

## APPENDIX 2

### Adoption – state and territory legislative regimes and access to information

(based on 'Adoptions Australia 2008-09', Child Welfare Series No. 48, Australian Institute of Health and Welfare, February 2010)

State	Legislation/ Regulations/ Guidelines	Access to Information	Veto system/Register
Western Australia	<p><i>Adoption Act 1994</i> (WA)</p> <p>Adoption Regulations 1995 (WA)</p> <p><i>Adoption Amendment Act 2003</i> (WA)</p>	<p><b>Adoption plan:</b> plans must be negotiated to facilitate the sharing of information about the child between the birth and adoptive parents. The Family Court of Western Australia may dispense with the requirement to facilitate information sharing. Plans can also provide for no contact between the parties.</p> <p><b>Access to information:</b> birth parents, adoptive parents and adopted persons can obtain identifying and non-identifying information about the adoption from departmental records at the departmental CEO's discretion</p> <p><u>Adoptions before 1 January 1995:</u> adopted persons aged 18 years or over may access birth records and adoption records. Adopted persons under 18 years of age may access birth and adoption court records if parties to the adoption consent.</p> <p><u>Adoptions from 1 January 1995:</u> access is less restrictive.</p>	<p>Message box system allows anonymous contact.</p> <p>2003 amendments prohibit placement of new information or contact vetoes on adoptions since that date. All existing information vetoes were removed in June 2005.</p> <p>On 30 June 2009, there were 725 vetoes in place in WA, of which 281 were placed by adopted persons, 233 by adoptive mothers and 189 by birth mothers.</p> <p>623 information applications were lodged in 2008-09.</p>

Victoria	<p><i>Adoption Act 1984 (Vic)</i></p> <p><i>Adoption Regulations 2008 (Vic)</i></p>	<p><b>Adoption order:</b> orders may include conditions relating to information exchange and/or access between the parties.</p> <p><b>Access to information:</b> adopted persons aged 18 years or over may apply for their original birth certificate and adoption records. Adopted persons under 18 years of age require their adoptive parents' agreement and consent from birth parent/s.</p> <p>Birth parents and relatives may access non-identifying information about the adopted person from records. Identifying information may be provided with the adopted person's consent (over 18 years of age) or that of the adoptive parents if the adopted person is less than 18 years of age.</p> <p>Adult children of adopted persons have the same rights to information as the adopted person, with either the adopted person's consent or, if the adopted person is dead, a death certificate.</p> <p>Adoptive parents may apply for information about the birth family's background.</p> <p>Birth parent's written permission is required before identifying information may be released. Where an adopted person is 18 years or over, they must be notified of the intention to release identifying information about the birth family.</p>	<p>There is no veto system.</p> <p>A register operates on which people can record their wishes about giving/receiving information or making contact.</p> <p>Adopted persons may make direct contact, however a specialised agency makes contact with adopted persons and birth parents and relatives. The agency will ask the parties what their wishes are and mediate between the parties.</p>
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<p>New South Wales</p>	<p><i>Adoption Act 2000</i> (NSW)  <i>Adoption Regulation 2003</i> (NSW)</p>	<p><b>Adoption plan:</b> plans may provide for the regular exchange of information and for contact.</p> <p><b>Access to information:</b> an adopted person aged 18 years or over may access their original birth certificate and other information. Birth parents may access details of their child's adopted identity when that child reaches 18 years of age. Birth parents may also access information about their child (while aged under 18 years of age), such as health and welfare information. With the adoptive parents' permission, identifying information may be released.</p> <p>Adoptive parents receive non-identifying information about their child's birth family when the child is less than 18 years of age. With the birth parent's permission, identifying information may be released.</p> <p>Adult adopted persons, birth and adoptive parents are able to lodge a request for advanced notice of an application for identifying information about them. This will delay release of the information for two months to allow time to prepare.</p>	<p>Contact vetoes do not apply to adoptions made after 26 October 1990. If an adoption occurred before 26 October 1990, birth parents and adult adopted persons are able to lodge contact vetoes.</p> <p>There were 4,215 contact vetoes in place as at 30 June 2009, of which 2,359 were lodged by the adopted person and 1,803 by the birth mother.</p> <p>On lodgement of a contact veto, it becomes an offence for the information recipient to try to contact the person who imposed the veto.</p> <p>Information can be released if the applicant gives a written undertaking not to use the information to seek contact with the person about whom they seek information.</p> <p>900 identifying information applications were lodged in 2008-09.</p>
<p>South Australia</p>	<p><i>Adoption Act 1988</i> (SA)  <i>Adoption Regulations 2004</i> (SA)</p>	<p><b>Adoption arrangements:</b> arrangements may be made to provide access to information or contact between the parties; however, these are not legally binding.</p> <p><b>Access to information:</b> adopted persons aged 18 years or over may access information in their original birth certificate, as well as details about their natural parents (if known). Adopted persons are also entitled to know the names of any biological siblings who were adopted.</p>	<p>Both adopted persons and birth parents may veto the release of identifying information if the adoption occurred prior to the Act coming into force. A specific contact veto does not exist.</p> <p>Adoptive parents may 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 birth parent/s</p>

Tasmania	<p><i>Adoption Act 1988</i> (Tas)</p> <p><i>Adoption Amendment Act 2007</i> (Tas)</p> <p>Adoption Regulations 2006 (Tas)</p>	<p>Once the adopted person reaches 18 years of age, birth parents may access the adoptive name of their birth child and the names of the adoptive parents.</p> <p>Adoptive parents may also apply for particular information under certain circumstances. Descendants of an adopted person and certain birth relatives of the adopted person may also apply for information in certain circumstances.</p> <p><b>Adoption arrangements:</b> openness is promoted.</p> <p><b>Access to information:</b> adopted persons aged 18 years or over may apply for access to their pre-adoption birth record and information from their adoption record. Adopted persons under 18 years may only apply for information with the consent of their adoptive parents.</p> <p>Adopted persons, birth parents, and relatives and descendants of an adopted person may apply for non-identifying information at any time or for identifying information after the adopted person turns 18 years.</p> <p>Adoptive parents may apply for non-identifying information at any time but may only receive the birth parent's name with the permission of that person.</p> <p>All applicants resident in Tasmania must attend an interview with an approved counsellor before receiving information.</p>	<p>from making contact.</p> <p>There were 457 identifying information vetoes in place as at 30 June 2009.</p> <p>There were 368 information applications lodged in 2008-09.</p>
			<p>The right to information is unqualified. However, contact vetoes may be registered.</p> <p>Adopted persons, birth parents and relatives, descendants of an adopted person or adoptive parents may register a contact veto.</p> <p>Where a veto has been registered, identifying information is released only after an undertaking not to attempt any form of contact has been signed. An attempt to make contact where a veto is in force is an offence. A contact veto may be lifted at any time by the person who lodged it.</p> <p>121 contact vetoes were in effect as at 30 June 2009.</p> <p>101 applications were lodged for information in 2008-09.</p>

Queensland	<p><i>Adoption of Children Act 1964 (QLD)</i></p> <p>Adoption of Children Regulation 1999</p>	<p><b>Adoption – exchange of information:</b> identifying information is confidential until an adopted person reaches 18 years of age. Where both parties agree, adoptive and birth parents and birth relatives may exchange correspondence through Adoption Services before the adoptive person turns 18 years of age. Families participating in correspondence exchange may only communicate non-identifying information and may not have direct contact with each other.</p> <p><b>Access to information:</b> birth parents who signed an adoption consent before June 1991 and persons adopted before June 1991 may access identifying information if an objection to disclosure has not been lodged.</p> <p>Birth parents who signed an adoption consent after June 1991 and persons adopted after June 1991 may receive identifying information about each other, once the adopted person reaches 18 years of age.</p> <p>Eligible relatives of an adopted person or a birth parent who signed an adoption consent may obtain identifying information in certain circumstances.</p>	<p>Vetoes are referred to as 'objections'. Birth parents who signed an adoption consent before June 1991 and persons adopted before June 1991 may lodge an objection to contact only or to the disclosure of identifying information and contact.</p> <p>An objection to contact or to the disclosure of identifying information and contact remains in force unless it is revoked by the person who lodged it.</p> <p>The Act makes no provision for birth parents who signed an adoption consent after June 1991 and persons adopted after June 1991 to lodge an objection to contact or to the disclosure of identifying information and contact.</p> <p>There were 254 contact vetoes in place as at 30 June 2009, of which 179 were lodged by the adopted person and 75 by the birth mother.</p> <p>There were 2,745 identifying information vetoes in place as of 30 June 2009, of which 1,563 were placed by the adopted person and 1,175 by the birth mother.</p> <p>803 applications for information were lodged in 2008-09.</p>
Northern Territory	<p><i>Adoption of Children Act 1994 (NT)</i></p>	<p><b>Adoption arrangements:</b> openness is promoted.</p> <p><b>Access to information:</b> legislation before 1994 did not provide for information release to parties to an adoption. However, identifying information is available unless a veto</p>	<p>3-year renewable vetoes may be lodged by the adopted person or birth parents if the adoption was finalised before 1994.</p> <p>There is no veto provision with respect to adoptions</p>

<p>Australian Capital Territory</p>	<p><i>Adoption Act 1993 (ACT)</i></p>	<p>has been lodged.</p> <p>Indigenous child care agencies provide counselling for the purpose of supplying identifying information in relation to Indigenous children.</p> <p><b>Adoption arrangements:</b> conditional orders may regulate contact. Some contact or information exchange is encouraged.</p> <p><b>Access to information:</b> an adopted person aged 18 years or over, birth and adoptive parents and birth relatives may apply for identifying information about the adoption. Identifying information consists of a copy of, or extract from, an entry from the births register 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).</p>	<p>finalised under the Act.</p> <p>11 contact vetoes were in effect as at 30 June 2009. 98 applications were lodged for information in 2008-09.</p> <p>There is an unqualified right to information.</p> <p>Only contact vetoes may be registered. The veto must refer to a specified person/class of persons.</p> <p>Adopted persons over 17 years and 6 months of age, adoptive parents, adult birth relatives, adoptive relatives and adult children or other descendants of the adopted person may lodge contact vetoes. On lodgement of a veto, it becomes an offence for the information recipient to try to contact the person who imposed the contact veto.</p> <p>Where information is requested and a veto is in place, no information is provided unless the person requesting information has attended counselling and signed a declaration that he or she will not attempt contact in any form.</p> <p>105 contact vetoes were in place as at 30 June 2009. 40 information applications were lodged in 2008-09.</p>
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