

Guide to Copyright, Commissioning & Publishing Architectural Photography

www.acmp.com.au

In the same way that architects control who can reproduce their designs, photographers usually control who can reproduce their images. The purpose of this brochure is to foster greater communication between architectural photographers, architects, interior designers, publishers, and the entire design community.

Who owns copyright?

Unless there's an agreement to the contrary, a photographer will own copyright in a commissioned photo except when:

- the photo is taken for a private or domestic purpose; or
- the photo is taken by an employed photographer rather than a freelancer (in this case the employer owns the rights, but note that in the case of photographers employed by newspapers and magazines, the copyright is shared with the employer)
- a Commonwealth, State or Territory (but not local) government "directs or controls" the taking of a photo (for example, a government commissions a photographer); or
- a Commonwealth, State or Territory (but not local) government "directs or controls" the first publication of a photo (for example, a photographer licenses a government to use an image from his or her stock library)."

If a photographer's stated terms specify that they retain ownership in any works they produce, and a client, including Commonwealth, State or Territory government accepts these terms then the above exceptions will no longer apply.

How do Architectural photographers license their work?

The photographer will usually stipulate what usage rights are associated with the specified fees when submitting their quotation. Usages often included in a commissioning fee are material produced by the commissioning party for self promotion e.g. Architects Website, Awards Submissions, Internal Presentations, Monographs and Brochures. In the absence of an express agreement, a license may sometimes be implied from the circumstances. Often the scope of such a license may be unclear; hence it is always best to have an agreement in writing.

The photographer may charge an additional license fee for usages outside their standard license terms. For example an additional license fee may be charged where more than one commercial enterprise will have use of the images or where a client requests rights for publication in magazines and books. The broader the conditions of usage, the more you can expect to pay.

Talk to your photographer before you start a job and everyone will know where they stand.

Third Party Licensing

Unless negotiated as part of the initial fee only the copyright holder, who in most cases is the photographer, has the right to provide images to third parties. Third parties are anyone wanting to use or publish the images that weren't included in the original commissioning license and may include various contractors, publishers and media organisations or local councils and Government Departments.

If you have not negotiated a license to provide images to specified third parties, all enquiries should be directed to the photographer.

Does the photographer need to be credited?

Creators of copyright works, including photographers, have "moral rights" in relation to their works. These are separate from copyright. Moral rights impose certain obligations on people who use a copyright work. Photographers have the right to:

- be attributed as creator of photographs;
- take action if work is falsely attributed; and
- take action if work is distorted or treated in a way that is prejudicial to the photographer's honor or reputation.

There are some situations where these rights don't need to be observed, for example, where the photographer has consented to this.

How long does copyright in photographs last?

In most cases for photographs taken on or after 1/1/1955 copyright lasts until 70 years from the end of the year the photographer died.

Need more information

If you'd like more information, the Australian Copyright Council has published an Information Sheet called "Photographers & Copyright" that states the legal position and answers most of the common questions - <http://www.copyright.org.au/infosheets.htm>

You can also refer to The Association of Photographers Copyright for Clients website <http://www.copyright4clients.com>

This brochure has been produced by the ACMP, approved by the Australian Copyright Council and endorsed by the Australian Institute of Architects



ACMP

PO Box 779,
North Sydney NSW, Australia, 2060
www.acmp.com.au
admin@acmp.com.au
T +61 (2) 9025 3975



Australian Copyright Council

PO Box 1986
Strawberry Hills NSW 2012
www.copyright.org.au
info@copyright.org.au
T +61 2 8815 9777



Australian
Institute of
Architects

Australian Institute of Architects

National Office
PO Box 3373
MANUKA ACT 2603
www.architecture.com.au
national@raia.com.au
T +61 2 6121 2000