



## INFORMATION SHEET

G090v02

# Maps and charts

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In this information sheet, we discuss copyright law as it relates to maps and charts, including street directories, diagrams and scientific maps (e.g. hydrographic charts, topographical maps, demographic maps, sky maps).

This information sheet is for creators and copyright owners of maps and charts. It is also for people who want to use maps and charts. Other information sheets that may be relevant include *Artworks* and *Databases, compilations, tables and forms*. Our practical guide *Historians & copyright* may also be relevant.

We update our information sheets from time to time. Check our website at <http://www.copyright.org.au/infosheets> to make sure this is the most recent version, and for other information.

**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

- Maps and charts may be protected by copyright.
- Unless copyright has expired, you will usually need permission to reproduce, communicate, or publish a map or chart created by someone else, including by putting it on a website, even if you make changes to it or add to it.

### How does copyright apply to maps and charts?

In Australia, copyright law is contained in the *Copyright Act 1968* (Cth) and in decisions of courts.

Subject matter falling into one of the categories of copyright works is protected by copyright if it is:

- original, not merely copied from something else (that is, there must have been some degree of skill or labour exercised in creating it); and
- recorded in "material form" (that is, in a form which can be reproduced, for example, on paper or on a computer disk).

Copyright protects, among other things, "artistic works", which include drawings, maps and charts.

Compilations of information that are part of a map or chart (for example, tables of geo-social information) are classified as "literary works" and may be separately protected by copyright. For information on compilations, see our information sheet *Databases, compilations, tables and forms*.

### No registration for copyright

There is no process of registration for copyright in Australia. Copyright protection is free and applies automatically in Australia (and in most other countries) when material is created.

A copyright notice identifying the copyright owner and date of first publication, for example, © Chris Smith 2007, indicates that someone claims copyright, but it is not required to obtain copyright protection in Australia or in most other countries. The use of a copyright notice reminds people that the material may be protected and it can provide some procedural benefits to a copyright owner taking action for infringement in Australia.

Some countries, including the United States, have government registration systems. While it is not necessary for an Australian copyright owner to register overseas in order to obtain copyright protection in most other countries, evidence of registration in foreign countries can provide some procedural benefits to a copyright owner taking action for infringement, particularly in the country of registration.

### **Duration of copyright**

In most cases, copyright in published maps and charts lasts for 70 years from the end of the year in which the creator died. If the map or chart is published anonymously, copyright lasts for 70 years from the end of the year in which it was first published. If copyright in a map is owned by the government, that copyright generally lasts for 50 years from the end of the year the map was made. Note that copyright in unpublished works may continue indefinitely. There are exceptions to this, however, particularly if the creator died before 1955.

For further information, see our information sheet *Duration* (refer to the rules for artistic and literary works).

### **Ideas, information, and styles are NOT protected**

Copyright does **not** protect ideas, information, styles or techniques in copyright works.

Maps and charts relating to the same geographical area will usually resemble each other. However, there is an important distinction between the **information** in maps and charts (for example, names and distances between geographical features depicted), which is not protected by copyright, and the **expression** of information in a particular map or chart (for example, selection of what to include, the colour schemes, symbols, labels, keys and contour lines), which is protected by copyright.

As noted above, **compilations** of information (for example, lists of places of interest) are also protected by copyright.

If you are creating a map or chart and wish to minimise your risk of infringing copyright in existing works, see below under the heading *Substantial part*.

### **Who owns copyright in maps and charts?**

Ownership of copyright in a map or chart depends on the circumstances in which it was made:

- If someone was commissioned to create the map or chart, look at the agreement to work out who owns copyright. Agreements can be verbal or written.
- If the creator of the map or chart was an employee (not a freelancer or volunteer) and created the work as part of his or her job, copyright will belong to the employer, unless there is an agreement to the contrary.
- If the map or chart was made by, or under the direction or control of, the Commonwealth Government, or a State or Territory government, copyright will generally belong to that government, unless there is an agreement to the contrary.
- If the creator has signed a document that says that someone else will own copyright, then that person will own copyright.

If none of these apply, the creator of the map or chart will own copyright. If more than one person is involved in creating the map or chart, the creators may be joint copyright owners.

For further information, see our information sheet *Ownership of copyright*.

### **Do I need permission to use a map or chart?**

Unless copyright has expired or one of the exceptions to infringement (discussed below) applies, you need permission (that is, a "licence") to:

- reproduce all or a substantial part of the map or chart (for example, by photocopying, hand copying, scanning, saving onto a digital file or printing);
- communicate all or a substantial part of the map or chart to the public (for example, by faxing or emailing to an office, or uploading to a website or an intranet); or
- publish all or a substantial part of the map or chart (for example, in a newsletter or a guidebook).

You can display a map or chart in its original material form (for example, by hanging it on a wall). However, to reproduce or communicate all or a substantial part of a map or chart (for example, on a photocopy, on an overhead transparency, in an email, or on the internet), you will need permission (unless an exception to infringement applies).

### **Substantial part**

A “substantial part” means any **important, essential or distinctive** part of the map or chart. Even a very small part of a map or chart may be “substantial” for copyright purposes.

If you copy all or a substantial part of another map or chart without the copyright owner’s permission, where no exception applies, you will almost certainly infringe copyright. The risk of infringing copyright will be reduced if you create your own work using information from a number of different sources (which may include materials such as aerial photographs). You can, of course, create a map or chart entirely from your own observations (for example, by pacing out a local area), in which case there is no risk of infringing copyright in an existing work.

### **Exceptions to infringement**

There are some exceptions to infringement that allow you to use material protected by copyright without permission if your dealing with the copyright work is “fair” and is for the purposes of research or study, criticism or review, parody or satire, or reporting news. For further information, see our information sheets *Fair dealing* and *Research or study*.

There are also exceptions for copying by libraries, educational institutions and governments. In some cases, certain procedures must be followed, and sometimes fees must be paid. For further information, see our information sheets *Libraries, Educational institutions* and *Governments (Commonwealth, State and Territory)*.

### **Maps and charts on the internet**

If you wish to copy a map or chart that is in digital format on the internet, you may find a statement on a website giving you permission to reproduce the material under stated terms and conditions (an “express licence”). In some cases it may be clear from all the circumstances (for example, a print option on a web page) that you have permission to use it in a particular way (an “implied licence”). If you want to use a map or chart from the internet for any purpose that is not covered by an exception (for example, to show customers where your business is located), in most cases you will need express, rather than implied, permission. This may be given in the terms of use of the website, otherwise you may need to request permission from the copyright owner or from website proprietor who may be licensed to give you permission.

For further information, see our information sheets *Assigning and licensing* and *Internet: copying and downloading*.

### **Maps and charts in other digital formats**

Use of a map or chart that is available in other digital formats, such as a chart on a purchased CD-ROM, is usually governed by an express licence. You need to check the terms of the licence to see what uses of the map or chart are permitted.

### **Moral rights**

The creators of maps and charts have moral rights in their work, even if they do not own copyright. This means that even when an exception applies or you have a licence to use a work, in most circumstances you will have obligations to correctly attribute the creator(s) by name, to not falsely attribute the creator(s), and to not use the work in a way that is prejudicial to the honour or reputation of the creator(s).

For further information, including on exceptions to infringement of moral rights, see our information sheet *Moral rights*.

## Common questions

*Can I copy a map from an online directory to put onto my website to show customers where my business is located?*

First, check whether or not the website offers a licence to use the map in this way. Note that a statement such as “email to a friend” does not permit you to use the map in a commercial context. If there is no express licence on the website, you will have to obtain permission by contacting the copyright owner, or the website proprietor if it is licensed to give you permission.

*Can I place a link on my website to a map or chart on another website?*

Providing links to material on other websites does not generally raise copyright issues, unless you have reason to suspect that the material on the website you are linking to was put there without the copyright owner’s permission. However, providing such links could raise issues under other areas of law, especially if:

- the link is “framed” so that the material looks like it is on your website;
- the link, or the way it is contextualised on your website, could cause viewers to confuse your site or products with those of a commercial rival; or
- the proprietor of the website that you want to link to has asked you to agree not to provide such links.

*Can I make a tourist map of a local area based on an existing map if I make changes?*

If you start with an existing map and make changes, you will need permission (unless copyright has expired, or one of the exceptions to infringement applies). If you wish to avoid the risk of copyright infringement, you could create your own map from scratch. To be on the safe side, use as many different sources of information as possible.

*Who owns copyright in a new map I created based on an existing map (with permission)?*

If the map you have created is a new artistic work, you will probably own copyright in it (unless you made it as part of your job, or for the government). However, any use of your map will also use the original map or chart (“underlying work”) and therefore will require permission from the owner of copyright in the underlying work. For this reason, it is a good idea to make sure, when you are seeking permission to use copyright material in work you are creating, that you cover all likely uses of that copyright material.

*Can I hand draw a chart of marine features from one that is already available?*

Any form of reproduction (including by hand) of a substantial part of an existing chart requires permission (unless copyright has expired, or one of the exceptions to infringement applies). Depending on the circumstances, you may be able to rely on an exception to infringement such as fair dealing for research or study. You can, of course, use information from a range of sources to create a new chart.

*Can I reproduce maps and charts that are in books or on posters that I own?*

You do not have the right to reproduce a map or chart simply because you own a book in which it is reproduced. If you own a printed copy of a map or chart, you will need to get permission to use it in the ways reserved to the copyright owner (unless copyright has expired, or an exception to infringement applies).

*Can a government department or agency reproduce my local area map in a publication?*

If the department or agency is part of a Commonwealth, State or Territory government it can rely on the special exception for copying by the government, if it is copying for the services of the government. If you own copyright in the map and you are a member of the Copyright Agency Limited (CAL), you will be eligible to receive a payment from CAL for use of your map by the government. For more information, see our information sheet *Governments (Commonwealth, State and Territory)*. The government copying exception does not apply to local governments; they need to obtain your permission.

## Further information

For further information about copyright, and about our other publications and training program, see our website – <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, libraries and governments. For information about the service, see <http://www.copyright.org.au/advice> or our information sheet *Australian Copyright Council: who we are, what we do*.

Information from the Arts Law Centre of Australia may also be of interest to you: see <http://www.artslaw.com.au> or telephone (02) 9356 2566.

## Reproducing this information sheet

You may download and print one copy of this information sheet from our website for your reference, or you may purchase a printed copy from our online shop – <http://shop.copyright.org.au> – or direct from us.

## Australian Copyright Council

**The Australian Copyright Council is a non-profit organisation whose objectives are to:**

- assist creators and other copyright owners to exercise their rights effectively;
- raise awareness in the community about the importance of copyright;
- identify and research areas of copyright law which are inadequate or unfair;
- seek changes to law and practice to enhance the effectiveness and fairness of copyright;
- foster co-operation amongst bodies representing creators and owners of copyright.



**Australian Government**



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

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