



## Copyright

This leaflet offers guidelines for those who propose to reproduce works among records held in The National Archives (TNA).

**Neither these guidelines nor any guidance offered by any member of National Archives staff constitute legal advice.**

**Anyone reproducing material held in The National Archives, whether from transcripts or from photographic or reprographic copies lawfully supplied by The National Archives, is responsible for any infringement of copyright that might result.**

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## 1. What is copyright?

1.1 Copyright is a property right protected by law in certain kinds of intellectual property which are the products of human skill, judgment or labour. It restricts the extent to which anyone other than the copyright owner may reproduce, issue to the public, lend, rent or adapt, in whole or in substantial part, any original literary, dramatic, musical or artistic work, or any sound recording or film. It applies for a limited (though quite long) period, defined by statute. It subsists automatically as soon as the work is created; there is no requirement either to register the work or to claim copyright in it, though the use of the copyright symbol © together with the name of the author and the date are useful indicators and are required in some parts of the world.

1.2 Copyright in the UK is currently governed by the Copyright, Designs and Patents Act 1988. This statute has been significantly amended since 1988, largely to conform with the requirements of directives of the European Community. However, some older material is still affected by earlier legislation, the Copyright Acts 1911 and 1956.

1.3 Note that:

- The availability of a document for public inspection or copying does not mean that works within it are free from copyright restrictions.
- More than one copyright may subsist in a single file or document and even in a single work.
- Copyright in a work must be distinguished from the physical object containing the work. The copyright may be owned, assigned, and bequeathed quite separately from the object. Ownership or custody of the object does not necessarily imply ownership of copyright in any work contained in it. Many documents in TNA are in copyright owned by private individuals and bodies, and by overseas governments.
- The National Archives cannot normally give permission for the reproduction or publication of works in privately-owned copyright, nor can it undertake to identify current copyright owners or to obtain licences from owners. Some exceptions to this are noted below (see section 10).
- The owner or custodian of the object may control access to and use of the object, regardless of the copyright in any works it contains.

## 2. What does copyright protect?

2.1 Copyright protects a range of different types of 'work' that are defined in the statute. To take a common example from among TNA's holdings: a file from a government department may contain letters, photographs, maps, papers and publications from many sources, over a wide range of dates. Each item is a separate work, with its own copyright status, duration and ownership. The types of work most relevant to archives are:

2.1.1 *Literary works.* Literary here means something that may be written, spoken or sung, and does not imply any particular quality. A literary work may be a poem of a few lines, a novel, a business letter, a computer program or a database. It may be in words, mathematical formulae, numbers or symbols (such as Chinese ideograms), and may include the words, but not the music, of a song.

2.1.2 *Dramatic works.* A dramatic work is a work of action that is capable of being performed before an audience. It may include the scripts of plays and films or the choreography of a ballet or a mime.

2.1.3 *Musical works.* A musical work is a work that may be performed to produce sounds capable of being appreciated by the ear. It does not include any words or actions performed with the music.

2.1.4 *Artistic works.* Artistic works include graphic works (such as paintings, drawings, maps, plans, engravings, posters), photographs (of any subject), sculptures, collages and works of artistic craftsmanship.

2.1.5 *Films.* Films made before 1 June 1957 have no protection as such, but fiction films qualify as dramatic works and the individual frames qualify as photographs. Films made since that date are

recordings from which a moving image may be produced; individual frames do not qualify as photographs.

2.1.6 *Sound recordings.* Sound recordings may be actual recordings of sounds, or recordings of literary, dramatic or musical works by which sounds may be made (such as a musical box roll). Film sound tracks may be protected both as part of the film and as independent recordings.

2.1.7 *Typographical arrangements of published editions.* The typographical arrangement is the actual appearance on the page of a published literary, dramatic or musical work: the choice of typeface, the layout, the relationships between the various elements (such as text, headers, pictures, margins).

2.2 Copyright law for the most part protects the original expression of thought or information once it has been fixed in a material form: written, drawn, recorded, and so on. It does not protect the thought itself, but rather the way the thought is expressed or developed. Nor does it protect individual facts, but may protect the compilation or collection of a number of facts where skill, labour or judgment has been used to bring them together. Copyright is not normally infringed by the use of ideas or information derived from a work, unless that use takes the way the work was expressed or takes the essence of the work.

2.3 Copyright normally protects only 'original' works, that is works that were created by, or 'originated' with, their author. There must have been some skill, labour or judgment in the creation of the work, and in the case of a database it must be the author's own intellectual creation. There is thus no copyright, for instance, in straight photocopies or in direct transcriptions, because these are not 'original'.

### **3. Who owns copyright?**

3.1 The ownership of the copyright in a work may depend on the circumstances, the type of work, and the date on which it was created. The first owner will normally be the author, but even where this is not true the identity of the author will often still be important, especially for the duration of the copyright. The owner may assign the copyright to someone else, by an instrument in writing, and may pass it to his or her heirs or successors like other property.

3.2 *The author.* The author is normally the first owner of the copyright in a work. In most cases, the author is the person who created the work: the composer of the text or the music, the artist, the photographer, the surveyor. There are some particular points to bear in mind.

3.2.1 For the purposes of ownership, the author of a photograph created between 1 July 1912 and 31 July 1989 is the owner of the material (such as the negative) on which it was taken.

3.2.2 Since films were not recognised for copyright before 1 June 1957, there could be two authors associated with them. Where a film was an original dramatic work (a fiction film) there was the author of the dramatic work, and the owner of the original negative of the film is the author of each frame as a photograph (see 3.2.1).

3.2.3 The author of a film made between 1 June 1957 and 30 June 1994 is the producer, and the author of a film made since is the producer and principal director jointly.

3.2.4 The author of a sound recording made before 1 August 1989 is the person who owned the original plate or record at the time the recording was made. The author of a sound recording made since that date is the producer.

3.3 *The employer.* The employer is normally the first owner of copyright in any work which is made in the course of an author's employment under a contract of service (that is, as an employee rather than a freelance).

3.4 *The commissioner.* The first owner of copyright in some kinds of artistic work is the person who commissioned the work, and not the author.

3.4.1 With some variations depending on the date of the commission, a person who, before 1 August 1989, commissioned an engraving, print or photograph (whatever the subject) or a portrait,

whether drawn or painted, and who paid or agreed to pay for it money or money's worth, is the first owner of the copyright, even if the work was created after that date.

3.4.2 If any such work was commissioned on or after 1 August 1989 ownership of copyright remains with the author.

3.5 *The Crown.* The Crown owns copyright:

3.5.1 in any work made by or under the direction or control of Her Majesty or a government department before 1 August 1989, and in a work made by Her Majesty or by an officer or servant of the Crown in the course of his or her duties on or after 1 August 1989;

3.5.2 in any work commissioned by the Crown or a government department and completed before 1 August 1989. The Crown does not own copyright in a work commissioned before, but not completed by, 1 August 1989, nor in a work both commissioned and completed on or after that date, unless the author (or his employer, whichever is appropriate) has specifically assigned copyright to the Crown;

3.5.3 in any work first published under the direction and control of Her Majesty or a government department before 1 August 1989, even if Crown copyright would not otherwise subsist in the work. In the case of a work so published on or after 1 August 1989, however, copyright will be owned by the author (or his employer, whichever is appropriate) unless copyright has been specifically assigned to the Crown.

3.5.4 The Crown therefore owns the copyright in works:

- of any date made by, for example, civil servants, diplomats, serving members of the armed forces, most law court officials, members of the royal household, and government ministers when acting in that capacity (but not, for instance, in their party political, constituency or parliamentary capacities). These will include records in TNA such as letters and reports written by such individuals, census returns, records of service in the armed forces, transportation records, war diaries and operations record books, and Cabinet minutes;
- commissioned by the Crown and created before 1 August 1989, such as tithe maps made for the Tithe Commissioners; and
- created before 1 August 1989 by officers and members of government advisory bodies and royal commissions, and other bodies whose work was controlled by the Crown.

3.5.5 The Crown does not own copyright in, for instance:

- letters and papers written by members of the public, whether addressed to a government department or anyone else;
- reports, letters and invoices from private companies and bodies, and overseas governments.

3.6 *Parliament.* The two Houses of Parliament, together or separately, own copyright in an unpublished work of any date made under their direction or control, and in any work published under their direction or control on or after 1 August 1989.

#### **4. How long does copyright last?**

4.1 In an archive like TNA, it is important to remember that almost all unpublished literary, dramatic and musical works, of any date, are in copyright until the end of 2039 at the earliest.

4.2 For works in private copyright, the duration of copyright may depend on a number of factors, including the type of work; the date of creation; whether or not the work was published before 1 August 1989; and the date of the author's death. Where the duration of copyright is determined by the date of the author's death, it is the author that matters even if he or she was not the first owner of the copyright (for instance, the first owner was an employer). See the first table in Appendix 1, which gives a summary of the duration of copyright in non-Crown copyright literary, dramatic, musical and artistic works.

4.3 For works in Crown copyright the duration of copyright depends on the date of creation, or (if the work has been published) the date of publication; it is unconnected with the date of the author's death. See the second table in Appendix 1, which gives a summary of the duration of Crown copyright in literary, dramatic, musical and artistic works.

4.4 Copyright in literary, dramatic, musical and artistic works in Parliamentary copyright, whether published or unpublished, expires 50 years after the end of the year in which the work was created.

4.5 Note that in all cases, copyright expires on 31 December of the year in question.

## 5. Supply of copies of material in The National Archives

5.1 Please note:

5.1.1 The National Archives will at all times make copies only if the physical condition of the material to be copied is such that it can be copied without damage.

5.1.2 This leaflet explains the conditions under which a copy of any copyright item may legitimately be made. Unless noted otherwise, only a single copy is allowed. Use outside the purposes indicated, the making of further copies from the copies, or the publication of copyright material may infringe copyright (see section 9).

5.1.3 Some copying requires the use of statutory declaration forms, which are attached as Appendices 2 and 3. Copies for completion may be obtained from the Record Copying ordering counter or the Library as appropriate. Where these declaration forms must be used, copying may only be for private study or research for a non-commercial purpose. TNA is not authorised to supply copies of copyright publications or most non-public records if the user's purpose is commercial research, unless the user has obtained a licence or the permission of the copyright owner. Fair dealing copying is now similarly restricted. 'Commercial' in this context has a wide meaning and would include:

- research for a book for which payment of any kind will be received;
- research for paying clients of any sort (eg by a record agent, a consultant);
- research which is intended to assist the creation of any commercial product or directly assist the operation of a commercial service, including one by, for instance, a charity;
- research for a television or radio programme (including the BBC); and
- research for training materials to be used in a commercial training course.

5.2 The holdings of The National Archives fall into three categories:

- public records, as defined in the Public Records Act 1958: broadly speaking, the records compiled or accumulated by the Crown, central government and the judiciary;
- non-public records; and
- published works.

Material in all categories contain some works which are Crown copyright, some in which private copyright subsists and some which are no longer in copyright at all. There are different arrangements for the supply of copies of these types of material, as set out below.

5.3 *Out of copyright, Crown copyright and Parliamentary copyright works.* TNA may supply a copy of any work among the records or in the Library in which copyright has expired, or which is in Crown or Parliamentary copyright.

5.4 *Public records.* TNA is authorised to copy for any person, without infringing copyright, any work which forms part of the public records.

5.5 *Unpublished non-public records.* TNA may, but is not obliged to, supply a single copy of an unpublished literary, dramatic or musical work among the records (including any illustrations accompanying the work, but not an artistic work alone), only for purposes of private study or research for a non-commercial purpose (see para 5.1.3), upon receipt of a signed declaration form (see Appendix 2). The person signing this form is responsible for any infringement of copyright that may result if the declaration is not true. TNA may, as yet, accept only personal signatures on this form; it

has no means to validate electronic signatures. A copy may not be made if the copyright owner has forbidden copying.

## 5.6 *Published non-public records and library books.*

5.6.1 A user may make self-service copies of copyright published works in the Library, for fair dealing purposes (see 9.3) or as set out on posters displayed near the copiers. Only a single copy may be made by or for any individual. There is no copyright restriction on the copying of published works in which copyright has expired.

5.6.2 TNA may, but is not obliged to, copy for members of the public from non-public records among its holdings or in the Library any published works in which copyright (including typographical copyright) has expired.

5.6.3 TNA may, but is not obliged to, copy published copyright material held in the Library or produced in the reading rooms only for purposes of private study or research for a non-commercial purpose (see 5.1.3), on receipt of a signed declaration form (see Appendix 3). The person signing this form is responsible for any infringement of copyright that may result if the declaration is not true. TNA may, as yet, accept only personal signatures on this form; it has no means to validate electronic signatures.

## 6. **Crown copyright material in The National Archives**

6.1 *Crown copyright material among the records.* Since 1999, Crown copyright has been waived in the contents of most unpublished public records held in The National Archives, The National Archives of Scotland, The National Archives of Northern Ireland, places of deposit of public records appointed under the Public Records Act 1958 and any Welsh national archive that may be established by the National Assembly for Wales. The policy is set out in detail in Guidance Note 3 issued by Her Majesty's Stationery Office (see 12.3), available online at <http://www.opsi.gov.uk/advice/crown-copyright/copyright-guidance/>. This means that:

6.1.1 Crown copyright continues to subsist in public records, but is not enforced in the contents of public records that are available to the public and that were unpublished, or contain material that was unpublished, at the time when they were deposited. Users are free to index, transcribe, publish and broadcast such Crown copyright material without formal permission, payment of a copyright fee or acknowledgement of copyright. The appropriate record office's custody of the original document must nevertheless still be acknowledged, and the archival document reference given. Crown copyright material among non-public records in TNA will be treated in the same way.

6.1.2 While no Crown copyright royalty fees will be levied for the use of unpublished Crown copyright material among the records, the custodians of the records remain at liberty to levy supply fees where appropriate (see section 8).

6.1.3 Public records that are made available only after completion of an undertaking of confidentiality will continue to have access and use restricted on that basis. Works among the records that are not Crown copyright, and Crown copyright publications, are unaffected.

6.2 *Crown copyright 'core data'.* 'Core data' is information produced by Crown bodies (including all government departments) that is created by them as part of their core activities. In TNA, core data includes the contents of public information leaflets and some of the material on the website. Anyone wishing to re-use core data may obtain a 'class licence' from HMSO, at no charge, and will then be authorised to exploit data in accordance with the terms of the licence. The licence may be taken out on the HMSO website at <http://www.opsi.gov.uk/click-use/index.htm>, or by post from The Licensing Unit at HMSO (see 12.3).

6.3 *Crown copyright 'value-added data'.* 'Value-added data' is information produced by Crown bodies where there is no statutory or operational requirement to produce it, or where value has been added to core or other data so as to improve its usefulness to the user. In TNA, value-added data includes priced publications, the catalogue PROCAT, many databases, and the Learning Curve website. Lists of categories of value-added data produced by departments are available on the HMSO website. Licences to re-use value-added data may be obtained from HMSO (see 12.3).

6.4 Advice on the identification of Crown copyright material may be obtained from the Copyright Officer at TNA (see 12.1). Permission to reproduce TNA logos, in appropriate circumstances, may also be obtained from the Copyright Officer.

## **7. National Archives websites**

7.1 Copyright in the website designs is owned by the Crown. Permission to copy the designs must be obtained from the Copyright Officer (see 12.1).

7.2 Crown copyright material created by The National Archives for the purpose of website publication may be freely reproduced, so long as the source and the material's Crown copyright status are acknowledged.

7.3 Images, including those of Crown copyright and other works among the records, may be reproduced only with the permission of the Image Library (see 8.3 and 12.2).

7.4 National Archives logos may be reproduced only with the permission of the Copyright Officer (see 12.1). The Royal arms may be reproduced only with the permission of HMSO (see 12.3).

7.5 Works identified as being in non-Crown copyright or as being the copyright of a third party may not be reproduced except with the permission of the copyright owner.

7.6 The National Archives encourages users to establish hyperlinks to its homepage at <http://www.nationalarchives.gov.uk/>

## **8. Use of copies supplied by The National Archives**

8.1 TNA is not able to authorise the copying of copies of works in private copyright among the records in its custody. Such copying may infringe copyright, unless permission has been obtained from the copyright owner. TNA will be pleased, where possible, to supply fresh copies free of such infringement, but cannot authorise their use for purposes other than private study or research for a non-commercial purpose.

8.2 TNA Image Library supplies copies for use in publications and for commercial purposes. Permission for their reproduction must be obtained from the Image Library (see 12.2), which may charge a fee. This permission and reproduction fee are distinct from any permission which may be required from a copyright owner, who may also charge a fee. For the use of Crown copyright works see section 6; for other copyright works see section 9.

8.3 Copies of works in Crown copyright or out of copyright, obtained from TNA Record Copying Department, are supplied on the basis that they are for private study or research for a non-commercial purpose only, as set out in the terms and conditions printed on the order form. Archives and libraries making such copies available to their readers may:

- make a single copy in the same format for preservation purposes within the institution;
- make hard copies for customers (see 8.2).

## **9. What can I do with a non-Crown copyright work?**

9.1 The copyright owner has the exclusive right to authorise the copying, issue to the public, performance, broadcast, adaptation, rental or lending of his or her work until the copyright expires. Once copyright has expired, no permission is needed from the copyright owner for any of these activities. The owner of the document containing a copyright work also has rights; for those exercised by The National Archives see 8.3-8.4.

9.2 *Substantial part.* Copyright law recognises that some uses of copyright works will not harm the interests of the copyright owner. It is only the use of the whole or a substantial part of a work that the owner may control. The term substantial is not defined, but applies to the quality as well as the quantity of material taken. For most purposes, brief quotations that do not take the essence of the

whole work would normally be regarded as insubstantial, and may be taken so long as the author and the source are acknowledged.

9.3 *Fair dealing.* Even a substantial part of a work may be taken if the purpose is 'fair'. Fair dealing will apply only for the purposes of private study or research for a non-commercial purpose (see 5.1.3), criticism or review, or current news reporting. Private study research for a non-commercial purpose include academic research, but not publication of the results. The author and source must be acknowledged unless to do so is impossible. There can be no fair dealing in a photograph for the purposes of news reporting.

9.4 *Publication.* In copyright terms, publication means the issue of copies of the work to the public, and also the making available of a work to the public on the Internet. Either activity is an infringement if the work is in copyright and the copyright owner has not given permission (but see 9.5). Infringement by publication is not limited to commercial publication. The National Archives cannot authorise publication of non-Crown copyright works (see 9.7).

9.5 *Archival materials.* No permission is required from the copyright owner to publish or broadcast a literary, dramatic or musical work (together with any illustrations accompanying the text but not an artistic work alone), so long as:

- the work is open to public inspection in a library, museum, archive or similar institution;
- the work was created more than 100 years ago;
- the author has been dead for at least 50 years; and
- the identity of the current copyright owner is unknown to the publisher or broadcaster.

9.6 *Public exhibitions and lectures.* The public display of a copy of a work may infringe copyright. When a copy of any work among its holdings has been supplied by TNA, that copy may be used in exhibitions in public institutions, or as an illustration to a lecture, if the work is a public record, is Crown copyright or is no longer in copyright. In such cases, no formal permission is needed for the use of the copy, provided that TNA is acknowledged and the full document references are given where appropriate. TNA is not able to authorise the use in exhibitions or lectures of copies of works in private copyright that are not public records. Reproduction of a work in an exhibition catalogue usually counts as publication (see 9.4).

9.7 *Obtaining permission.* As noted above (see 1.3), The National Archives cannot grant permission for the reproduction of works in non-Crown copyright, nor can it normally advise on the identification of copyright owners. The user is responsible for obtaining any permission that is required, and for any infringement of copyright which he or she commits.

## 10. Special cases

10.1 *Public records outside The National Archives.* About 20% of public records are held in places of deposit (such as local record offices) appointed under s4(1) of the Public Records Act 1958. The reproduction and publication of material from these records are subject to the same conditions as for those in TNA. Each institution may operate its own controls over the use of images it supplies.

10.2 *British Transport Commission and British Railways Board records (RAIL and AN classes).* Permission to publish material still in copyright:

10.2.1 in records of canal companies in classes RAIL 800-RAIL 899, must be sought from the Head of Archives and Records, The Waterways Archive, The Boat Museum, South Pier Road, Ellesmere Port, Cheshire CH65 4FW;

10.2.2 in railway company and British Railways Board works of art, posters and photographs, must be sought from the Picture Librarian, Science and Society Picture Library, Science Museum, Exhibition Road, London SW7 2DD, e-mail [piclib@nmsi.ac.uk](mailto:piclib@nmsi.ac.uk).

10.2.3 in railway company pseudo-heraldic devices, monograms and similar works must be sought from the National Railway Museum, Leeman Road, York YO26 4XJ, e-mail [nrm@nmsi.ac.uk](mailto:nrm@nmsi.ac.uk)



10.2.4 in other records of railway or canal companies or in other British Transport Commission and British Railways Board records, must be sought from the Secretary, British Railways Board (Residuary) Ltd, Whittles House, 14 Pentonville Road, London N1 9HF.

10.3 *Hudson's Bay Company records* (BH series). Copies of material in the copyright of the Hudson's Bay Company may be supplied but the user may not sell them, give them away or deposit them in another archive without permission. Limited quotations and reproductions of documents may be published without permission so long as the full reference is given (including the TNA document reference, the folio or page number and the microfilm reel number) and acknowledgement is given to the Hudson's Bay Company Archives at the Provincial Archives of Manitoba. Permission for extensive quotation or reproduction must be sought from the Keeper, Hudson's Bay Company Archives, Provincial Archives of Manitoba, 200 Vaughan Street, Winnipeg, Manitoba R3C 1T5, Canada.

10.4 *Probate records* (PROB series). Copyright in a will or codicil is normally vested in the testator, and passes (unless otherwise assigned) to his or her heirs. Copyright in the acts of a probate court (such as probate clauses and letters of administration) is vested in the court. In the case of the Prerogative Court of Canterbury and other probate jurisdictions abolished by the Court of Probate Act 1857, ownership of the courts' surviving copyright passed to the Crown. Acts of courts of probate since 1857 are Crown copyright.

10.5 *Metropolitan Police records* (MEPO classes). These are public records, and those among them which are the copyright of the Metropolitan Police may be reproduced for educational, charitable, or other non-profit making purposes, including non-commercial radio broadcasts, with the permission of the Copyright Officer of TNA. For use in published works the suggested acknowledgement is: 'Material in The National Archives in the copyright of the Metropolitan Police is reproduced by permission of the Metropolitan Police Authority'. Reproduction for commercial or other profit-making purposes, including television and commercial radio broadcasts, requires the permission of the Departmental Record Officer, Metropolitan Police Service, Wellington House, 67-73 Buckingham Gate, London SW1E 6BE; a fee may be charged.

10.6 *Ramsay MacDonald papers* (PRO 30/69). Copying and publication of material among these papers may not be undertaken without the approval of the Copyright Officer of TNA, who will in certain circumstances need to obtain the consent of the copyright owner. When permission is given by the Copyright Officer for use in published works, the suggested acknowledgement is 'Copyright material from the Ramsay MacDonald papers is reproduced by permission of the grand-daughter of the late Malcolm MacDonald'. Publication of anything but short quotations from the diaries is forbidden.

10.7 *Duchy of Lancaster records* (DL classes). These are not public records, but those among them which are in the copyright of the Duchy itself may be reproduced with the permission of the Copyright Officer of TNA. When permission is given by the Copyright Officer for use in published works, the suggested acknowledgement is: 'Duchy of Lancaster copyright material in The National Archives is reproduced by permission of the Chancellor and Council of the Duchy of Lancaster'.

10.8 *Duchy of Cornwall records*. There are many documents, especially among Exchequer and Chancery records, which are copyright of the Duchy of Cornwall. Non-commercial use of these documents may be undertaken with the permission of the Copyright Officer of TNA. When permission is given by the Copyright Officer for use in published works, the suggested acknowledgment is 'Duchy of Cornwall material in The National Archives is reproduced by permission of the Secretary and Keeper of the Records of the Duchy of Cornwall.' Requests for any commercial use should be addressed to the Secretary to the Duchy of Cornwall, 10 Buckingham Gate, London SW1E 6LA.

10.9 *Records in Parliamentary copyright*. Unpublished works in Parliamentary copyright in TNA may be treated in the same way as unpublished Crown copyright works (see 6.1). Published works in Parliamentary copyright should be treated in the same way as Crown copyright value-added data (see 6.3).

10.10 *Copies of Prime Ministers' Letters in the Royal Archives* (CAB 41). These are Crown copyright and may be reproduced with the permission of the Copyright Officer of TNA. For use in published works the suggested acknowledgement is: 'Reproduced from photographic copies in The National Archives of original letters preserved in the Royal Archives and made available by gracious permission of Her Majesty the Queen'.

10.11 *Crown copyright material in non-public records held outside TNA.* Many archival holdings, including the records of local authorities and of families or private individuals, contain both published and unpublished works in Crown copyright. In such cases, any permission needed to reproduce or publish the works should be obtained from the Licensing Unit at HMSO (see 12.3). Applications should state the exact nature and extent of the material, where or by whom it is now held, and that it is not subject to the terms of HMSO Guidance Note 3 (for which see 6.1).

## **11. Publication right and database right**

11.1 *Publication Right.* The first publisher of a work that is out of copyright and that was previously unpublished has a property right called 'Publication Right' equivalent in many respects to copyright. This right expires 25 years from the end of the year of first publication. It may apply to any previously unpublished and out of copyright literary, dramatic, musical or artistic work or a film. Publication right can never apply to a work which was in Crown or Parliamentary copyright, nor to any work which has been made available to the public in TNA or another record office before copyright expired.

11.2 *Databases.* A database is a collection of independent works, data or other materials which are arranged in a systematic or methodical way and are individually accessible by electronic or other means. A database may therefore be, for instance, a computerised catalogue, a CD-ROM, a card index or a filing system.

11.2.1 A database that was made before 28 March 1996 is protected by copyright in the same way as any other literary work. Copyright will rarely subsist in a database made on or after that date; copyright will apply only if the database is the author's own intellectual creation as a result of his or her selection or arrangement of the contents.

11.2.2 Any database completed on or after 1 January 1983 may qualify, instead or as well, for a new right called database right. A person who makes a substantial investment in obtaining, verifying or presenting the contents of a database is the maker of that database, and has a database right in it. The maker may be two or more people acting jointly. If the database was made by an employee in the course of his employment, the employer will normally be the maker.

11.2.3 Database right is infringed if, without the consent of the owner, a person extracts (copies) or re-utilises (makes available to the public) all or a substantial part of the contents of the database, or repeatedly or systematically extracts or re-utilises an insubstantial part. However, an authorised or lawful user of the database does not infringe database right by doing anything which is necessary for that authorised or lawful use, and no contract may be enforced to the contrary. Fair dealing with the database for the purposes of research or private study will also not infringe, so long as the source is indicated, but research for a commercial purpose is not fair dealing.

11.2.4 Database right expires 15 years from the end of the year in which the database was completed, or in which it was first made available to the public. If there is substantial new investment, a new term of 15 years will apply to the database that results from the new investment.

11.2.5 There are special provisions for the use of databases for parliamentary and judicial proceedings, Royal commissions and statutory enquiries, and for databases that are open to public inspection under statute, made available to the Crown for a particular purpose or are among the public records.

## **12. Copyright enquiries**

12.1 Enquiries about the contents of this leaflet, about copyright in TNA material, or about copyright in archival materials generally may be addressed to the Copyright Officer, National Archives, Kew, Richmond, Surrey TW9 4DU. Telephone 020 8392 5381. E-mail [copyright@nationalarchives.gov.uk](mailto:copyright@nationalarchives.gov.uk).

12.2 The Image Library may be contacted at The National Archives, Kew, Richmond, Surrey TW9 4DU. Telephone 020 8392 5225. E-mail [image-library@nationalarchives.gov.uk](mailto:image-library@nationalarchives.gov.uk).

12.3 Her Majesty's Stationery Office (HMSO) may be contacted at St Clement's House, 2-16 Colegate, Norwich NR3 1BQ. Telephone 01603 621000. E-mail [enquiries@hmso.gov.uk](mailto:enquiries@hmso.gov.uk)

### 13. Bibliography

13.1 The two standard legal works on copyright are:

- *Copinger and Skone James on Copyright*, ed Kevin Garnett, Jonathan Rayner James and Gillian Davies (Sweet and Maxwell)
- Hugh Laddie, Peter Prescott and Mary Vitoria, *The Modern Law of Copyright and Designs* (Butterworths)

13.2 Shorter textbooks include:

- W R Cornish, *Intellectual Property* (Sweet and Maxwell)
- David Bainbridge, *Intellectual Property* (Financial Times and Pitman)

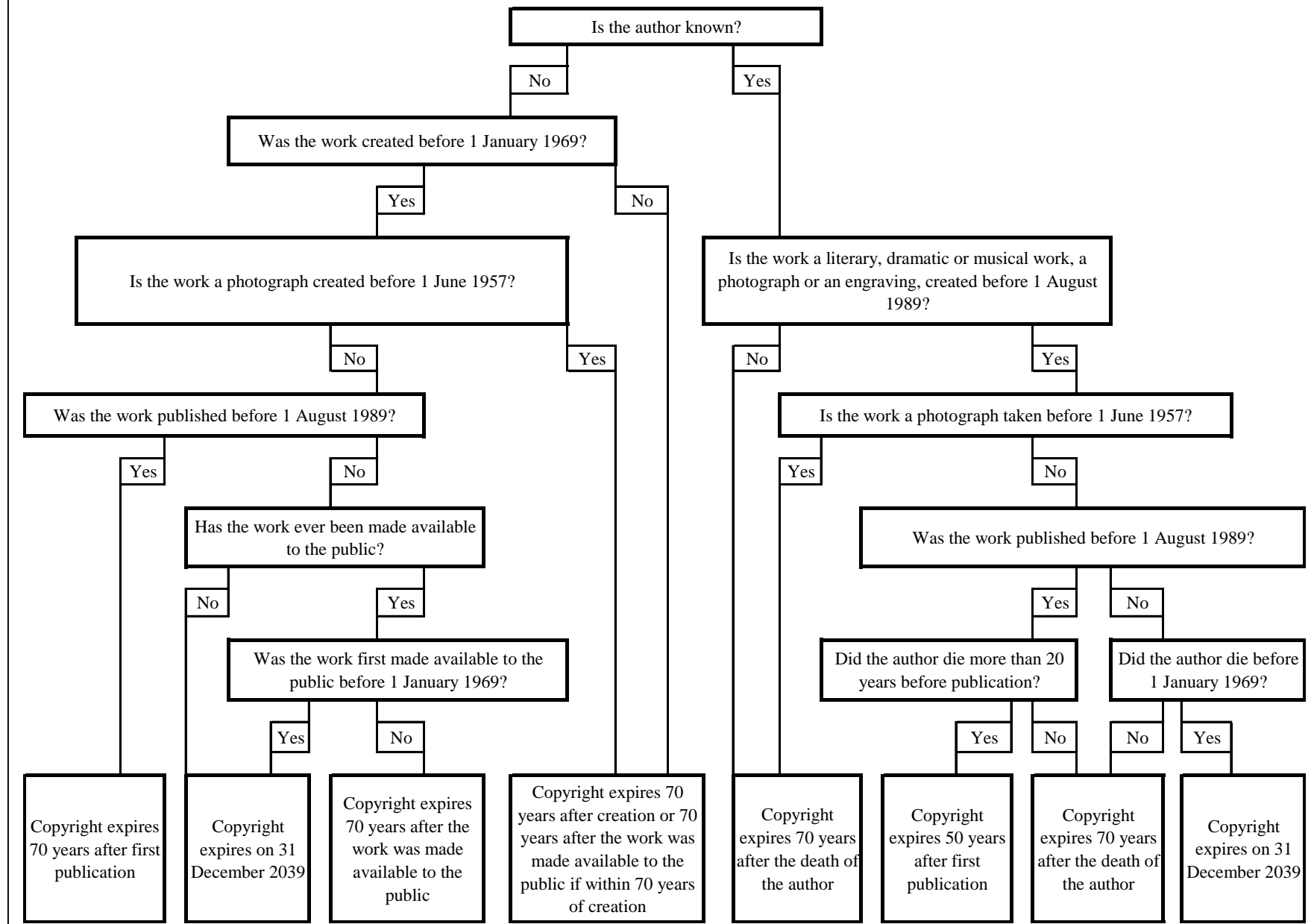
13.3 Specialist works of interest to users of archive, library and museum material are:

- Tim Padfield, *Copyright for Archivists* (Facet Publishing)
- Graham Cornish, *Copyright* (Facet Publishing)
- Peter Wienand, Anna Booy and Robin Fry, *A Guide to Copyright for Museums and Galleries* (Routledge)
- Sandy Norman, *Practical copyright for information professionals* (Facet Publishing)

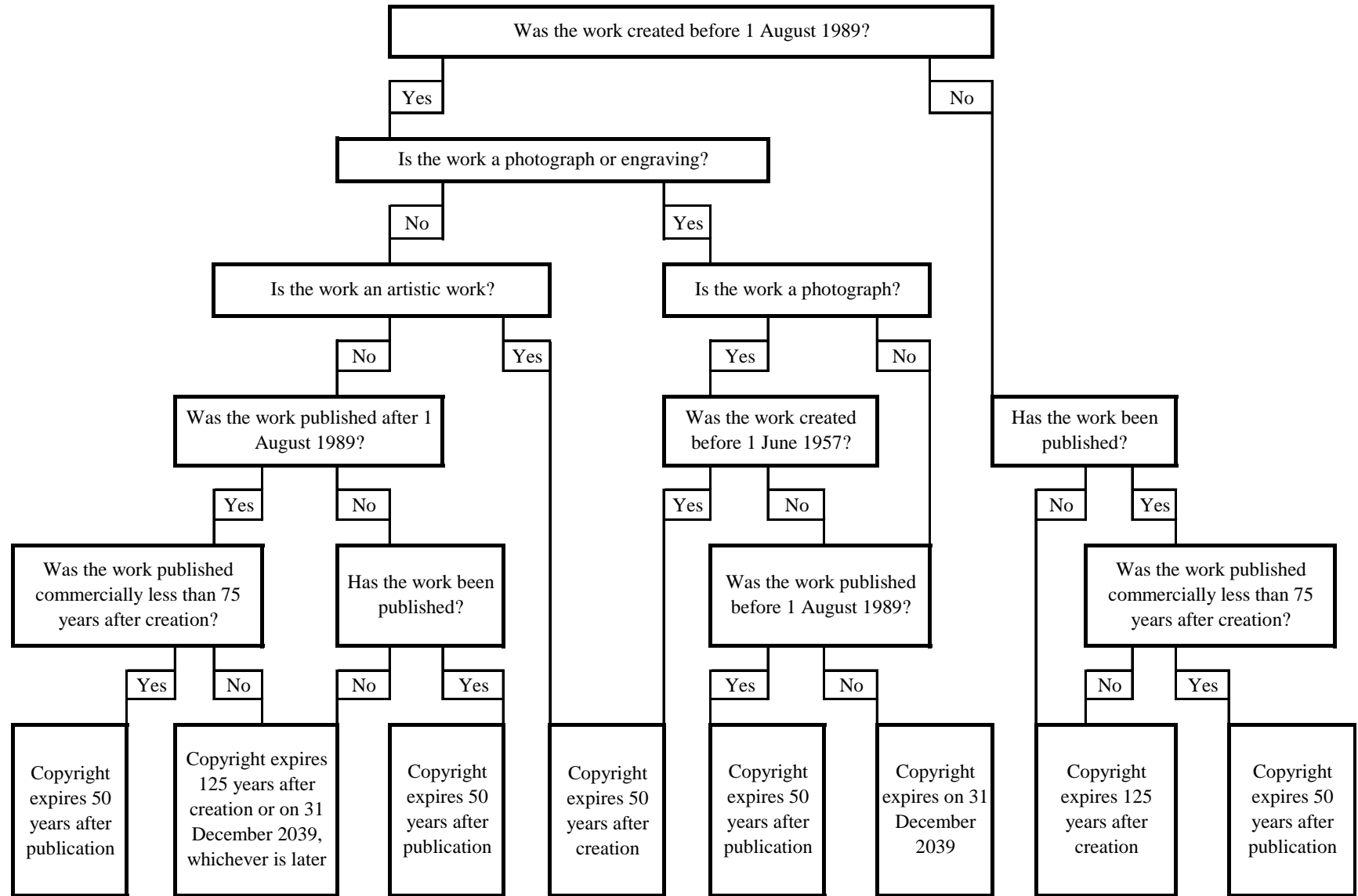
# Appendix 1

## DURATION OF COPYRIGHT

Literary, dramatic, musical and artistic works (excluding Crown copyright)



### Duration of Crown copyright



**DECLARATION**

**COPY OF WHOLE OR PART OF AN UNPUBLISHED COPYRIGHT WORK**

**NON-PUBLIC RECORDS HELD IN THE NATIONAL ARCHIVES**

To the Keeper of Public Records, National Archives, Kew, Richmond, Surrey TW9 4DU

Please supply me with a copy of the whole or part of the following document(s), which I require for the purposes of research or private study:

*Give full TNA document references, with page or other identifying information.*

**I declare that**, where this material is still in copyright:

- a) I will not use the copy except for private study or research for a non-commercial purpose;
- b) I will not supply a copy of it to any other person;
- c) I have not previously been supplied with a copy of the same material by you or any other archivist;
- d) to the best of my knowledge no work listed above has been published at any time before it was deposited in The National Archives; and
- e) to the best of my knowledge the copyright owner of no work listed above has prohibited copying.

**I understand that** if the declaration is false in a material particular the copy supplied to me by you will be an infringing copy and that I shall be liable for infringement of copyright as if I had made the copy myself.

Name:

Address:

Signature:

Date:

*This must be the personal signature of the person making the request. A stamped or typed signature or the signature of an agent is not acceptable. Anyone ordering copies on behalf of another person must obtain that person's signature on this form.*

**DECLARATION**

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- the part of the published work specified below

which I require for the purposes of research or private study.

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- c) I have not previously been supplied with a copy of the same material by you or any other librarian;  
and
- d) to the best of my knowledge no other person with whom I work or study has made or intends to make, at or about the same time as this request, a request for substantially the same material for substantially the same purpose.

**I understand that** if the declaration is false in a material particular the copy supplied to me by you will be an infringing copy and that I shall be liable for infringement of copyright as if I had made the copy myself.

Name:

Address:

Signature:

Date:

*This must be the personal signature of the person making the request. A stamped or typed signature or the signature of an agent is not acceptable. Anyone ordering copies on behalf of another person must obtain that person's signature on this form.*