

COPYRIGHT QUICK GUIDE

PHOTOGRAPHING PEOPLE AND BUILDINGS

These guidelines have been developed in consultation with the RMIT Legal Services Group, and based on advice provided by the Victorian Privacy Commissioners' Office.

The guidelines are designed to provide RMIT staff with an understanding of the privacy issues associated with taking images of individuals. The guidelines have been developed as a risk management strategy to ensure RMIT is not exposed to any undue action under the Privacy Act 1988 (Cth) incorporating the Privacy Amendments (Private Sector) Act 2000 (Cth).

This guide contains information on photographing works of art and buildings found in public spaces.

PHOTOGRAPHING PEOPLE

RELIGIOUS / CULTURAL BELIEFS:

Cultural and religious beliefs need to be taken into consideration when considering photography at Cultural Events involving differing nationalities. For example some religious cultures forbid the taking of images of women without the consent of the husband or male guardian.

Indigenous Peoples: In some cases it is not appropriate to take photographic images of or publish images of indigenous peoples without first checking with the family or elders of the community.

In instances like these it is best to ensure that the persons, who are to be the focus of the photographic images, are made fully aware of the purpose, intention, and subsequent use of the image.

IMAGES OF CHILDREN:

Taking images of children who are under the legal age of consent will require the consent of the parent or guardian. This consent needs to be in writing. The parent or guardian needs to be fully informed on the purpose, intention, and subsequent use of the image. Informed written consent is required when photographing children

IMAGES OF PERSONS:

The most important consideration in taking images of persons at any RMIT event is to ensure that, where the individual[s] are easily identified in the images being taken, they need to be provided with information surrounding how the image is to be used. This can be done by way of a business card notice, or by way of informed consent. The key factor in informing the individual[s] is to ensure you provide them with information on exactly how the image is to be used, and also details of an RMIT staff member in the event they do not want their image to be used.

If the focal point of the photographic image(s) are of persons, then each individual needs to be provided with an understanding of why the image is being taken and how that image is to be used.

RMIT has developed a Business Card for the RMIT Photographer which clearly states on the card our requirements under privacy law, plus also provides the individual[s] with contact details in the event they do not want their image to be used.

RMIT PHOTOGRAPHERS' BUSINESS CARD

RMIT University's Official Photographer will be taking photographs at this event. Your image may be used in RMIT printed and electronic publications for promotional and educational purposes. If you have any concerns about your image being used for these purposes please contact:

Margund Sallowsky
Photographer
Educational Media Group
margund.sallowsky@rmit.edu.au
Telephone: 03 9925 1941

Informed Consent - In situations where it is easy to get the consent of the individual appearing in the image, then consent should be obtained. In obtaining informed consent the individual[s] appearing in the images must be provided with an understanding on how the image is to be used, and also provided with contact details, in the event they do not want their image to be used. Permission forms for obtaining informed consent can be obtained from the Copyright Management Service by emailing – copyright@rmit.edu.au

PEOPLE IN CROWDS

In relation to images of crowds of people, the key factor is the focal point of the image. For example if the focal point of the photo is a particular person, and the backdrop is a crowd of people, then you would need to ensure the individual who is the focal point is provided with information on the intended use of the photo. Providing them with the business card or notice would suffice. Or informed consent could also be used here. The privacy commissioner's office recommends - as long as the people in the crowd are not easily identifiable it may not necessary to provide them with a notice or privacy business card.

If any individual expresses concerns surrounding their image being used. You must act on these concerns.

PHOTOGRAPHING BUILDINGS – 'WORKS IN PUBLIC SPACES'

Section 65 of the Copyright Act allows for sculptures and certain other works of art, including work of craftsmanship in public places to be photographed, or painted.

s65 (2) The copyright in a work to which this section applies that is situated, otherwise than temporarily, in a public place, or in premises open to the public, is not infringed by the making of a painting, drawing, engraving or photograph of the work or by the inclusion of the work in a cinematograph film or in a television broadcast.

SCALEplus © 2005, Commonwealth of Australia
<http://scaletext.law.gov.au/html/pasteact/0/244/0/PA001040.htm>

This section of the Act allows members of the Australian public to paint, draw, create an engraving of or photograph a sculpture or other works of craftsmanship that are found in a public space or to include works in a cinematograph film or in a television broadcast. This section does not allow

temporary works - temporary works would include a travelling exhibition or temporary exhibition to be included.

Section 66 - of the Copyright Act allows members of the Australian public to paint, draw, create an engraving of or photograph buildings and models of buildings.

S 66 The copyright in a building or a model of a building is not infringed by the making of a painting, drawing, engraving or photograph of the building or model or by the inclusion of the building or model in a cinematograph film or in a television broadcast.

SCALEplus © 2005, Commonwealth of Australia
<http://scaletext.law.gov.au/html/pasteact/0/244/0/PA001050.htm>

This section allows members of the Australian public to paint, draw, , create an engraving of or photograph of the work or to include of the work in a cinematograph film or in a television broadcast a building or model of a building that is found in a public space. This section does not allow temporary works such as a travelling or temporary exhibition to be included.

In undertaking to photograph, draw or otherwise reproduce a work found within the public you must endeavour where possible to provide details on the work include an attribution statement or credit to the creator also. If the work is a sculpture you should include the details of the sculpture including the artist's name.

GETTING ADVICE

The [Copyright Management Service](http://www.rmit.edu.au/copyright) [http://www.rmit.edu.au/copyright] is a University Wide advice and permissions service for RMIT Staff. The Service provides copyright advice and permission seeking services to all RMIT Staff. copyright@rmit.edu.au

The [Copyright Management Service](http://www.rmit.edu.au/copyright) can assist with the permission seeking and can also help you decipher licence conditions.