

**Adoptions
Australia
1997–98**

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Acknowledgments

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 Susan Kelly and Helen Johnstone.

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

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Abbreviations

ABS	Australian Bureau of Statistics
CYFSB	Children's, Youth and Family Services Bureau (Australian Capital Territory)
DCS	Department of Community Services (New South Wales)
DFYCC	Department of Families, Youth and Community Care (Queensland)
DHHS	Department of Health and Human Services (Tasmania)
DHS	Department of Human Services (South Australia)
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

1 Introduction

The Australian Institute of Health and Welfare (the Institute) is funded by the community services departments in each State and Territory to collect and publish national data on child protection and adoptions. The 1997–98 publication is the Institute’s eighth annual report on adoptions and the twenty-second 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 and analysed by the Institute for the purposes of this report.

The statistics in this publication cover all finalised adoptions recorded by State and Territory community services departments for the period 1 July 1997 to 30 June 1998 and all children legally available for adoption at 30 June 1998. This report 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 for the period 1 July 1997 to 30 June 1998. Data are also included on trends in the number of adoptions over time.

The data in this report were extracted from the administrative systems of the 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 noted that the data reflect the different legislation, policies and practices in each State and Territory regarding adoption, as described in Appendix 2. These differences should be taken into account when comparing adoptions data across jurisdictions.

Data provided in this report for the years prior to 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 Adoptions in Australia 1997–98

When an adoption order is granted, the legal relationship between the child and the biological parents 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.

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).

Access by the birth parents/relatives to the adopted child (sometimes called 'open' adoption) is encouraged in most States and Territories. The degree to which this process is encouraged varies across the jurisdictions (see Appendix 3).

In this collection, adoptions are categorised into the following groups:

- adoption of Australian-born children by relatives; and
- adoption by non-relatives of
 - Australian-born children
 - overseas-born children.

Data on the adoption of overseas-born children by relatives are not included in this collection, as the States and Territories community services departments are not responsible for these adoptions.

Overview of the main findings

In 1997–98 there were 577 adoptions of children in Australia. This is a decrease of 132 (19%) from the 709 adoptions in 1996–97.

The main features regarding adoptions in 1997–98 are:

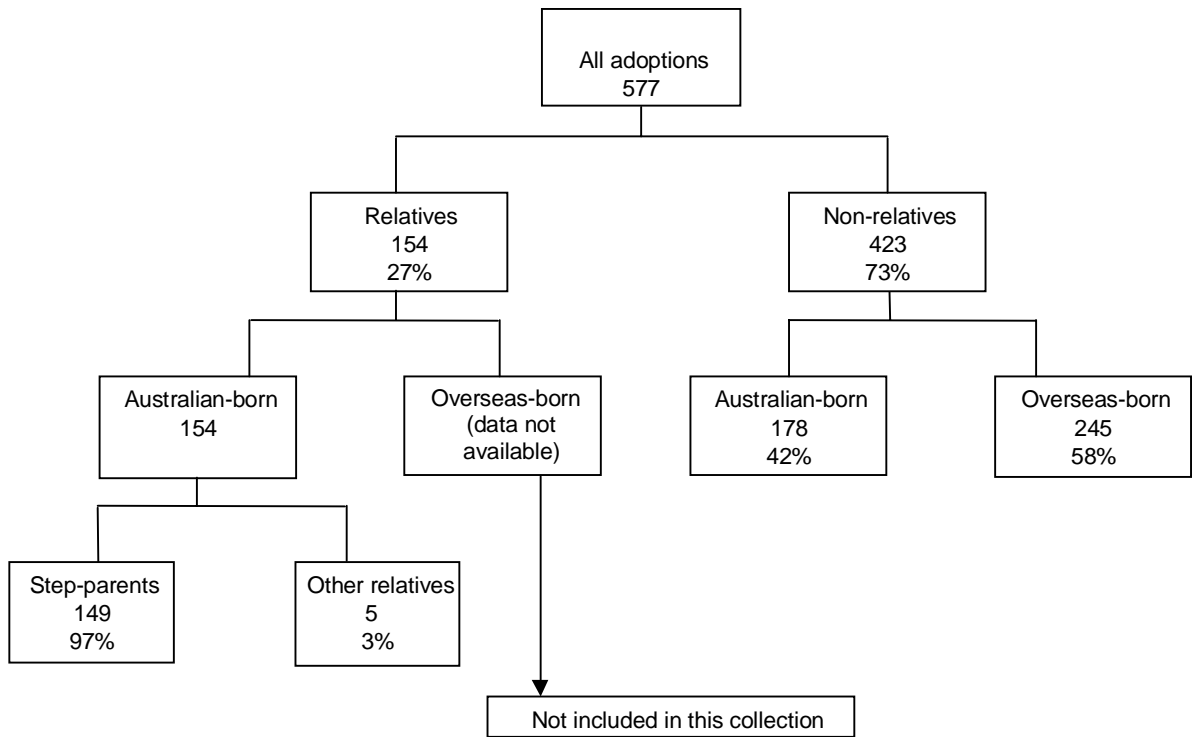
- 73% of adoptions were by non-relatives and 27% by relatives (Figure 1);
- 58% of adoptions were of Australian-born children (332), and 42% were of overseas-born children (245) (Figure 1);
- there were 154 adoptions of Australian-born children by relatives and 97% of these adoptions were by step-parents (Figure 1);
- there were 178 adoptions of Australian-born children by non-relatives and 245 adoptions of overseas-born children by non-relatives (Figure 1);
- 77% of adoptions were arranged by government agencies, and 17% 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 (under 1

year of age for Australian-born children adopted by non-relatives and under 5 years of age for overseas-born children adopted by non-relatives) (Table 2);

- compared with 1996–97, adoptions of Australian-born children by relatives decreased by 13%; adoptions of Australian-born children by non-relatives by 32%; and adoptions of overseas-born children by non-relatives by 9% (Tables 5, 6 and 10);
- adoptions arranged through non-government bodies decreased from 20% of adoptions in 1996–97 to 17% in 1997–98 (Table 4);
- there were 3,549 applications for access to information made by adopted persons, birth parents, other birth relatives and adoptive parents (Table 18);

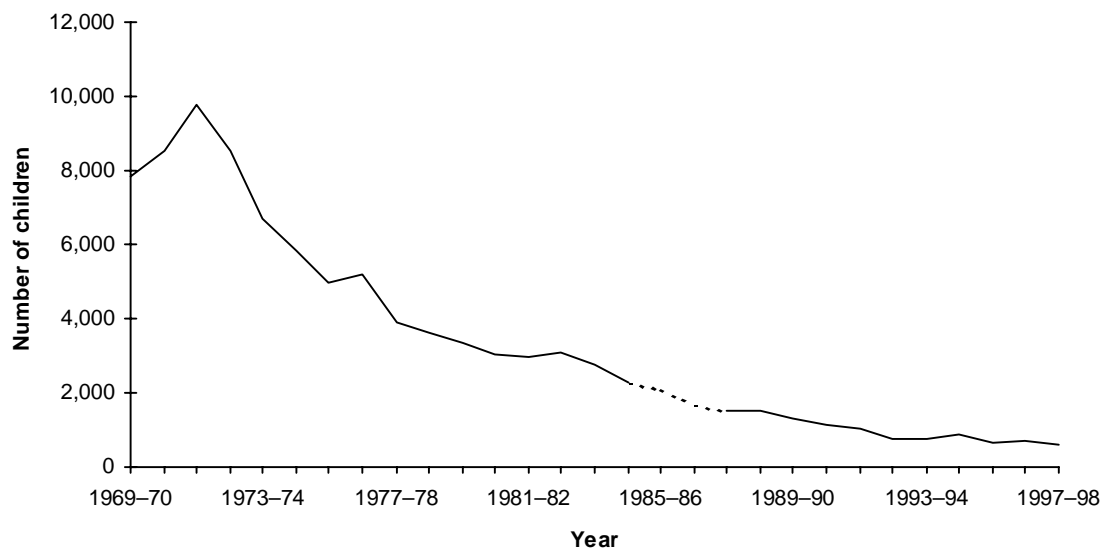
There has been a substantial fall in the number of adoptions since the early 1970s (Figure 2) and the trend continued this year with the number of adoptions decreasing from 709 in 1996–97 to 577 in 1997–98. Factors contributing to this overall fall in adoptions of children include:

- 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).



Sources: Tables 1 and 2.

Figure 1: Adoptions in Australia, 1997-98



Source: Table 3.

Figure 2: Adoptions in Australia, 1969-70 to 1997-98

Table 1: Adoptions by relationship of adoptive parents, arranging body responsible for adoption and State and Territory, 1997–98

Relationship of adoptive parents	Arranging body	NSW ^(a)	Vic	Qld	WA	SA	Tas	ACT	NT	Total
Step-parents										
	Government ^(b)	44	3	39	—	5	5	4	—	100
	Non-government	—	20	—	—	—	—	—	—	20
	Other	—	—	—	29	—	—	—	—	29
	Total	44	23	39	29	5	5	4	—	149
Other relatives										
	Government	—	—	1	—	1	—	—	—	2
	Non-government	—	—	—	—	—	—	—	—	—
	Other	—	—	—	3	—	—	—	—	3
	Total	—	—	1	3	1	—	—	—	5
Non-relatives										
	Government	127	77	71	36	5	14	11	1	342
	Non-government	29	14	—	—	37	—	—	—	80
	Other	—	—	—	1	—	—	—	—	1
	Total	156	91	71	37	42	14	11	1	423
Total										
	Government	171	80	111	36	11	19	15	1	444
	Non-government	29	34	—	—	37	—	—	—	100
	Other	—	—	—	33	—	—	—	—	33
	Total	200	114	111	69	48	19	15	1	577

(a) New South Wales could not separate out 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) In New South Wales, while DCS does not bring these applications to court, the department does arrange for a report for the court's consideration in every case.

Note: Data include 10 persons aged 18 years or older.

Table 2: Adoptions by age, relationship to adoptive parents and sex, 1997–98

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
	Number											
Under 1	—	—	—	56	34	90	22	38	60	78	72	150
1–4	5	5	10	24	16	40	81	56	137	110	77	187
5–9	30	36	66	16	6	22	15	20	35	61	62	123
10–14	20	24	44	7	13	20	6	5	11	33	42	75
15+	19	13	32	4	2	6	—	2	2	23	17	40
Unknown	1	1	2	—	—	—	—	—	—	1	1	2
Total	75	79	154	107	71	178	124	121	245	306	271	577
	Percentage											
Under 1	—	—	—	52	48	51	18	31	24	26	27	26
1–4	7	6	7	22	23	22	65	46	56	36	29	33
5–9	41	46	43	15	8	12	12	17	14	20	23	21
10–14	27	31	29	7	18	11	5	4	4	11	16	13
15+	26	17	21	4	3	3	—	2	1	8	6	7
Total	100	100	100	100	100	100	100	100	100	100	100	100

Note:

1. Data from New South Wales, Tasmania and Western Australia include persons aged 18 years or older (10 in total).
2. Percentage may not add to 100 due to rounding.

Table 3: Adoptions by State and Territory, 1969–70 to 1997–98

Year	NSW^(a)	Vic	Qld^(b)	WA	SA	Tas	ACT	NT	Total
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.	334	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
1987–88	280	114	309	191	416	120	36	28	1,494
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
1996–97	263	123	129	56	79	30	26	3	709
1997–98	200	114	111	69	48	19	15	1	577

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

(b) Data for 1986–87 and 1987–88 differ from previous reports due to updated figures.

Sources: ABS1982a, 1982b, 1983, 1984, 1985, 1986; WELSTAT 1990, 1992a, 1992b; AIHW 1998.

Table 4: Adoptions by arranging body, 1979–80 to 1997–98

Year	Government		Non-government		Other		Total
	No.	%	No.	%	No.	%	
1979–80	1,909	57	528	16	900	27	3,337
1980–81	1,802	60	446	15	770	26	3,018
1981–82	1,670	56	430	14	871	29	2,971
1982–83	1,827	59	435	14	810	26	3,072
1983–84	1,567	57	449	16	754	27	2,770
1984–85	1,270	55	369	16	655	29	2,294
1985–86	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
1986–87	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
1987–88 ^(a)	1,246	84	243	16	2	0	1,491
1988–89 ^(a)	1,118	74	240	16	143	10	1,501
1989–90 ^(a)	1,114	86	117	9	63	5	1,294
1990–91 ^(a)	955	84	132	12	55	5	1,142
1991–92 ^(a)	839	80	145	14	68	6	1,052
1992–93 ^(a)	635	81	95	12	53	7	783
1993–94 ^(a)	613	80	101	13	50	7	764
1994–95	590	69	112	13	153	18	855
1995–96	525	79	69	10	74	11	668
1996–97	530	75	145	20	33	5	709 ^(b)
1997–98	444	77	100	17	33	6	577

(a) From 1987–88 to 1993–94, New South Wales data do not include adoption by step-parents.

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

Sources: ABS1982a, 1982b, 1983, 1984, 1985, 1986; WELSTAT 1990, 1992a, 1992b; AIHW 1998.

3 Detailed information

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 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). These types of adoptions are 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 1997–98 there were 154 adoptions of Australian-born children by relatives. The main points to be noted regarding these adoptions are:

- 97% 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 (75 compared with 79) (Table 2);
- 72% of adoptions of Australian-born children by relatives were of children aged between 5 and 14 years (Table 2);
- there were no adoptions by relatives of Australian-born children under 1 year of age (Table 2);
- the number of adoptions of Australian-born children by relatives has decreased considerably over the past decade (from 500 in 1988–89 to 154 in 1997–98) (Table 5);
- the number of adoptions of Australian-born children by relatives decreased by 13% between 1996–97 and 1997–98 from 177 to 154 adoptions (Table 5).

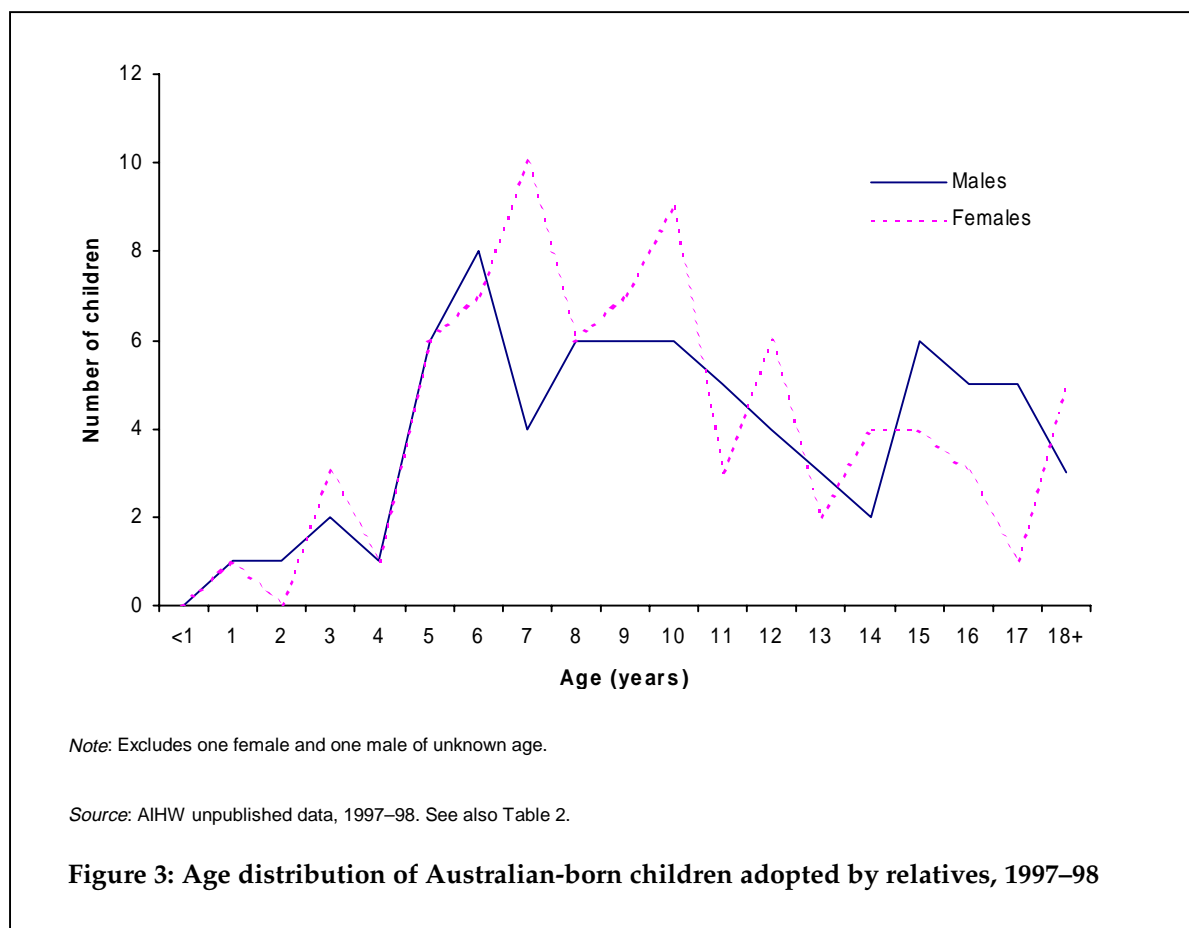


Table 5: Adoptions of Australian-born children by relatives by State and Territory, 1987–88 to 1997–98

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 ^(a)	19	95	92	61	2	3	—	320 ^(a)
1995–96	32	15	88	21	14	1	6	—	177
1996–97	43	18	48	30	19	6	12	1	177
1997–98	44	23	40	32	6	5	4	—	154

(a) Prior to 1994–95 New South Wales data exclude adoptions by step-parents.

Notes

1. Data relating to the years 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 1990,1992a,1992b; AIHW 1998.

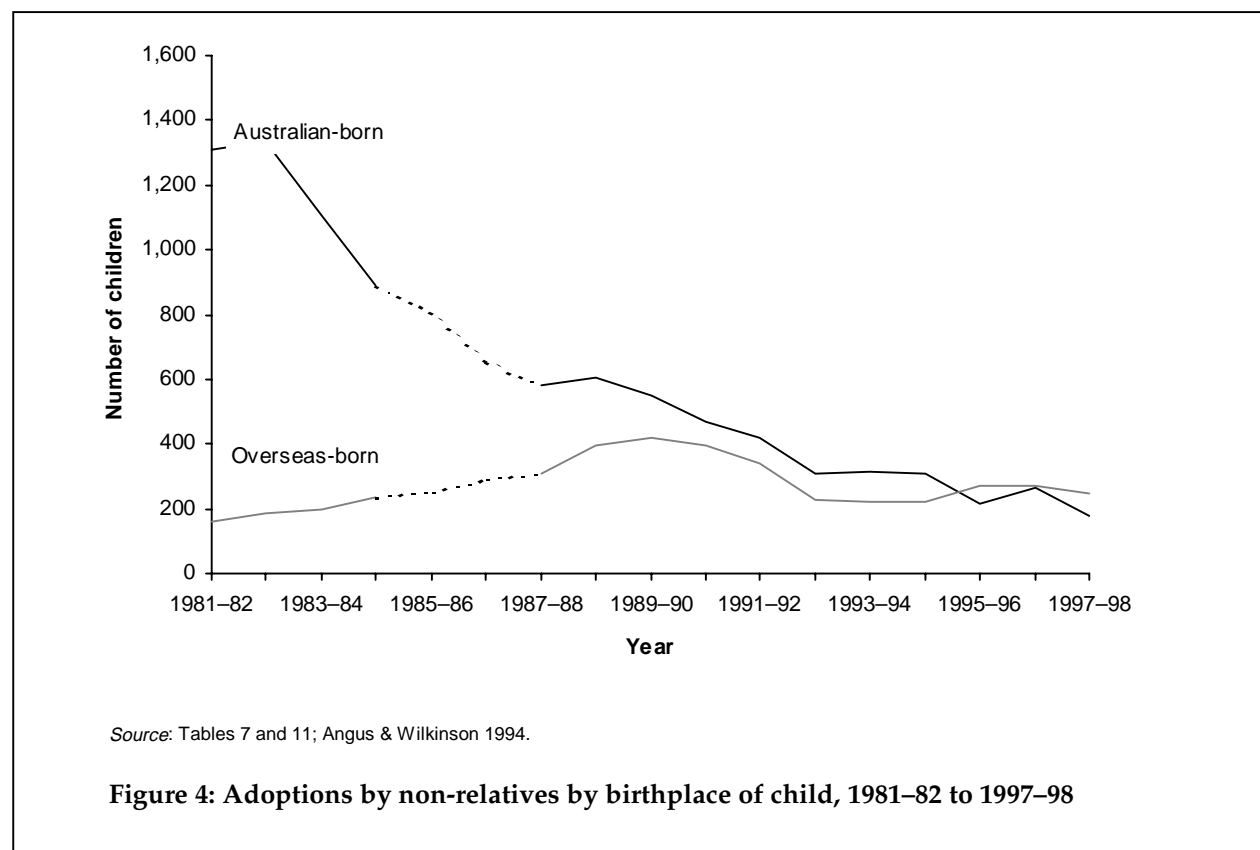
Adoptions by non-relatives

Generally, the guardianship of a child for whom a general consent for adoption has been signed resides with the community services department 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 1992:39).

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.

Data on adoptions by non-relatives include adoptions of both Australian-born and overseas-born children. The number of adoptions of Australian-born children by non-relatives has decreased substantially from 1,311 in 1981–82 to 178 in 1997–98. The number of adoptions of overseas-born children by non-relatives, however, increased from 162 in 1981–82 to 420 in 1989–90 then fell to 245 in 1997–98, albeit fluctuating over the latter period. The number of overseas-born children adoptions by non-relatives has increased overall by 51% since 1981–82.



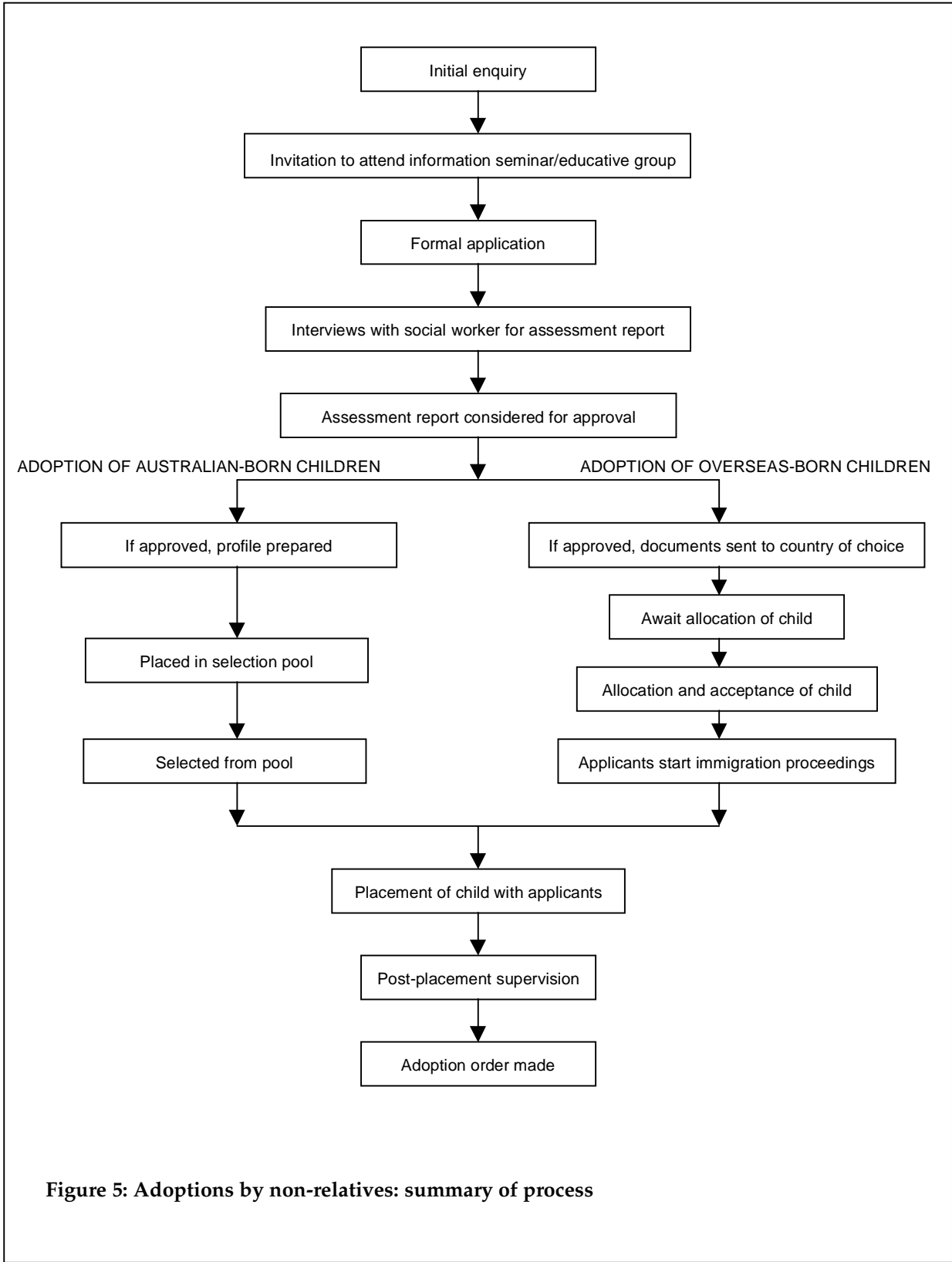


Figure 5: Adoptions by non-relatives: summary of process

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. In Queensland, the Northern Territory and Tasmania only married couples are allowed to adopt unrelated children, while de facto couples are also eligible to adopt in all other jurisdictions (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 1997–98, there were 178 adoptions of Australian-born children by non-relatives. The principle features of adoptions of Australian-born children by non-relatives are:

- 60% of adoptions by non-relatives of Australian-born children were of males, and 40% of females (Table 2);
- 51% of these adoptions were of children aged under 1 year (Table 2);
- 11% of the 178 Australian-born children adopted by non-relatives were born to mothers who were married, 65% to mothers who were not married, with the remaining 24% born to mothers of unknown marital status (Table 7).

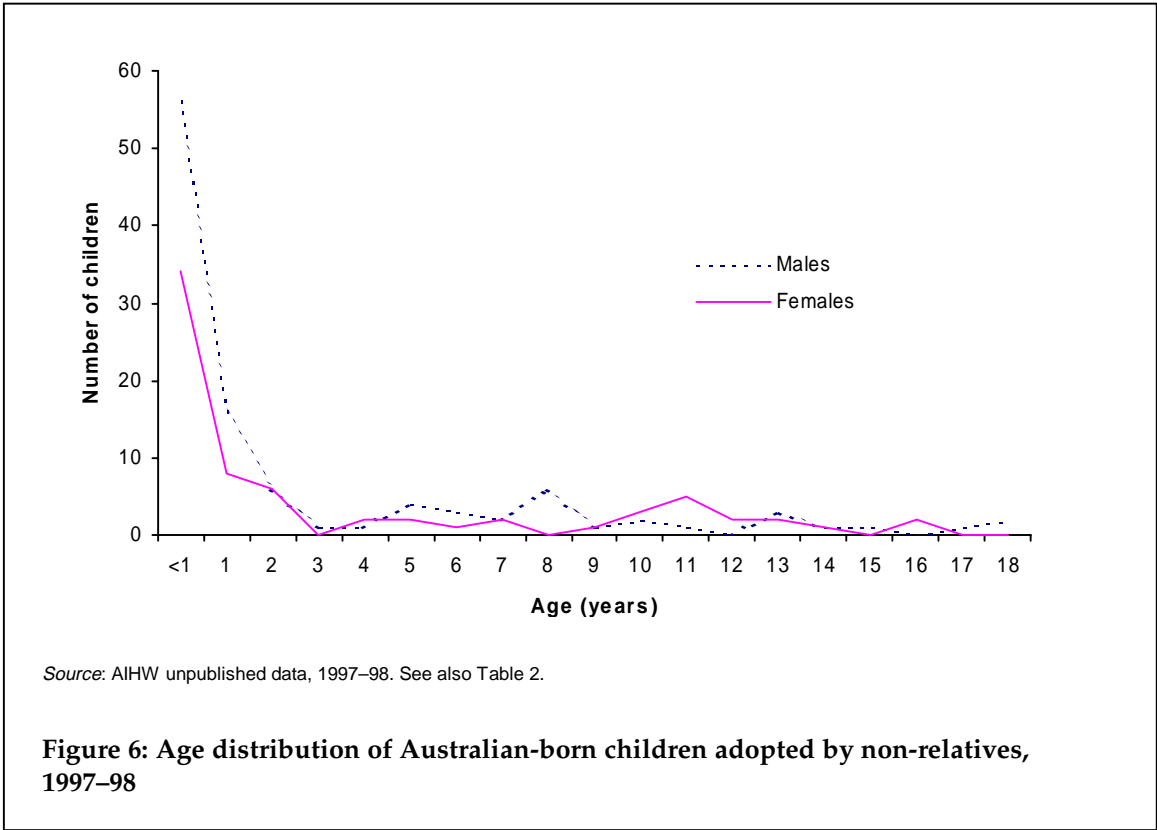


Table 6: Adoptions of Australian-born children by non-relatives by State and Territory, 1987–88 to 1997–98

Year	NSW	Vic	Qld	WA	SA ^(a)	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
1997–98	87	27	28	23	5	6	1	1	178

(a) From 1996–97, Australian-born children adopted by foster-parents are included in adoptions by non-relatives (six in 1996–97 and one in 1997–98). Previously foster parents were included in adoptions by relatives.

Notes

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

Sources: WELSTAT 1990,1992a,1992b; AIHW 1998.

Table 7: Adoptions of Australian-born children by non-relatives by marital status of birth mother, 1987–88 to 1997–98

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
1997–98	20	116	42	178

Sources: WELSTAT 1990,1992a,1992b; AIHW 1998.

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

Adoptions of overseas-born children

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 Colombia, 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, 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 that in 1997–98:

- there were 245 adoptions of overseas-born children by non-relatives (Figure 1);
- 51% of overseas-born children adopted by non-relatives were male and 49% were female (Table 8);
- 56% of overseas-born children adopted by non-relatives were aged 1–4 years, and 24% were aged under 1 year (Table 2);
- 28% of overseas-born children adopted by non-relatives were from Korea, 15% from Ethiopia, 11% from India and 11% from Thailand (Table 10).

Since 1990–91, 34% of the total number of overseas-born children adopted by non-relatives have been from Korea and 11% from India (Table 11).

Recent developments in the adoption of overseas-born children

In August 1998 Australia ratified the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption:

The Convention establishes uniform standards and procedures between countries, including legally binding standards and safeguards, a system of supervision to ensure that these are observed, and channels of communication between authorities in countries of origin and countries of destination for children being adopted (Williams 1998).

The Convention came into effect in Australia on 1 December 1998. To date, a total of 24 countries have ratified the convention.

The Convention will help parents in Australia who wish to adopt children born overseas because it establishes uniform procedures to be followed by the countries who are parties to

the Convention. It is therefore likely that the numbers of overseas-born children adopted by non-relatives will increase in Australia.

In addition, while China is not currently one of the parties to the convention, bilateral negotiations are under way between the Australian and Chinese governments to allow Chinese-born children to be adopted by Australians. Once these are finalised and China is opened for adoption, this may also lead to an increase in the numbers of overseas-born children adopted by non-relatives.

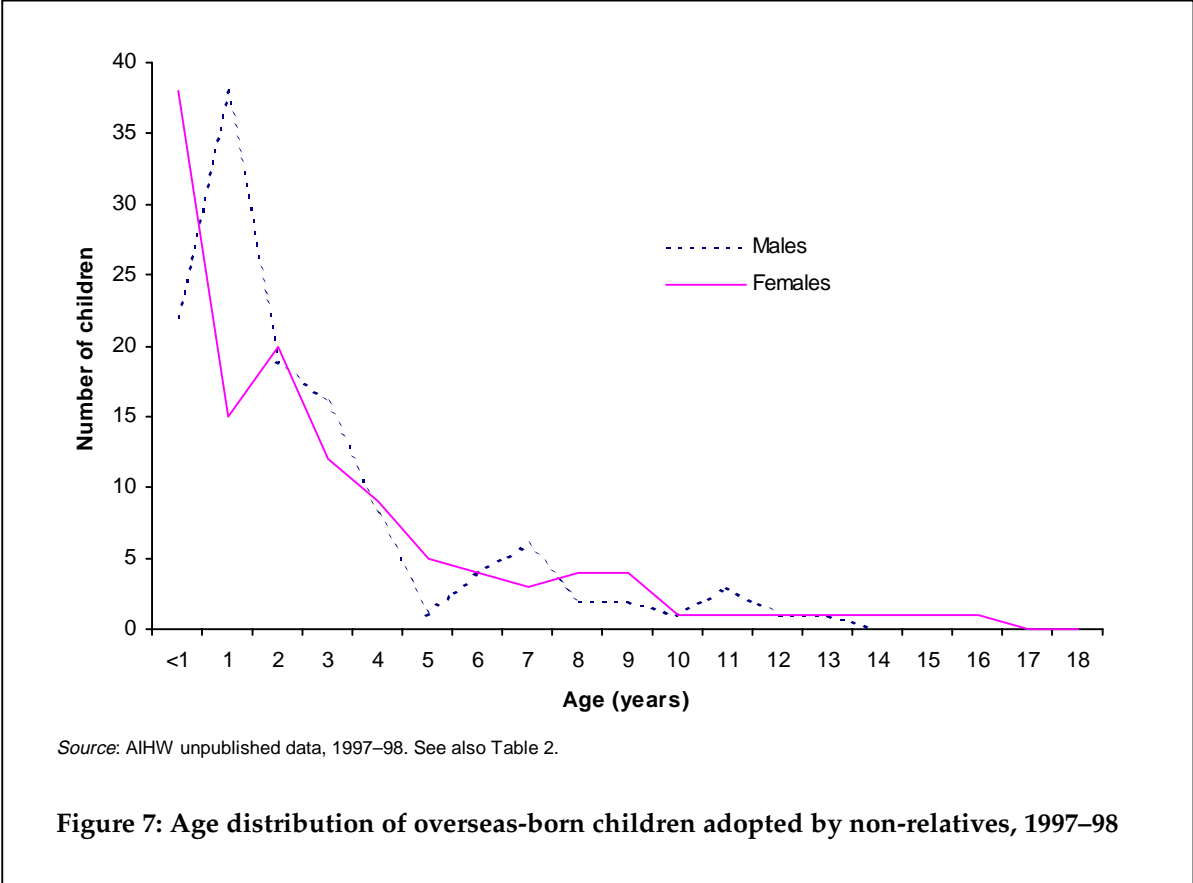


Table 8: Adoptions of overseas-born children by non-relatives by country of birth and sex, 1997–98

Country of birth	Male	Female	Persons
Bolivia	1	4	5
Canada	—	1	1
Chile	1	1	2
Colombia	8	6	14
Ethiopia	22	15	37
Fiji	5	13	18
Guatemala	2	5	7
Honduras	—	1	1
Hong Kong	1	—	1
India	9	19	28
Korea ^(a)	44	25	69
Philippines	14	5	19
Poland	—	1	1
Romania	1	4	5
Sri Lanka	3	—	3
Taiwan	2	6	8
Thailand	11	15	26
Total	17	21	245

(a) Includes North and South Korea.

Table 9: Adoptions of overseas-born children by non-relatives by State and Territory, 1987–88 to 1997–98

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
1996–97	81	56	41	13	49	15	12	2	269
1997–98	69	64	43	14	37	8	10	—	245

Notes

1. 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.
2. Table does not include cases where relationship to adoptive parents was unknown.

Sources: WELSTAT 1990,1992a,1992b; AIHW 1998.

Table 10: Adoptions of overseas-born children by non-relatives by country of birth and State and Territory, 1997–98

	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Total
Number									
Colombia	14	—	—	—	—	—	—	—	14
Ethiopia	6	6	13	2	5	1	4	—	37
Fiji	2	8	5	—	—	3	—	—	18
Guatemala	—	6	—	1	—	—	—	—	7
India	8	12	4	3	1	—	—	—	28
Korea ^(a)	18	18	14	4	13	—	2	—	69
Philippines	3	5	1	2	6	1	1	—	19
Romania	—	3	1	1	—	—	—	—	5
Sri Lanka	1	1	1	—	—	—	—	—	3
Thailand	4	4	2	—	11	3	2	—	26
Other ^(b)	13	1	2	1	1	—	1	—	1
Total	69	64	43	14	37	8	10	—	245
Percentage									
Colombia	20	—	—	—	—	—	—	—	6
Ethiopia	9	9	30	14	14	13	40	—	15
Fiji	3	13	12	—	—	38	—	—	7
Guatemala	—	9	—	7	—	—	—	—	3
India	12	19	9	21	3	—	—	—	11
Korea ^(a)	26	28	33	29	35	—	20	—	28
Philippines	4	8	2	14	16	13	10	—	8
Romania	—	5	2	7	—	—	—	—	2
Sri Lanka	1	2	2	—	—	—	—	—	1
Thailand	6	6	5	—	30	38	20	—	11
Other ^(b)	19	2	5	7	3	—	10	—	8
Total	100	100	100	100	100	100	100	—	100

(a) Includes North and South Korea.

(b) 'Other' includes Bolivia, Canada, Chile, Honduras, Hong Kong, Poland and Taiwan.

Note: Percentages may not add to 100 due to rounding.

Table 11: Adoptions of overseas-born children by non-relatives, by country of birth and year, 1990–91 to 1997–98

Country of birth	1990–91	1991–92	1992–93	1993–94	1994–95	1995–96	1996–97	1997–98	Total
Number									
Colombia	—	14	26	22	16	40	23	14	155
Ethiopia	1	—	—	3	—	5	16	37	62
Fiji	—	—	—	—	—	13	—	18	31
India	41	41	20	22	29	20	35	28	236
Korea	203	106	50	64	71	94	84	69	741
Philippines	30	37	17	14	22	22	27	19	188
Sri Lanka	24	43	38	33	18	14	—	3	173
Thailand	15	34	26	20	25	18	34	26	198
Other ^(a)	79	63	50	44	43	48	50	31	408
Total overseas adoptions	393	338	227	222	224	274	269	245	2,192
Percentage									
Colombia	—	4	11	10	7	15	9	6	7
Ethiopia	—	—	—	1	—	2	6	15	3
Fiji	—	—	—	—	—	5	—	7	1
India	10	12	9	10	13	7	13	11	11
Korea	52	31	22	29	32	34	31	28	34
Philippines	8	11	7	6	10	8	10	8	9
Sri Lanka	6	13	17	15	8	5	—	1	8
Thailand	4	10	11	9	11	7	13	11	9
Other ^(a)	20	19	22	20	19	18	19	13	19
Total overseas adoptions	100	100	100	100	100	100	100	100	100

(a) Other includes Bolivia, Canada, Chile, Guatemala, Honduras, Hong Kong, Poland, Romania and Taiwan.

Note: Percentages may not add to 100 due to rounding.

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

Other overseas adoptions

There is another type of adoption of overseas-born children by non-relatives that is not included in this collection because it is not the responsibility of the community services departments. This is adoptions by Australian citizens or permanent residents who have lived overseas for 12 months or more and have 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. In 1996–97, there were 153 of these adoptions and in 1997–98 there were 124 (communication with Department of Immigration and Multicultural Affairs). No further information about these children is available.

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 1997–98 prior to adoption were also collected. Although the adoption orders for some children placed for adoption in a particular year may be finalised during that year, other orders may not be finalised until later—usually in the following year. Therefore, adoptions data for 1997–98 include some children who were placed in 1996–97 and some who were placed in 1997–98. The other children who were placed in 1997–98 will be included in the 1998–99 adoptions data.

The main points to note regarding placement of overseas-born children in 1997–98 are:

- there were 255 placements of overseas-born children (Table 12), a slightly higher number than the 245 overseas-born children who were adopted in the same year;
- distributions of country of birth of children in finalised adoptions and of children in placements mirrored one another to a large extent (Figure 8).

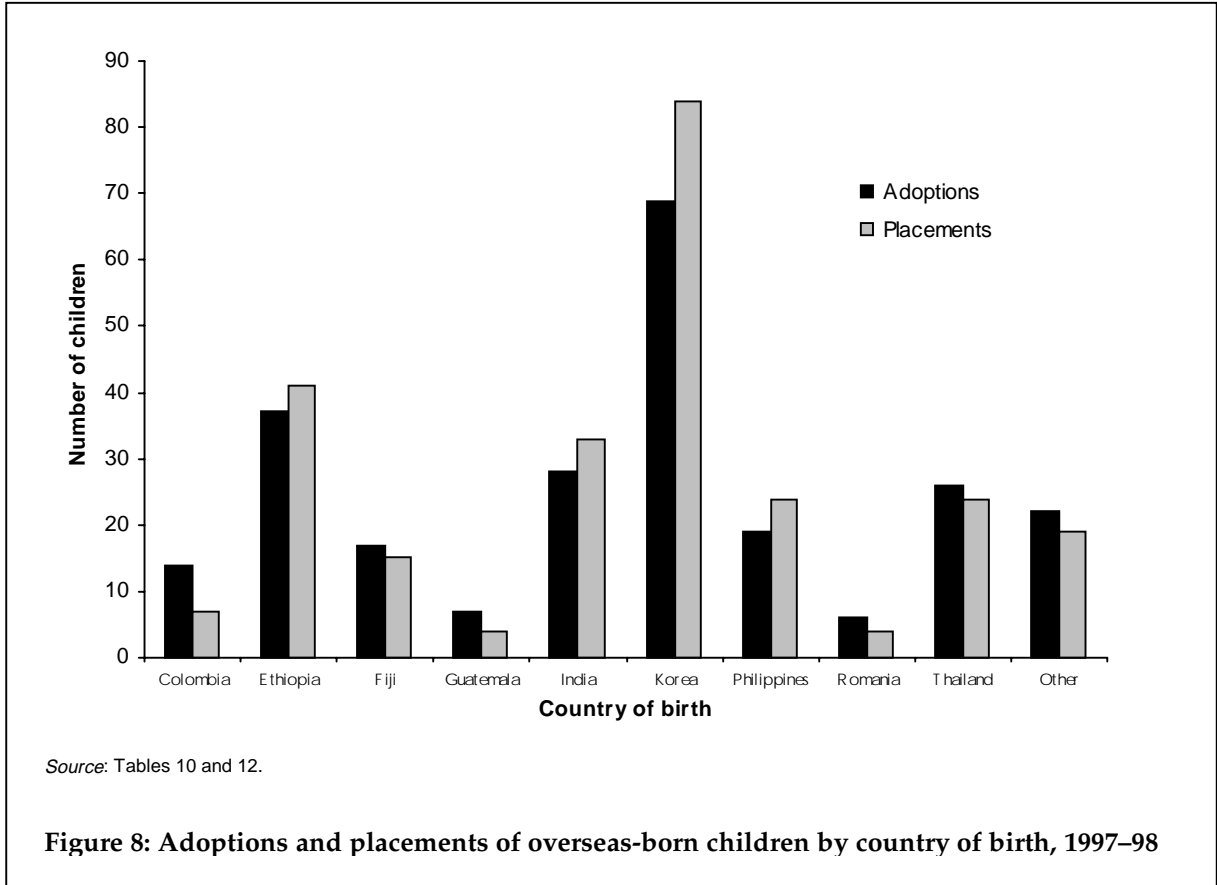


Table 12: Placements of overseas-born children with non-relatives by country of birth and State and Territory, 1997–98

	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Total
Number									
Colombia	5	—	2	—	—	—	—	—	7
Ethiopia	3	6	9	4	11	6	1	1	41
Fiji	1	8	5	—	—	—	—	1	15
Hong Kong	—	—	—	3	—	1	—	—	4
India	6	12	1	2	7	2	2	1	33
Korea ^(a)	20	18	15	7	18	—	4	2	84
Philippines	1	5	1	1	14	1	1	—	24
Romania	1	3	—	—	—	—	—	—	4
Thailand	5	4	4	—	9	1	—	1	24
Other ^(b)	9	8	—	2	—	—	—	—	19
Total	42	64	37	19	59	11	8	6	255
Percentage									
Colombia	10	—	5	—	—	—	—	—	3
Ethiopia	6	9	24	21	19	55	13	17	16
Fiji	2	13	14	—	—	—	—	17	6
Hong Kong	—	—	—	16	—	9	—	—	2
India	12	19	3	11	12	18	25	17	13
Korea ^(a)	39	28	41	37	31	—	50	33	33
Philippines	2	8	3	5	24	9	13	—	9
Romania	2	5	—	—	—	—	—	—	2
Thailand	10	6	11	—	15	9	—	17	9
Other ^(b)	18	13	—	11	—	—	—	—	8
Total	100	100	100	100	100	100	100	100	100

(a) Includes North Korea and South Korea.

(b) 'Other' includes Bolivia, Chile, Guatemala, Poland, Sri Lanka, Taiwan, United States and Vietnam.

Note: Percentages may not add to 100 due to rounding.

Children legally available for adoption by non-relatives

Most children who are legally available for adoption by non-relatives live with prospective adoptive parents or in foster care. As in previous years, the summary data are for all States and Territories, excluding Victoria, for which data are not available. Children located overseas are also excluded.

The principle features of children legally available for adoption by non-relatives at 30 June 1998 are as follows:

- there were 348 children legally available for adoption by non-relatives, an increase of 18% from the 295 children legally available for adoption at 30 June 1997 (Table 14);
- the majority of children legally available for adoption by non-relatives (87%) were living with their prospective adoptive parents (Table 13);
- since it is not general practice in Queensland to place children with prospective adoptive parents prior to adoption, in that State there were no children legally available for adoption residing with prospective parents, and 96% of children were living in foster care (Table 14).

Table 13: Children legally available for adoption by non-relatives at 30 June 1998 (excluding Victoria): location of child by type of arranging body

Location of child	State/Territory community services department		Non-government organisation		Total	
	No.	%	No.	%	No.	%
Living with prospective adoptive parents	192	82	109	96	303	87
Foster care	40	17	4	4	44	13
Hospital/nursing home	—	—	0	—	0	—
Other	1	—	0	—	1	—
Total	233	100	113	100	348	100

Notes

1. Excludes Victoria as data were not available. See Appendix 1 for definition of 'other' locations.
2. Percentages may not add to 100 due to rounding.

Table 14: 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, 1997 and 1998

Location of child	NSW	Qld ^(a)	WA	SA	Tas	ACT	NT
At 30 June 1993							
Prospective adoptive parents	135	—	39	—	29	11	10
Foster care	12	61	17	—	2	1	—
Other	1	10	1	—	—	—	—
Total	148	71	57	—	31	12	10
At 30 June 1994							
Prospective adoptive parents	107	—	31	49	4	—	1
Foster care	49	56	8	—	1	1	1
Other	1	7	—	—	—	—	—
Total	157	63	39	49	5	1	2
At 30 June 1995							
Prospective adoptive parents	60	—	67	47	3	2	5
Foster care	14	45	6	—	—	1	—
Other	—	8	2	—	—	—	—
Total	74	53	75	47	3	3	5
At 30 June 1996							
Prospective adoptive parents	61	—	32	55	1	7	8
Foster care	6	38	10	—	—	1	1
Other	—	7	1	—	—	1	—
Total	67	45	43	55	1	9	9
At 30 June 1997							
Prospective adoptive parents	115	—	46	62	3	13	1
Foster care	8	28	9	3	3	—	—
Other	—	3	1	—	—	—	—
Total	123	31	56	65	6	13	1
At 30 June 1998							
Prospective adoptive parents	171	—	40	85	5	1	1
Foster care	13	23	3	2	3	—	—
Other	—	1	—	—	—	—	—
Total	184	24	43	87	8	1	1

(a) Data for 1993, 1994 and 1996 differ from data published in reports of previous years due to updated figures.

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

Source: AIHW 1998.

Adoption of Indigenous children

Although the States and Territories have different legislation and policies relating to the adoption of Indigenous children, the prevailing view is that, where possible, these children should be adopted by Indigenous people so as to maintain their cultural integrity. However, such an option may not always be available, and Indigenous children may then be adopted by other families. In Western Australia and Victoria legislation permits the birth parents to specify the type of adoptive family for their child. Only a very small number of Australian-born children adopted in 1997–98 were Indigenous.

Since 1991–92, the proportion of Indigenous children adopted by non-Indigenous families has fluctuated (Table 16). Four Indigenous children (two males and two females) were adopted in 1997–98, all by non-relatives, with three of these children being adopted by Indigenous parents (Table 15).

Table 15: Adoptions of Indigenous children by sex of adopted child, relationship to and Indigenous status of adoptive parents, 1997–98

Sex of adopted child	Adopted by relatives		Adopted by non-relatives		Total		Total
	Indigenous	Other	Indigenous	Other	Indigenous	Other	
Male	—	—	1	1	1	1	2
Female	—	—	2	—	2	—	2
Total	—	—	3	1	3	1	4

Note: In New South Wales if Indigenous status was not known the children were included in the non-Indigenous category.

Table 16: Indigenous adoptions by relationship to adoptive parents and Indigenous status of adoptive parents, 1991–92 to 1997–98

Relationship to adoptee/Indigenous status	1991–92	1992–93	1993–94	1994–95	1995–96	1996–97	1997–98
Relative							
Indigenous	2	—	1	—	—	2	—
Other	—	—	—	—	—	—	—
<i>Total relatives</i>	2	—	1	—	—	2	—
Non-relative							
Indigenous	3	5	6	7	2	1	3
Other	3	2	6	5	5	4	1
<i>Total non-relatives</i>	6	7	12	12	7	5	4
Total							
Indigenous	5	5	7	7	2	3	3
Other	3	2	6	5	5	4	1
Total	8	7	13	12	7	7	4

Source: AIHW 1998.

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. Detailed data on these orders for 1997–98 have been included in the report *Child protection Australia 1997–98* (forthcoming).

The main features to be noted regarding permanent care orders in 1997–98 are:

- there were 124 permanent care orders granted in Victoria, an increase of 31% from the previous year (Table 17);
- a total number of 549 permanent care orders have been granted since their inception in 1992.

Table 17: Number of permanent care orders granted in Victoria from 1992–93 to 1997–98

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
1997–98	63	61	124

Source: AIHW 1998.

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, States and Territories require the consent of the person to be identified and give 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.

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 4.

The main points to be noted regarding access to information for 1997–98 are:

- there were 4,324 information applications made;
- 69% of the information applications were made by the adopted person, 20% by the birth parents, 9% by other birth relatives and 2% by adoptive parents (excluding New South Wales) (Table 18);
- there was a fall in the number of information applications between 1996–97 and 1997–98 of 3% (Table 19).

Table 18: Information applications lodged by person lodging application and State and Territory, 1997–98

Person lodging application	NSW ^(a)	Vic ^(b)	Qld ^(c)	WA	SA ^(d)	Tas	ACT	NT	Total
Adopted person	n.a.	814	627	407	435	128	26	18	2,455
Adoptive parents	n.a.	18	4	34	1	3	1	—	61
Birth parents	n.a.	174	184	172	132	22	20	7	711
Other birth relatives	n.a.	137	18	104	44	11	3	5	322
Total	775	1,143	833	717	612	164	50	30	4,324

(a) New South Wales is unable to determine who made the application.

(b) Above table includes 27 applications by adult child of adopted person.

(c) Above table excludes 25 applications for identifying information where the client type is unknown.

(d) Under South Australian legislation, adoptive parents may not apply for identifying information unless they have the adopted person's permission.

Table 19: Information applications and contact and information vetoes lodged, 1995–96 to 1997–98

Year	Information applications	Contact and information vetoes lodged ^(a)
1995–96	5,567	426
1996–97	4,455 ^(b)	259
1997–98	4,324	174

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

(b) The total differs from the previous year's report due to updated figures.

Source: AIHW 1998.

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 1997–98 are:

- there were 174 contact and identifying information vetoes lodged, comprising 90 contact vetoes and 84 identifying information vetoes (Table 20);
- the number of vetoes lodged fell by 33% between 1996–97 and 1997–98 (Table 19);
- 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 20: Contact or identifying information vetoes lodged: person lodging veto by State and Territory, 1997–98

	NSW ^(a)	Qld ^(b)	WA ^(c)	SA ^(d)	ACT ^(e)	NT ^(f)	Total ^(g)
Lodgments of contact vetoes by:							
Adopted person	31	12	13	..	1	3	60
Adoptive parents	5	..	1	—	6
Birth parents	10	1	12	..	1	—	26
Other birth relatives	—	—	—
Total	41	13	30	..	3	3	90
Lodgments of identifying information vetoes by:							
Adopted persons	..	20	9	15	..	—	44
Adoptive parents	..	—	5	11	..	—	16
Birth parents	..	12	5	7	..	—	24
Other birth relatives	..	—	—	—	..	—	—
Total	..	32	19	33	..	—	84

- (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. Total excludes one veto where the client type and type of objection has not been recorded.
- (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. Total includes two orders issued by the Family Court of Western Australia preventing information being released.
- (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 adoptive person and birth parent are able to lodge vetoes with respect to adoptions finalised before 1994. Table does not include nine renewals of information 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 legitimation 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 'Adoptions by non-relatives', page 11).

Age of child

For the purpose of this collection, the age of an adopted person is generally counted at the date the application for adoption was signed by the applicant (in completed years, or in completed calendar months where the age is less than 1 year). In New South Wales, for children adopted by relatives, the age was counted at the date of the adoption order.

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 v 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.

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, children living independently, or children on unauthorised absence from their usual location.

Marital status of birth mother

Married

The birth mother is classified as married if she was legally married at the time of the birth. Cases where the adopted child's birth father was legally married to the child's birth mother but died before the birth are included.

Not married

The birth mother is considered not married if she was not legally married to the birth father. Cases where the adopted child's birth father was legally married to the child's birth mother but died before the birth are excluded.

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.

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 Regulation 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. These are only made in exceptional circumstances, that is, where a guardianship or custody order or other order made through the Family Court would 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 the Court can be satisfied that the needs of a particular child would be best met.

This system operates as a hierarchy. However the paramount consideration is the interest and welfare of the child.

Arrangements may be made by DCS or approved non-government organisations such as Centacare Adoptions Services, Anglicare Adoption Services and Barnardos Australia.

Adoption of Indigenous children

According to the Aboriginal placement principle in the *Children (Care and Protection) Act 1987* (NSW), Indigenous children are placed with adoptive parents of a similar Indigenous background, unless this does not appear to be in the best interests of the child.

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 Victoria Department of Human Services (DHS) or an approved non-government adoption agency for the preparation of an assessment report on the prospective adoptive parents. The report is submitted with the application to the County or Supreme Court.

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

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

Adoptions are arranged by DHS or an approved non-government organisation (see step-parent adoptions).

Adoption of Indigenous children

Restrictive eligibility criteria are 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 Reprint No. 1

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 DFYCC.

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 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.
- Intercountry 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.
- Intercountry 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 Child Placement Principle in Queensland, Indigenous children are always placed with parents of a similar Indigenous background. Consideration is given to the wishes of the consenting parent, however the best interests of the child are paramount.

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 Act 1996

Level of court

Youth Court of South Australia

Step-parent adoptions

'Leave to proceed' granted in the Family Court is required before step-parents can adopt where the child is the child of a dissolved marriage.

Adoption by relatives can be arranged only through the South Australian Department Of Human Services (DHS) in 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 DHS.

Non-relative adoptions

Eligibility requirements:

- married couples and defacto couples of more than 5 years;
- single people in particular circumstances.

Adoptions can be arranged only through DHS.

Adoption of Indigenous children

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

Tasmania

Adoption Act 1988

Adoption Regulations 1992

Level of court

Magistrate sitting alone

Step-parent adoptions

Adoption by step-parents can be arranged only through the Department of Health and Human Services (DHHS). There is 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

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 DHHS.

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.

Adoptions by non-relatives can be arranged by DHHS or a 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 relatives 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.

Adoptions by non-relatives must be arranged through CYFSB.

Adoption of Indigenous children

Restrictive eligibility criteria apply 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

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 couples;
- single person in exceptional circumstances.

Adoptions by non-relatives must be arranged through Territory Health Services.

Adoption of Indigenous children

Adoptions of Indigenous children can only occur if alternative custody with the child's extended family cannot be arranged. If an order is made it must comply with the Indigenous placement principle.

Appendix 3: Provisions for ‘open’ adoptions

New South Wales

New South Wales practice recognises that a variety of relationships may exist between a child’s adoptive and birth families. The child’s adoption plan, which may include the regular exchange of information or contact, is usually presented to the court at the time an adoption order is sought. Increasingly, birth parents are participating in the choice of the adopting family for their child. The Department or agency which arranged the adoption will assist with mediating on-going contact after the adoption order.

Victoria

The *Adoption Act 1984* provides that an adoption order can include conditions around information exchange and/or access between the parties. After signing the consent, birth parents are given the opportunity to express wishes concerning contact and information exchange, which are considered when placement decisions are made. The birth parent is given the opportunity to choose the adoptive parents from a number of parents who have been assessed as suitable. After placement, there may be direct contact between the parties, or an exchange of information. When the arrangements form part of the adoption order, there is a legally binding way to resolve any disputes that may arise.

Queensland

The complete adoption process is closed in so far as all identifying particulars are considered confidential until the adopted person is 18 years of age. It is then possible for the relevant people to apply for identifying information.

Western Australia

Since the *Adoption Act 1994*, all adoptions are considered open. All parties have access to identifying information *unless there is a veto or court order preventing access*. It is necessary to establish an adoption plan, which is an agreement between the birth and adoptive parents regarding the frequency or type of contact and the exchange of information. This can be renegotiated at a later date if necessary.

South Australia

Since the commencement of the *Adoption Act 1988*, ‘open’ arrangements are possible between parties to the adoption. This can involve access to information or contact between the parties. The arrangements are not legally binding and are to be facilitated and mediated by the Department.

Tasmania

In general, Tasmania promotes openness. 'Open' adoptions are arranged if it is the wish of the birth and adoptive parents.

Australian Capital Territory

Legislation allows for conditional orders (i.e. where contact frequency and other arrangements can be specified). Since the new legislation in 1993, all adoptions are regarded as 'open', that is some form of contact/ information exchange is encouraged.

Northern Territory

'Open' adoptions are available since the *Adoption of Children Act 1994* was introduced. It is an option for relinquishing parents.

Appendix 4: Access to information and veto systems

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.

Adult adoptees, birth parents and adoptive parents are able to lodge a request for advanced notice of an application for identifying information about themselves. This will delay the release of the information for a period of 2 months to allow everyone time to prepare for its release.

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.

Prior to 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 prior to the *Adoption of Children Act 1994* did not provide for the release of information to any parties to an adoption. Since the introduction of the new Act there is provision for a more open process, with identifying information being available unless a veto has been lodged.

Veto system

A 3-year, renewable veto may be lodged by the adopted person or birth parents with respect to adoptions finalised prior to 1994. There is no veto provision with respect to adoptions finalised under the new Act.

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