

QUICK REFERENCE GUIDE ON COPYRIGHT AND RESEARCH DATA

Do you want to (re)use research data from others? This quick reference guide explains the main aspects of copyright. The protection of research data and database law will also be discussed. The report [The legal status of raw data, a guide for research practice](#) is a major source for this guide. The report explains how research data may be protected and gives an overview of the main legislation and case law. The report was produced by the Centre for Intellectual Property Law (Centrum voor Intellectueel Eigendomsrecht - CIER) commissioned by SURF.¹

COPYRIGHT PROTECTION OF RESEARCH DATA

Raw research data is not protected by copyright. Copyright law only provides protection for works² that display a certain creativity (the maker's personal stamp) and originality. You can be the copyright holder in respect of certain data if the data, due to their form, qualify for protection.

In general, you can state that raw research data (generally called "bare facts") may become protected research data in the following cases. The bare facts:

- are written down in subjectively determined original wording;
- are presented in some other way in a subjectively determined original wording;
- have been selected from a larger set of data;
- form a database in the legal sense (database right).

WHO HAS THE COPYRIGHT ON RESEARCH DATA?

If research data qualify as work protected by copyright, then under employer copyright law, the employer is considered the creator and thus the copyright holder when the work is created under employment. At most universities, the academic, in principle, is considered the copyright holder, agreements have then been made between the university and the academic. Also see the [Quick reference guide on publishing your work](#).

PROTECTION BY DATABASE RIGHT

A collection of data may also be subject to protection by [database right](#). Database right is different to copyright, but they do not exclude each other. The protection of databases does not relate to the creativity or originality of the database or its contents but to the protection of the investment made in order to assemble the collection of data. Database right may therefore be important for collections of research data.

In case of a protected database, you must request permission from the creator before:

¹Note that this report dates from 2009. This may mean that some of the information is outdated. In terms of privacy there is in any case new privacy legislation (General Data Protection Regulation).

² Works according to the definition in the Copyright Act (Art. 10 Dutch Copyright Act)

- retrieving or copying or downloading substantial parts of the database;
- repeatedly and systematically retrieving non-substantial parts of the database;
- reusing, or publishing substantial parts of the database.

Permission is not required if you use:

- a database for academic research, provided that no substantial parts of the database are published (reuse);
- government databases, unless there is explicit provision to the contrary;

REUSE OF OTHER PEOPLE'S RESEARCH DATA

The brief guide in chapter 1 of the report [The legal status of raw data: a guide for research practice](#) is a practical aid if you want to use other people's research data. This guide allows you, as a researcher; to quickly determine what permission you need in order to (re)use other people's (open) research data. The guide is primarily based on what you want to do with the data. Note, it is not a replacement for the legal guide.

Do you want to use substantial parts of a database? Then you must not do so without permission for reuse. In principles, there is no database right on government databases (and of which a government institution is the producer!), for instance with legislation and regulations and case law, unless explicitly stipulated to the contrary. This does not apply to databases of other (commercial) producers, even if they exclusively contain government material.

In an academic publication you may, under certain conditions, quote another person's work without their permission. This is called the right to quote. The right to quote also applies to protected research data. The main rules to be observed in this respect are:

- the creator and the source must be stated;
- the size of the quotation must be in reasonable relationship to the purpose;
- the data (or work) being quoted must have been published lawfully;
- the quotation must be justified in the context in which it is made (there must be a connection between the quotation and the context).

QUESTIONS? GET IN TOUCH WITH YOUR COPYRIGHT INFORMATION POINT (AIP)

Do you have further questions about this quick reference guide? Please contact one of the members of staff at the [Copyright Information Point \(AIP\)](#) of your institution.

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