



## Artworks: Getting Permission

This information sheet is for people who want to use photographs, paintings, drawings, book illustrations, cartoons, graphics on websites and other artworks, by reproducing them, for example. We provide a brief overview of when permission, also known as a “licence” or “copyright clearance”, is required to use artistic works. We also suggest how to seek permission.

We update our information sheets from time to time. Check our website at [www.copyright.org.au](http://www.copyright.org.au) to make sure this is the most recent version, and for other information, such as details of our seminar program.

**The purpose of this information sheet is to give general introductory information about copyright. If you need to know how the law applies in a particular situation, please get advice from a lawyer.**

### Key points

- To use all or a “substantial part” of an artistic work in any of the ways reserved to the copyright owner, you will need permission from the copyright owner, unless copyright has expired or a special exception applies.
- The creator of copyright material is not always the copyright owner.
- The owner of a physical item does not necessarily own copyright in that item. For example, a gallery or museum does not necessarily own copyright in items in its collection.
- Intestacy law or the will of a deceased person may determine who inherited copyright owned by the person when they died.
- The Copyright Act does **not** allow you to use copyright material without permission merely because you can’t identify the copyright owner, or can’t contact them, or because they fail to reply to your request.
- If you have used copyright material without permission, using “good faith notices” or statements that you were unable to contact the copyright owner, does **not** alter your legal liability for infringement.
- Once you have permission to use an artwork, you still need to ensure that you do not infringe its creator’s moral rights.

### When to get permission

The copyright owner of an artistic work has the exclusive right to reproduce it (by photocopying or scanning, for example), to publish it (in a book or a newsletter, for example), and to communicate it to the public (via email or on a website, for example). If you want to use all or a “substantial part” of copyright material in any of the ways reserved to the copyright owner, you need permission from the copyright owner, unless copyright has expired or a special exception to infringement applies.

For information that will help you work out when you need permission to use an artistic work, see our information sheets *Artists & Copyright*, *Quotes & Extracts* and *Duration of Copyright*.

Important special exceptions to infringement (where permission is not required) are outlined in our information sheets *Fair Dealing*, *Libraries: Introduction to Copyright*, *Education: Copyright Basics*, and *Government: Commonwealth, State & Territory*.

For a more detailed discussion, see our books *Galleries & Museums* and *Photographers: Copyright & Moral Rights*.

### **How to get permission**

Permission to use copyright material is referred to as a “licence” to use the material. The process of obtaining a licence is sometimes referred to as “clearing copyright”. A licence may be granted subject to conditions, which may include payment of a fee.

For information on the kinds of issues that should be covered when dealing with a copyright owner, see our information sheet *Assigning & Licensing Rights*. For information that may help you work out appropriate fees, see our information sheet *Fees & Royalties for Use of Copyright Material*.

The moral rights of the artist also need to be taken into account. You may need to obtain a written consent from the artist, separate from any arrangement with the copyright owner, if you want to do something with the artwork that will infringe the artist’s moral rights. For information on these rights, see our information sheet *Moral Rights*.

### **Who can give permission**

Permission must be obtained from the copyright owner, or someone authorised by the copyright owner to give permission. Where copyright in an artwork is jointly owned, permission is usually required from each owner.

Copyright is often owned by someone other than the creator because of the circumstances in which material was created or because copyright has been assigned. In most cases, if the creator assigned or licensed copyright (other than by will) **before** 1 May 1969, and died more than 25 years ago, copyright will have reverted to the creator’s estate.

There is no Australian copyright registration system, so there are no official records like there are for registered trade marks, patents and designs that you can search to identify owners. So you may need to use a variety of resources when trying to locate copyright owners to seek permission. In some cases, you may need to do some detective work.

**The Copyright Council does not have records about copyright ownership and does not provide any research services to locate copyright owners.**

### **Artwork licensed by artists and Copyright Agency | Viscopy**

A licence may be available from Copyright | Viscopy, the visual arts copyright collecting society, for the reproduction of works of art from Australia or overseas (see contact details listed below). Viscopy’s business is now managed by Copyright Agency. Viscopy remains a separate legal entity, with members and a board.

If the copyright owner is not a member of Copyright Agency | Viscopy, there are a number of other organisations that may be able to help, either by themselves granting a licence or by providing details of the artist:

- the Aboriginal Artists Agency represents some Aboriginal and Torres Strait Islander artists;

- the National Association for the Visual Arts (NAVA) has a database of visual artists practising in Australia; and

*Contact Details:*

**Copyright Agency | Viscopy**

Tel (02) 9394 7600; [www.viscopy.org.au](http://www.viscopy.org.au)

**Aboriginal Artists Agency**

Tel 0417 230 464; [www.aboriginalartists.com.au](http://www.aboriginalartists.com.au)

**Australian Commercial and Media Photographers**

Tel (02) 9025 3975; [www.acmp.com.au](http://www.acmp.com.au)

**Australian Graphic Design Association**

Tel (08) 8410 9228; [www.agda.com.au](http://www.agda.com.au)

**Australian Institute of Professional Photography**

Tel 03 9856 0700; [www.aipp.com.au](http://www.aipp.com.au)

**National Association for the Visual Arts (NAVA)**

Tel (02) 9368 1900; [www.visualarts.net.au](http://www.visualarts.net.au)

**Artwork in galleries and museums**

If the work is held in an art gallery or museum, the gallery or museum may be able to authorise its use or be able to help you to contact the rights owner. The fact that organisations or people own physical items does not necessarily mean that they also own copyright in those items.

**Published artworks**

If an artistic work has been published (for example, as an illustration in a book or magazine), the publisher may be able to grant permission or direct you to the copyright owner.

**Cartoons, TV and animated characters**

If the cartoon or animation has been published, contact the publisher. Some cartoon characters, such as Disney characters, are licensed by merchandising organisations or agents such as those listed below.

*Contact details:*

**The Walt Disney Company (Australia) Pty Ltd**

[www.disney.com.au/dcp](http://www.disney.com.au/dcp)

**Warner Bros Consumer Products**

Tel (03) 9657 0333; [www.warnerbros.com.au](http://www.warnerbros.com.au)

**ABC Licensing** (Bananas in Pyjamas, Playschool, Triple J)

Tel (02) 8333 5351; <http://www.abcccontentsales.com.au/contact.htm>

**Haven Licensing Pty Ltd** (Peanuts, Sesame Street, The Simpsons)

Tel (02) 9357 9888; [www.havenlicensing.com.au](http://www.havenlicensing.com.au)

**Curtis Brown Aust Pty Ltd**

Tel (02) 9331 5301; [www.curtisbrown.com.au](http://www.curtisbrown.com.au)

## Flags and State and Territory emblems

Flags are generally protected by copyright, and in some cases by other areas of law. Generally, you can find out about State or Territory flags, emblems and protocols by going to the website of the relevant government and following links to (or by searching for) words like “protocol”, “flag” or “emblem”. Contact the person or department named if you need permission. To find a list of links to Australian government websites, go to <http://www.gov.au>

If you do not have access to the internet, try contacting the Department of your State or Territory Premier and ask for the person responsible for protocol, flags and emblems.

For permission to use the Aboriginal Flag, contact:

**Mr Harold Thomas**, PO Box 41807, Casuarina NT 0810.

Further information on getting permission to reproduce the Aboriginal flag is provided at: [www.naidoc.org.au/celebrating-naidoc-week/indigenous-australian-flags](http://www.naidoc.org.au/celebrating-naidoc-week/indigenous-australian-flags)

## Australian currency

Permission is needed to copy money, for general regulatory reasons as well as copyright reasons. For permission to reproduce and communicate Australian currency, contact:

**The Reserve Bank**, Tel: 1800 300 288; [www.rba.gov.au](http://www.rba.gov.au) (click on “banknotes”, then “legal framework”, then “reproducing banknotes”).

## Indigenous protocols

Protocols and policy papers for dealing with Indigenous material are available in a number of areas. Protocols generally set up a structure for gaining permission from appropriate sources for using Indigenous cultural material and subsequent use of this material. The Australia Council has developed a series of protocols, which are available on its website.<sup>1</sup> Protocols have also been developed by other organisations including the Screen Australia,<sup>2</sup> the Australian Society of Authors,<sup>3</sup> the museum sector, the library and archive sector, and the public and commercial broadcasters.

## Digital and Internet material

If you want to use artworks from the internet, you will need to see if anything on the website tells you what you can use the artworks for, and whether the terms and conditions of use (often found by clicking a link to “Copyright”) cover your needs. Similarly, if you want to use artworks acquired under licence (such as clipart on software) you will need to check whether the terms and conditions of the licence agreement allow you to use the material in the ways you want.

If you are uncertain about whether the statement or licence grants permission for the uses you want, or if the statement or licence clearly does **not** allow you to use the material in the ways you want, it is generally a good idea to contact the relevant copyright owner. You could contact the publisher of the software or the Webmaster of the website who may be able to grant permission or direct you to the copyright owner. For further information on copyright material on the internet, see our information sheet *Internet: Copying & Downloading*.

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<sup>1</sup> [http://www.australiacouncil.gov.au/grants-2012/information-for-applicants/indigenous\\_protocols](http://www.australiacouncil.gov.au/grants-2012/information-for-applicants/indigenous_protocols)

<sup>2</sup> [http://www.screenaustralia.gov.au/filmmaking/Indigenous\\_protocols.aspx](http://www.screenaustralia.gov.au/filmmaking/Indigenous_protocols.aspx)

<sup>3</sup> [https://asauthors.org/files/pages/writing\\_about\\_indigenous\\_australia.pdf](https://asauthors.org/files/pages/writing_about_indigenous_australia.pdf)

## Further information

For further information about copyright, and about our other publications and seminar program, see our website – [www.copyright.org.au](http://www.copyright.org.au)

If you meet our eligibility guidelines, a Copyright Council lawyer may be able to give you free preliminary legal advice about an issue that is not addressed in an information sheet. This service is primarily for professional creators and arts organisations but is also available to staff of educational institutions and libraries. For information about the service, see <http://copyright.org.au/legal-advice/>

## Reproducing this information sheet

Our information sheets are regularly updated - please check our website to ensure you are accessing the most current version. Should you wish to use this information sheet for any purpose other than your reference, please contact us for assistance.

## About Us

The Australian Copyright Council is an independent, non-profit organisation. Founded in 1968, we represent the peak bodies for professional artists and content creators working in Australia's creative industries and Australia's major copyright collecting societies.

We are advocates for the contribution of creators to Australia's culture and economy; the importance of copyright for the common good. We work to promote understanding of copyright law and its application, lobby for appropriate law reform and foster collaboration between content creators and consumers.

We provide easily accessible and affordable practical, user-friendly information, legal advice, education and forums on Australian copyright law for content creators and consumers.



**Australian Government**



*The Australian Copyright Council has been assisted by the Australian Government through the Australia Council, its arts funding and advisory body.*

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