

Adoption in Queensland

c. 1935 –

Details

The Australian Institute of Health and Welfare defines adoption as “The legal process by which a person legally becomes a child of the adoptive parent(s) and legally ceases to be a child of his/her existing parent(s)”. In Australia, each state or territory has its own adoption legislation and its own policies and processes. In the 1960s, the Commonwealth government led a model legislation project to harmonise the various adoption acts in Australia, and to ensure that the states recognised each others’ adoption laws.

In Queensland, the first adoption legislation was passed in [1935](#). Prior to this, adoptions still did take place in Queensland, however this happened outside of any legal frameworks. Adoptions during this period before legislation existed are referred to as “de facto” or “informal” adoptions. The first adoption acts passed by Australian jurisdictions were designed to provide certainty for parents who had adopted children under the informal arrangements that had applied until that time.

In Australia, there was a boom in the adoption industry after World War Two. Nationwide adoption data is not available prior to 1969, however the Senate inquiry into forced adoptions used figures in files held by the National Archives of Australia to estimate that around 150,000 adoptions took place in Australia between 1951 and 1975. Policies and practices resulting in forced adoptions were widespread throughout Australia during this period (Senate, 2012, pp.4-5).

In 2009, the Queensland government estimated that 50,000 adoptions had been made in Queensland since the early 1900s. As in other jurisdictions, Queensland’s adoption rates peaked in the 1960s and 1970s, with over 6,000 babies adopted in one four-year period (History of Adoption Project website). Adoptions steadily declined from the early 1970s, largely because of changing social attitudes towards single mothers and the introduction of the Supported Parents Benefit in 1973.

As an indication of the falling number of adoptions from the 1970s, in 2007-08, a total of 90 adoption orders were made in Queensland. Of these, 18 concerned Queensland children placed with adoptive parents, 21 were for children adopted by their step-parents and 51 were for children from overseas adopted by Queensland families (History of Adoption Project).

Unlike some other jurisdictions, private adoption agencies played no role in arranging adoptions in Queensland – there were no licensed adoption agencies in the state in 1961 (Senate, p.168).

In 2011, the Australian Senate began the inquiry into Commonwealth Contribution to Former Forced Adoption Policies and Practices, and its report was handed down in February 2012. The inquiry heard testimony and evidence about the pressure and stigma experienced by pregnant single women and how many were forced to put their child up for adoption. The negative and life-long effects of forced adoptions continue to affect adopted people, mothers and fathers.

The Queensland government made an apology for past forced adoption practices in that state on 27 November 2012.

On 21 March 2013, the former Prime Minister Julia Gillard apologised on behalf of the Australian Government to people affected by forced adoption or removal policies and practices

In 2018 the Australian Government's House of Representatives Standing Committee on Social Policy and Legal Affairs conducted an Inquiry into local adoption. This inquiry considered how to establish a nationally consistent local adoption framework in Australia and the viability of using adoption as an alternative to out-of-home care to create stability and permanency for children. The inquiry discussed that adoption rates in Australia are the second lowest in the developed world, but Australia simultaneously has a growing number of children in out-of-home care. The report identified a key barrier to increasing adoption in Australia is the 'fear of repeating the mistakes of past forced adoption policies and practices' (History and timeline of forced adoptions in Victoria).

The history of adoption in Queensland for Aboriginal and Torres Strait Islander peoples is unique. Historian Shurlee Swain writes that Indigenous adoptees have been marginalised, both in the story of the Stolen Generations and in the history of adoption in Australia (Swain, 2013). Adoption was particularly damaging in the context of the Stolen Generations and was one means of removing Aboriginal and Torres Strait Islander children from their families. The Senate report describes how adopted Aboriginal and Torres Strait Islander people experienced cultural loss, and were also subject to "a layer of official secrecy: not only a denial of their original individual parents, but an additional official desire to suppress racial and cultural identity" (p.80).

Torres Strait Islander culture has its own view on adoption, and customary adoption is reported to occur in the islands of the Torres Strait, as elsewhere in the Pacific, and among Torres Strait Islander communities on the Australian mainland. It involves the permanent transfer of care responsibilities and is a 'social arrangement' which serves to entrench reciprocal obligations thereby contributing to social stability. Traditionally the chosen adoptive family was in the same 'bloodline' as the birth family. However, with 'inter-racial' marriage now more frequent, adoptive parent(s) may be related only by marriage. There is also a growing practice of giving a child to family friends rather than relatives. As in general Australian law, customary Torres Strait Islander adoption makes the child fully a member of the adoptive family (Ban 1993 quoted in Bringing them home report, 1997).

Just as adoption numbers have decreased in the overall population, there has also been a reduction in the adoption of Aboriginal and Torres Strait Islander children. The introduction of the Aboriginal Child Placement Principle has meant the majority of Indigenous children are adopted by Indigenous families. This principle was specifically enshrined in Queensland's Adoption Act 2009 (which remains in force in 2024).

Adoption legislation in Queensland

The first legislation in Queensland was the [Adoption of Children Act 1935](#). It provided for the adoption of children up to the age of 21 years who had never married, and for rights of succession to the adoptive parents.

Unlike in other states, adoption was not a judicial process in Queensland, and the law empowered the Director of the State Children Department to make adoption orders. Prior to 1961, most Australian adoption laws did not establish offences for unlawful adoption practices – however in Queensland (and Victoria) the law prohibited any money changing hands in relation to an adoption (Senate, 2012, p.173).

Queensland's first adoption act was repealed and replaced with the [Adoption of Children Act 1964](#) (Act no. 54/1964). Queensland was the second jurisdiction to pass new model legislation, to achieve more uniformity in the various adoption acts and to enable Australian jurisdictions to recognise each others' adoption laws. The 1964 act had the full title "An Act to Consolidate and Amend the Law Relating to the Adoption of Children". The Act states that the welfare and interests of the children are the paramount consideration in making an order for adoption. Queensland remained the only Australian state to empower a public servant to make orders about adoption. Like the adoption acts passed in other Australian jurisdictions in the 1960s, the legislation was informed by the "clean break theory" which held that it was best for the mother and soon-to-be adopted child if they were separated as early and as completely as possible.

Prior to June 1991, Queensland laws gave no right of access to identifying adoption information and adopted people and their birth parents were generally unknown to each other for life. In June 1991, the Adoption of Children Act 1964 was amended to provide adopted people and birth parents with an entitlement to access identifying information about a birth parent or child who was adopted, once the adopted person turns 18 years of age. With this amendment, adopted people and birth parents were given equal access to identifying adoption information, whether the adoption occurred before or after 1 June 1991. It removed the right for people to lodge an objection to prevent another person from receiving identifying information about them. This act was repealed in 2010 by the [Adoption Act 2009](#) (Act no.29/2009).

The 2009 Act meant that open adoption – where a child's birth and adoptive families know each other's identities from the time of the child's adoption – was practised for the first time in Queensland. The explanatory notes for this legislation stated that the Act would provide for the adoption of children in Queensland, and for access to information about parties to adoptions in Queensland, in a way that: promotes the wellbeing and best interests of adopted persons throughout their lives; and supports efficient and accountable practice in the delivery of adoption services; and complies with Australia's obligations under the Hague convention. (Adoption Act 2009, Explanatory Notes).

The Adoption Act 2009 remains in force in 2024.

More info

Related Entries

Related Events

- [Inquiry into Commonwealth Contribution to Former Forced Adoption Policies and Practices, Commonwealth of Australia \(2011 - 2012\)](#)

Related Legislation

- [Adoption of Children Act 1935, Queensland \(1936 - 1965\)](#)
- [Adoption of Children Act 1964, Queensland \(1965 - 2010\)](#)
- [Adoption Act 2009, Queensland \(2009 - current\)](#)

Related Organisations

- [Adoption Services Queensland, Department of Families, Seniors, Disability Services and Child Safety](#)

Related Archival Series

- [Adoption Registers \(1963 - 1999\)](#)
- [Adoption Files \(1979 - 1995\)](#)
- [Aboriginal Community Adoption Files - Bamaga \(1973 - 1980\)](#)
- [Adoption of Children \[Yarrabah Aboriginal Settlement\] \(1973 - 1982\)](#)
- [Registers of Adopted Children - Queensland Society for the Prevention of Cruelty \(1917 - 1918\)](#)
- [Adoption Files - Torres Strait Islands \(1973 - 1988\)](#)
- [Correspondence Files - Aboriginal and Torres Strait Islander Affairs \(1916 - 1999\)](#)
- [General Correspondence - Torres Strait Islands \(1922 - 1994\)](#)
- [Miscellaneous Items and Correspondence - Aboriginal and Torres Strait Islander files \(1859 - 1997\)](#)

Resources

- Quartly, Marian; Swain, Shurlee; Cuthbert, Denise; Drefus, Kay and Taft, Margaret, *The market in babies: stories of Australian adoption*, 2013