

## **Adoption**

An adoption is the legal effect of an adoption order. It establishes a child or adult as if he or she were the issue of a particular person or persons. It also establishes the adopting persons as the parents of the child, as if the child had been born to them.

## **Adoption order**

An adoption order is an administrative order usually made by a court under adoption legislation. It excludes legitimisation orders made under the Commonwealth *Marriage Act 1961*.

## **Adoptive parent**

An adoptive parent is a person who has become the parent of a child or adult as the result of an adoption order. In some States, a de facto partner of a parent may become an adoptive parent (See 'Adoption by non-relatives' in Section 2.4).

## **Age of child**

For the purpose of this collection, the age of an adopted person is generally counted at the date of the adoption order (in completed years, or in completed calendar months where the age is less than 1 year). In New South Wales, and for people adopted by non-relatives in South Australia and Tasmania, age is counted at the date of placement (that is, the date on which the adopted person began living with the adoptive parents).

Note that the date of placement could be a considerable time before the date of the adoption order.

## **Age of birth mother**

The age of the birth mother is the age, in complete years, at the child's birth.

## **Child**

A child is a person aged less than 18 years. Under most State and Territory adoption legislation, it can include an older person for whom an adoption order is sought or has been made.

## **Child legally available for adoption by non-relatives**

A child is legally available for adoption by non-relatives if all the legally necessary consents by relatives or others to the child's adoption have been obtained or legally dispensed with. The consent of the Minister or the director or another official of the State or Territory community services department does not have to be obtained for the child to be available for adoption.

Children whose adoption has been deferred or who are already living with their prospective adoptive parents are included in this category. Children brought to Australia from overseas are included only if they are legally available for adoption under Australian legislation.

Orphan children under the guardianship of a State or Territory community services department are included only if an adoption consent was signed by at least one of the child's parents or if active steps are being taken to find adoptive parents for the child.

### **Guardianship**

In this publication, 'guardianship' refers to the allocation of responsibility for a child's total welfare to a couple or individual, rather than to a community services department or other authorised department. Guardianship is not regarded as adoption, although some children under guardianship may be included in the count of children legally available for adoption.

### **Location of child**

A child legally available for adoption is placed in one of the following location categories: living with prospective adoptive parents, foster care, hospital or nursing home, or 'other'.

#### *Living with prospective adoptive parents*

A child in this category is living with prospective adoptive parents under the supervision of an adoption agency. The prospective parents must not be in receipt of a foster allowance for the support of the child. Cases where a child's foster parents have applied to adopt him or her are included only if the foster parents no longer receive a foster allowance for the child.

#### *Foster care*

A child is regarded as being in foster care when he or she is living in a private household apart from that of his or her natural or adoptive parents and is being cared for by one or more adults approved by the relevant community services department. The adults are acting as substitute parents to the child and are being paid a regular allowance for the child's support by a government authority or non-government organisation.

#### *Hospital or nursing home*

A child is living in a hospital or nursing home if he or she is living in an establishment mainly engaged in providing hospital (including psychiatric or mental hospital) facilities such as diagnostic medical or surgical services as well as continuous inpatient nursing care, or nursing or convalescent home facilities (including the provision of nursing or medical care as a basic part of the service).

#### *Other*

The 'other' category includes all children who are legally available for adoption and are living neither with prospective adoptive parents nor in foster care, a hospital or a nursing home. It includes children living in arrangements such as boarding schools, prisons, residential adult care establishments, with adults who are not their prospective adoptive parents or foster parents, living independently, or are on unauthorised absence from their usual location.

### **Relative**

A relative is a parent or other relative as defined in the following two paragraphs.

### *Parent*

A parent is a natural (i.e. biological) parent, a spouse of a natural parent (i.e. a step-parent), an adoptive parent through a previous adoption order or a spouse of an adoptive parent. Foster parents are excluded unless they otherwise fit the definition.

### *Other relative*

'Other relative' means a grandparent, brother, sister, aunt or uncle, whether the relationship is full-blood, half-blood or by marriage, and includes relationships based on the adoption of any person or traced through or to a person whose parents were not married to each other at the time of the birth or subsequently.

### *Non-relative*

A non-relative is a person who is not a parent or other relative, as defined above.

### **Arranging body**

An arranging body is an agency authorised under legislation to approve and arrange adoptions. Adoptions can be arranged by governments, State and Territory community services departments, and non-government agencies.

### *Government*

A government authority is an agency in Australia that is owned or controlled by the Commonwealth or a State or Territory Government, including departments, statutory authorities, and public hospitals not run by religious institutions. In recent years, no adoptions were arranged through government departments other than community services departments.

### *State and Territory community services departments*

A State or Territory community services department is one of the contributing departments listed on page vii of this publication. In recent years, all adoptions arranged through government departments have been arranged through community services departments.

### *Non-government agency*

A non-government agency is an agency in Australia that is not owned or controlled by the Commonwealth Government or by a State or Territory Government. This includes public hospitals run by religious institutions, private hospitals, church organisations, religious communities, registered charities, voluntary agencies, non-profit organisations, companies, and cooperative societies and associations.

### **Other arrangements**

Some adoptions by relatives, predominantly step-parents, are arranged by bodies other than the department responsible for community services or a non-government agency. For instance, arrangements may be made between the parties to the adoption and an application then made to the court (as in New South Wales and Victoria). Further details are given in Appendix 2.

# Appendix 2: Summary of legislation

## **Commonwealth**

*Immigration (Guardianship of Children) Act 1946*

*Marriage Act 1961*

*Family Law Reform Act 1996*

## **New South Wales**

*Adoption of Children Act 1965*

Adoption of Children Regulation 1995

*Adoption Information Act 1990*

Adoption Information Regulations 1996

## **Level of court**

Supreme Court of New South Wales

## **Step-parent adoptions**

Application may be made to the Supreme Court by a step-parent for formal adoption of a step-child. A social worker is appointed by the New South Wales Department of Community Services (DCS) to provide a written assessment of the case which is submitted with the application to court.

## **Other-relative adoptions**

There is provision for adoptions by relatives, other than step-parents, in exceptional circumstances, that is, when a guardianship or custody order will not adequately provide for the interests and welfare of the child.

## **Non-relative adoptions**

Eligibility requirements:

- married couple;
- de facto couple who have lived together for more than 3 years and the child has been living with the applicants for more than 2 years, or they are adopting a special needs child;
- single people if adopting a special needs child or if absent spouse consents.

This system operates as a hierarchy. If a married couple and a de facto couple wish to adopt a child, the married couple are given priority.

Arrangements may be made by DCS or approved non-government organisations such as Centacare Adoptions Services, Anglican Adoption Agency and Barnardo's Australia.



## **Adoption of Indigenous children**

Restrictive eligibility criteria for adoptive parents in accordance with the Indigenous placement principle.

## **Victoria**

*Adoption Act 1984*

Adoption Regulations 1998

*Adoption (Amendment) Act 1991*

### **Level of court**

Supreme Court and County Court

### **Step-parent adoptions**

In all cases of placement with relatives, guardianship orders are the first consideration. A solicitor may prepare an application for formal adoption by a step-parent or other relative. The application must be notified to the Department of Human Services (DHS) or an approved non-government adoption agency for the preparation of an assessment report on the prospective adoptive parents. Report submitted with application to the County or Supreme Court.

Approved non-government adoption agencies operating in Victoria include Copelen Street Family Services, Anglicare Western, Anglicare Gippsland, Catholic Family Welfare Bureau, Westate Permanent Care Team, and Ballarat Children's Home and Family Services.

### **Other-relative adoptions**

Provision for adoptions by relatives other than step-parents in exceptional circumstances, that is, when a guardianship or custody order will not adequately provide for the interests and welfare of the child.

### **Non-relative adoptions**

Eligibility requirements:

- married/defacto couple of more than 2 years;
- single person in certain circumstances.

Adoption may be arranged by the DHS or approved non-government organisation (see step-parent adoptions).

## **Adoption of Indigenous children**

Restrictive eligibility criteria are in place for selection of adoptive parents for Indigenous children. The birth parent(s) of an Indigenous child can place the condition on adoption that the child go to Indigenous adoptive parents, or that a right of access be granted to the natural parents, other relatives and members of the Aboriginal community.

## **Queensland**

*Adoption of Children Act 1964*

Adoption of Children Regulation 1988



## **Level of court**

The Director-General of the Department of Families, Youth and Community Care (DFYCC) is solely responsible for adoption administration. The Children's Court or Supreme Court may be involved with the dispensation of consent. The Supreme Court also has the power to recognise adoption orders made under the law of a country outside the Commonwealth and the territories of the Commonwealth as well as the power to discharge an adoption order for the adoption of a child made under the *Adoption of Children Act 1964*.

## **Step-parent adoptions**

Adoption by step-parents can be arranged only through the DFYCC.

## **Other-relative adoptions**

There is provision for adoption by relatives other than step-parents in exceptional circumstances, that is, when a guardianship or custody order will not adequately provide for the interests and welfare of the child.

Adoption by relatives can be arranged only through DFYCC.

## **Non-relative adoptions**

Eligibility requirements:

Initial/first applicants:

- General adoption – married for at least 2 years, in good health, both applicants must be under 36 years of age, infertile and childless, one must be an Australian citizen, resident or domiciled in Queensland.
- Inter-country adoption – married for at least 2 years, in good health, youngest of couple must be under 41 years of age, oldest of couple under 47 years of age, and one must be an Australian citizen, resident or domiciled in Queensland.
- Special needs adoption – all interested applicants considered depending on the child's needs.

Second and subsequent applicants:

- General adoption (maximum of one child) – married for at least 2 years, in good health, both applicants must be under 40 years of age, infertile with no more than one child in their custody, one must be an Australian citizen, resident or domiciled in Queensland.
- Inter-country adoption (maximum of 4 children) – married for at least 2 years, in good health, youngest of couple must be under 43 years of age, oldest of couple under 47 years of age, one must be an Australian citizen, resident or domiciled in Queensland.
- Special needs adoption – all interested applicants considered depending on the child's needs.

Adoptions must be arranged through DFYCC.

## **Adoption of Indigenous children**

According to the placement principle in Queensland, Indigenous children are always placed with people/parents of similar Indigenous background, unless it is not in the best interest of the child or it has been requested by the birth parents not to do so.

## **Western Australia**

*Adoption Act 1994*

Adoption Regulation 1995

### **Level of court**

Family Court of Western Australia

### **Step-parent adoptions**

Step-parents wishing to adopt their step-child must serve 60 days' notice on Family and Children's Services (FCS) of their intention to apply for an order of adoption. It may be necessary to engage the services of a solicitor for this purpose, as well as to make the application to the Family Court of Western Australia for an adoption order.

The consent of the non-custodial birth parent, or an order from the Family Court of Western Australia to dispense with such consent, will be required. An adoption plan will need to be negotiated between the non-custodial birth parent and the adoptive parent, or dispensed with by the Court, before the adoption can be finalised. FCS is required to provide a complete assessment report to the Court.

### **Other-relative adoptions**

Adoptions by relatives other than step-parents are known as carer adoptions. Carer adoptions can occur only when the child has been in the full-time care of the carers for at least 3 years. All carer adoptions are attended to by FCS. Carer adoptions include the relatives of the child, foster carers, and adults who are not related but have a parenting order from the Family Court.

The consent of the birth parents, or an order from the Family Court of Western Australia to dispense with such consent, will be required. An adoption plan will need to be negotiated between the birth parents and the adoptive parent, or dispensed with by the Court, before the adoption can be finalised. FCS is required to provide a complete assessment report to the Court.

### **Non-relative adoptions**

Birth parents are involved in the selection process of adoptive parents by choosing a family from non-identifying profiles.

All non-relative adoptions are arranged through FCS.

Applicants must meet specific eligibility criteria before being considered for assessment.

An adoption plan is required to be made between birth parents and adopting parents, or an application to the Family Court made to dispense with the adoption plan, before the adoption order is granted in the Family Court of Western Australia.

All known birth parents must be asked to give consent.

### **Adoption of Indigenous children**

The Family Information and Adoption Service (now known as Adoption Services) adheres to the department's Aboriginal Child Placement Policy. Aboriginal children are placed with Aboriginal adoptive parents unless the child's birth parents specifically request otherwise.

## **South Australia**

*Adoption Act 1988*

Adoption (Miscellaneous) Amendment Bill 1996

### **Level of court**

Youth Court of South Australia

### **Step-parent adoptions**

'Leave to proceed' granted in the Family Court is preferred before step-parents can adopt where the child is the child of a dissolved marriage. The current legislation does not specify that this is a requirement, but the amended legislation requires formal leave to proceed from the Family Court to be obtained before the granting of an adoption order.

Adoption by relatives can be arranged through the Department for Family and Community Services in only exceptional circumstances, that is, when a guardianship or custody order will not adequately provide for the interests and welfare of the child.

### **Other-relative adoptions**

There is provision for adoptions by relatives other than step-parents in exceptional circumstances, that is, when a guardianship or custody order will not adequately provide for the interests and welfare of the child.

Adoption by relatives can be arranged only through DFCS.

### **Non-relative adoptions**

Eligibility requirements:

- Married couples and de facto couples of more than 5 years;
- single people in particular circumstances.

Adoptions arranged only through DFCS.

Overseas adoption and placement of overseas children can be arranged through a non-government agency such as Australians Aiding Children Adoption Agency.

Overseas applications are assessed through a non-government agency, Australians Aiding Children Adoption Agency, with all approvals made by the DFCS.

### **Adoption of Indigenous children**

Restrictive eligibility criteria for adoptive parents in accordance with the Indigenous placement principle.

## **Tasmania**

*Adoption Act 1988*

Adoptions Regulations 1992

### **Level of court**

Magistrate sitting alone

### **Step-parent adoptions**

Adoption by step-parents can be arranged only through the Department of Community and Health Services (DCHS). Provision for adoption by step-parents only in special circumstances and when orders such as guardianship and custody will not adequately provide for the interests and welfare of the child.

### **Other-relative adoptions**

Provision for adoptions by relatives other than step-parents in exceptional circumstances, that is, when a guardianship or custody order will not adequately provide for the interests and welfare of the child.

Adoption by relatives can be arranged only through DCHS.

### **Non-relative adoptions**

Eligibility requirements:

- married couples of more than 3 years with any period of time spent in de facto relationship before marriage included in time assessment;
- single people in special circumstances relating to the welfare and interest of the child.

Arranged by DCHS or non-government organisation such as the Catholic Private Adoption Agency.

### **Adoption of Indigenous children**

Not included in legislation although birth parents may express wishes about race of adoptive parents. The cultural differences of Indigenous people are recognised; placement within the Aboriginal community is the preferred option.

## **Australian Capital Territory**

*Adoption Act 1993*

### **Level of court**

Supreme Court

### **Step-parent adoptions**

Adoption by step-parents can be arranged only through Children's, Youth and Family Services Bureau (CYFSB).

### **Other-relative adoptions**

There is provision for adoptions by relatives other than step-parents in exceptional circumstances, that is, when a guardianship or custody order will not adequately provide for the interests and welfare of the child.

Adoption by step-parents can be arranged only through CYFSB.

### **Non-relative adoptions**

Eligibility requirements:

- married couples of more than 3 years;
- de facto couples of more than 3 years;

- single people in particular circumstances.

Must be arranged through CYFSB.

### **Adoption of Indigenous children**

Restrictive eligibility criteria for adoptive parents in accordance with the Indigenous placement principle.

### **Northern Territory**

*Adoption of Children Act 1994*

#### **Level of court**

Local Court

#### **Step-parent adoptions**

Other arrangements are sought before an adoption order is considered.

#### **Other-relative adoptions**

Provision for adoptions by relatives other than step-parents in exceptional circumstances, that is, when a guardianship or custody order will not adequately provide for the interests and welfare of the child.

#### **Non-relative adoptions**

Eligibility requirements:

- married couples;
- single person in exceptional circumstances.

Must be arranged through Territory Health Services (THS).

### **Adoption of Indigenous children**

Cannot adopt Indigenous children unless alternative custody with extended family cannot be arranged. If an order is made it must comply with the Indigenous placement principle.

# Appendix 3: Access to information and veto systems in the States and Territories

## New South Wales

### Access to information

In New South Wales, the *Adoption Information Act 1990* provides that at 18 years of age or older an adoptee can have access to his or her original birth certificate and to information that will give knowledge of his or her origins. It also enables birth parents to have access to details of their offspring's adopted identity when that child reaches 18 years of age and to information that will give birth parent(s) knowledge of the child's life after adoption.

### Veto system

Birth parents and adult adoptees are able to lodge a contact veto. On the lodgement of such a document it becomes an offence for the information recipient to try to make contact with the person who imposed the contact veto.

## Victoria

### Access to information

In Victoria, an adopted person aged 18 years or older may apply for a copy of his or her original birth certificate and adoption records. An adopted person under the age of 18 years requires his or her adoptive parents' agreement before information can be given, and the written consent of the birth parent(s) is required before identifying information can be given.

Birth parents and birth relatives may obtain non-identifying information from records about the adopted person. Identifying information can be given with the written consent of the adopted person if he or she is 18 years of age or over, or of the adoptive parents if the adopted person is under 18 years of age.

Adult children of adopted persons have the same rights to information as the adopted person, providing the adopted person is first informed in writing or, where the adopted person is deceased, a copy of the death certificate is provided.

Adoptive parents may apply for information about the birth family's background. The written permission of the birth parent is required before identifying information may be released. Also, where the adopted person is 18 years of age or older, the adopted person must be notified in writing of the intention to release identifying information about the birth family.

## **Veto system**

There is no veto system in Victoria. Instead, a register operates on which people can record their wishes in relation to giving or receiving information and making contact. Although adopted persons can make contact with birth relatives themselves, an authorised agency makes contact with adopted persons on behalf of birth parents and relatives or with birth parents on behalf of adoptive parents. The agency will ask the parties what their wishes are and mediate between them.

## **Queensland**

### **Access to information**

In Queensland, for adoptions before 1991, an adopted person aged 18 years or older and the birth parent who signed the adoption consent are entitled to receive identifying information and have access to a copy of the original and amended birth certificate as long as the other party has not lodged an objection to the disclosure of identifying information.

Other relatives, either by birth or adoption, may apply for identifying information if the adopted person and/or birth mother is permanently incapacitated or deceased and there is no objection to the release of identifying information.

Non-identifying information has always been available from the Department of Families, Youth and Community Care and has been provided to adoptive parents, adopted persons, birth parents and other relatives by birth or adoption. Non-identifying information is any information that would not lead to the identification of the person and can include medical history, age, physical description and religion.

Parties to an adoption can also exchange information in the form of letters via the Department if they wish to maintain anonymity or the adopted person is under 18 years of age.

### **Veto system**

The adopted person and the birth parent who signed the adoption consent can lodge an objection to contact only or an objection to contact and the disclosure of identifying information for adoptions before June 1991.

Objections, once lodged, remain in force until revoked by the person who lodged the objection. Objections are for an indefinite period of time and remain in force on the death of the person who lodged the objection.

Objections to contact only and the release of identifying information cannot be lodged for adoptions which occurred after 1991.

## **Western Australia**

### **Access to information**

At the time of placement of a child an adoption plan must be negotiated between the birth parents and adoptive parents to facilitate the sharing of information about the child. In Western Australia, birth parents, adoptive parents and adopted persons over 18 years of age may obtain non-identifying information about the adoption from departmental records. All parties to an adoption can have access to birth and court records if there is no information veto.



## **Veto system**

In Western Australia a 'message box system' operates which allows anonymous contact between the parties.

Under the *Adoption Act 1994*, where the adoption occurred before 1 January 1995, an adopted person aged 18 years or over, birth parents and adoptive parents can have access to birth records and adoption court records (i.e. identifying information) provided there is no information veto lodged by an adoption party (i.e. birth parents, adoptive parents or adoptee over 18 years).

Less restrictive access to identifying information applies for adopted people, adoptive parents and birth parents where the adoption occurred after 1 January 1995. Additionally, adoptive relatives and birth relatives can also have access to birth records under certain circumstances provided parties are over 18 years of age.

Before 1 January 1995, only birth parents could veto the release of identifying information to the adopted person. Under current arrangements, adopted people, adoptive parents and birth parents can lodge information vetoes. Contact vetoes can be lodged by these categories of people plus adoptive relatives and birth relatives.

Vetoes can be lodged for a lifetime or a specified period and can be cancelled or altered at any time.

## **South Australia**

### **Access to information**

In South Australia adopted people aged 18 years or over can have access to information contained in their original birth certificate, as well as details (if known) such as occupation, date of birth, physical attributes and the personal interests of their natural parents. Adopted people are also entitled to know the names of any biological siblings who were adopted. Once the adopted person reaches 18 years of age, the birth parents can have access to the adoptive name of their relinquished child and the names of the adoptive parents. Adoptive parents can now apply for certain information under certain circumstances.

### **Veto system**

Both adopted persons and birth parents can veto the release of identifying information, thus making contact more difficult, although a specific contact veto is not available. The veto provision is effective only for adoptions that occurred before the *State's Adoption Act 1988* came into force.

When the amendments to the *Adoption Act 1988* come into effect, adoptive parents will be able to lodge a veto to restrict identifying information about themselves being released to the birth parents with a provision that this does not prevent the adopted person and the birth parent from making contact with each other. Certain information will also be available to adoptive parents under the amended legislation.

## **Tasmania**

### **Access to information**

In Tasmania, an adopted person aged 18 years or over may apply for access to his or her pre-adoption birth record and information from the adoption record. An adopted person aged less than 18 years may apply for this information with the permission of his or her adoptive



parents, but may not be given identifying information without the written consent of the birth parents. Birth parents and birth relatives may obtain non-identifying information from the adoption record and may be given identifying information only with the written consent of the adopted person or, if under 18 years, the adoptive parents.

### **Veto system**

Tasmania does not have a veto system, but operates an Adoption Information Register, where people affected by adoption may record their wishes in relation to contact and exchange of information. Adopted people aged 18 years or over may search for and contact their birth family themselves or may request the adoption agency's help. Birth parents and relatives may request the agency to seek the adopted person's views about contact and exchange of information.

## **Australian Capital Territory**

### **Access to information**

Under the Australian Capital Territory's *Adoption Act 1993*, an adopted person aged 18 years or more, birth parents, adoptive parents and birth relatives may apply for identifying information in relation to the adoption. Identifying information consists of a copy of, or extract from, an entry in a register of births relating to the adopted child, or information from which a birth parent, birth relative or adopted child may be identified (excluding the address of a place of residence).

### **Veto system**

Under the Australian Capital Territory's *Adoption Act 1993*, only contact vetoes may be registered. The veto has to refer to a specified person or a specified class of persons.

The Act provides for an unqualified right to information, but also gives the adopted person aged over 17 years 6 months, an adoptive parent, birth parent, adult birth relatives, adoptive relatives and adult children or other descendants of the adopted person the right to lodge a contact veto. On the lodgement of such a veto it becomes an offence for the information recipient to try to make contact with the person who imposed the contact veto.

Where information is requested and a contact veto is in force, no information is given unless the person requesting information has attended a counselling service and has signed a declaration that he or she will not attempt contact in any form.

The Act also makes provision for greater accountability in obtaining consents to adoptions, augments the rights of the birth parents and promotes a more open system of adoption.

Before the *Adoption Act 1993*, no provision for adoption information existed. However, as the Act is retrospective, information is now available for adoptions that occurred under the old Act.

## **Northern Territory**

### **Access to information**

In the Northern Territory, legislation before to the *Adoption of Children Act 1994* did not provide for the release of information to any parties to an adoption. The Act allows for a more open process, with identifying information being available unless a veto has been lodged.

**Veto system**

Veto provisions relate only to adoption orders made under the repealed legislation. There is no right of veto where orders were made under the current Act.

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# CHILD WELFARE SERIES

*Adoptions Australia 1996-97* presents adoption statistics provided by State and Territory community services departments for the period 1 July 1996 to 30 June 1997. These statistics cover all finalised adoptions reported to State and Territory community services departments during that year, and all children legally available for adoption at 30 June 1997. It also provides information on the number of requests made for information and the number of contact and information vetoes lodged by adopted persons, adoptive parents, birth parents and other relatives.

