



The **NATIONAL**
ARCHIVES
of **SCOTLAND**

**Copyright in the National
Archives of Scotland**

Guidance for Users

The National Archives of Scotland
Crown © 2008

This document constitutes Crown copyright core information, and as long as the source is acknowledged, it can be reproduced without further permission.

Copyright in the National Archives of Scotland

Guidance for Users

Table of Contents

1	Introduction and scope	4
2	What is copyright?	4
2.1	Who is the author? Who is the copyright holder?	4
2.1.1	Photographs: author and first owner of copyright	4
2.2	Rights of the copyright holder	5
3	Types of copyright in NAS	5
3.1	Crown copyright	5
3.1.1	Definition	5
3.1.2	Copyright and Public Records	6
3.2	Private Copyright	6
3.2.1	Definition	6
4	Use	6
4.1	Out of copyright	7
4.2	Substantial	7
4.3	Fair Dealing	7
4.3.1	Non-commercial research and private study	7
4.3.2	Criticism and review	8
4.3.3	Reporting current events	8
4.4	Education	8
4.5	Copyright and Freedom of Information	8
4.6	Parliamentary, judicial and public proceedings	9
4.7	Crown copyright	9
4.7.1	Use of unpublished Crown copyright Public Records: waiver	9
4.7.2	Use of unpublished Crown copyright Public Records: exclusions to waiver	9
4.7.3	Use of unpublished Crown copyright Public Records excluded from waiver	9
4.8	Private copyright: older, unpublished works	9
4.8.1	Known author (excluding independent artistic works)	9
4.8.2	Unknown author, all works	10
4.9	Artistic works with a known author	10
4.10	Copying of Ordnance Survey maps	11
4.11	Acknowledgement of NAS	11
5	Copies of copies	12
5.1	Copies of copies of plans where original is held in private hands (NAS ref. RHP)	12
6	NAS records subject to particular copyright conditions	12
6.1	Church of Scotland and Associated Presbyterian Churches (NAS refs. CH1, CH2 & CH3)	12
6.2	Upper Clyde Shipbuilders (NAS ref. UCS)	12
6.3	Railway Company and British Rail Works of Art, Posters and Photographs (NAS ref. BR)	12
6.4	Other Railway Company and British Rail records (NAS ref. BR)	12
6.5	Records held under Charge and Superintendence of the Keeper of the Records of Scotland	13
7	National Register of Archives for Scotland	13
8	Published works held by NAS	13
9	NAS website (www.nas.gov.uk) and leaflets	13
10	NAS publications and online catalogue	13

11	Tracing copyright holders	14
12	Other considerations	14
12.1	Preservation.....	14
12.2	Restricted Access Collections.....	14
12.3	Deposited Collections	14
13	Further advice on copyright in NAS	14
14	Bibliography	15
14.1	Websites and publications.....	15
14.2	Copyright Legislation	15
	Appendix 1: Duration of private copyright.....	16
	Appendix 2: Duration of Crown copyright.....	17
	Appendix 3: Commercial or non-commercial purpose?.....	18
	Appendix 4: NAS Copyright Declaration: copy of unpublished literary, dramatic or musical work.....	19

1 Introduction and scope

This document provides guidance on copyright within The National Archives of Scotland. As the user, you should bear in mind that it is your responsibility to comply with copyright legislation; neither this text nor any assistance given by NAS staff constitutes legal advice. For further information you may wish to consult the bibliography.

The content is likely to be of relevance to most NAS users, particularly if you wish to do any of the following:

- request copies of documents;
- make further use of copies already supplied;
- make further use of notes about, quotations from, or transcriptions of documents.

2 What is copyright?

Copyright provides the creators of many different types of work with protection against unauthorised exploitation of those works. There is no need to claim copyright, so copyright immediately subsists in relevant works. To qualify for copyright protection, a work must have some permanence. For example, there would be no copyright in an unrecorded speech, but there could be copyright in the speaker's written notes or indeed in the notes of an audience member. The work should also be original in the sense that the creator used his or her judgement, skills or knowledge to create it.

2.1 Who is the author? Who is the copyright holder?

This can be a complex area, and this section gives general hints, not definitive answers. If you are in any doubt, you should consult one of the titles in the bibliography (eg Padfield or Cornish).

In most cases the author is the person who is responsible for creating the work: the composer of a piece of music, the writer of a letter, the surveyor of a plan and so on. In turn, the author is usually the 'first owner' of copyright. Two notable exceptions to this concern photographs (see §2.1.1) and work created by employees. After 1 July 1912, copyright in items created during work time generally rests with the employer¹. Prior to this, copyright generally rests with the employee.

2.1.1 Photographs: author and first owner of copyright

Determining the copyright status of photographs can be complicated.

- When working out duration of copyright, the author is the creator of the photograph (this is usually the photographer);
- When determining the first owner of copyright, with photographs created prior to 1 July 1912 and after 1 August 1989 the author is the creator of the photograph (this is usually the photographer);
- When determining the first owner of copyright, with photographs created between 1 July 1912 and 31 July 1989 the author is generally the person or corporate body who owned the photographic material (the film, for example).

¹ It is important to remember that staff contracts can sometimes include a copyright clause which may differ from this. In addition, if a work has been commissioned by a Crown body, first ownership of copyright would depend on the terms of that contract.

2.2 Rights of the copyright holder

Apart from limited exceptions, the most relevant of which are described in this leaflet (see §4), the copyright holder has the sole right to authorise the following acts:

- Copying in any form (for instance photocopying, transcription, digitisation, model-making from a plan)
- Issue of copies to the public
- Rental or lending to the public
- Performance
- Communication to the public (including internet use, broadcast, publication, use in a talk)
- Adaptation (including translation, change to another form eg from a novel to a play)
- Educational copying by reprographic means
- Indexing (but, if it uses single words or short extracts from a work, indexing is probably not an infringement)
- translation.

3 Types of copyright in NAS

In copyright terms, documents deposited in NAS can be divided into two categories: those which are subject to Crown copyright and those which are subject to private copyright. Which category a document falls into depends on the circumstances of its creation.

3.1 Crown copyright

3.1.1 Definition

A document is Crown copyright if it *is made by . . . an officer or servant of the Crown in the course of his duties*. This means that the Crown holds copyright in documents of any date created by, for example: civil servants, serving forces personnel, most court staff and so on. The Crown also holds copyright in works which it has commissioned and where it has had an influence in the work's creation. If a work has been commissioned by the Crown and has then been prepared independent of it, copyright will reside with the author unless the work is first published by the Crown.

With government advisory agencies, Royal commissions and other non-departmental public bodies under Crown control the situation is more complex. The Crown holds copyright in material created by staff and members of such bodies prior to 1 August 1989. After this date, Crown copyright only applies to work created by staff of such bodies acting in their official capacities. It does not apply to personnel who are not staff (board members, for example).

Some examples of Crown copyright records held by NAS:

Register of Sasines (NAS ref. RS)
Register of Deeds (NAS ref. RD)
Chancery records (NAS ref. C)
Privy Seal (NAS ref. PS)
Privy Council (NAS ref. PC)

3.1.2 Copyright and Public Records

There is no statutory definition of ‘public records’ in Scotland. They can however be regarded as ‘records framed by public authority, though they may relate to private affairs, and held in trust for the public’².

A document’s underlying copyright status is not affected by its status as a public record, and not all public records are subject to Crown copyright. For example:

- Scottish Office files (a reply from a civil servant would be Crown copyright, but the in-letter may be written by a private individual and consequently would be subject to private copyright)
- Court productions (a psychiatric report commissioned by the Crown would probably be Crown copyright, but a letter written by the defendant would be subject to private copyright).

NAS can supply copies of public records for any purpose, without infringement of copyright. Further use of the copies (eg publication) may however be an infringement of the underlying copyright. For example, NAS could provide a copy of the above Scottish Office correspondence for any purpose, but if the user then wanted to publish the correspondence they would have to ensure that this was not an infringement of any private copyright.

3.2 Private Copyright

3.2.1 Definition

If a document is not Crown copyright, it will be subject to private copyright. This means that copyright belongs to a private individual, who may not be the same person as the document’s physical owner.

The principal types of private copyright work found within NAS’s collections can be subdivided as follows:

- Literary, dramatic and musical works (eg letters, diaries, accounts, tables, musical notation); also included here are illustrations which are integral to the understanding of the main work;
- Artistic works (eg photographs, engravings, drawings, paintings, diagrams, maps, plans).

It is important to realise that most unpublished literary, dramatic and musical works subject to private copyright will be protected until 31 December 2039 (see Appendix 1).

4 Use

The actions described at §4.2 to §4.6 are often referred as ‘the permitted acts’ since they are activities for which the user does not require the copyright holder’s permission. Further information can be found in Padfield.

² Thomas Smith and Robert Black et al., eds.: *The Laws of Scotland: Stair Memorial Encyclopaedia*, vol 19, para 842.

Users should bear in mind that NAS cannot give permission to use private copyright material for purposes other than the permitted acts.

4.1 Out of copyright

Where a work is out of copyright, the permission of the copyright holder is not required to use it, irrespective of purpose. Users should bear in mind though that further copyrights may have been created. For instance, where NAS has created a high quality digital image of an out of copyright document that image will be subject to Crown copyright.

4.2 Substantial

Copyright only applies to whole works, or to substantial parts thereof. Although copyright legislation does not define ‘substantial’, the body of case law suggests that quality is generally more important than quantity. If we take as an example a letter, 10 words describing the weather may not be subject to copyright, but 10 words giving the writer’s opinion on the Prime Minister might well be subject to copyright. You should bear in mind that the very fact that you want to use part of a document suggests that it is likely to be substantial at least in qualitative terms if not also in quantitative terms.

4.3 Fair Dealing

Where a work is still in copyright, copyright is not infringed by fair dealing, namely use for the purposes of:

- Non-commercial private study and research
- Criticism or review
- News reporting

4.3.1 Non-commercial research and private study

With the exception of films, sound recordings and broadcasts, copyright is not infringed by the use of an item for the purposes of non-commercial research or private study. The terms are not straightforward, and there is little to part between them, but summary descriptions might be as follows:

- non-commercial research: research where money does not change hands, or which is not for financial gain;
- private study: study by oneself, for oneself.

NAS staff are unable to advise on whether particular research is commercial or non-commercial, since this would constitute legal advice. Further guidance can be found at Appendix 3.

Under special provisions for librarians and archivists which allow them to make copies on behalf of others NAS can supply a user with one single copy of any unpublished literary, dramatic, or musical work for the purposes of non-commercial research and private study, on completion of a signed copyright declaration form (see appendix 4). Where an agent is carrying out research on behalf of a client, the client must sign the form. When completing the form, it is the immediate purpose of the research which is relevant. If for instance non-commercial research and private study subsequently develops into a publication, the user must ensure that copyright is not infringed by publication. This provision includes any accompanying illustrations, but not independent artistic works (see §4.8.2 and §4.9 for further information).

4.3.2 Criticism and review

Copyright is not infringed if a work is used for the purposes of criticism and review. The criteria only applies to works available to the public (for instance, deposited with NAS). In England and Wales, Court of Appeal judgements have indicated that ‘criticism and review’ should be interpreted broadly, but the context must include significant analysis and interpretation. Consequently, to simply use a document as an illustration would probably not qualify³.

4.3.3 Reporting current events

With the exception of photographs, copyright is not infringed in a document which is used in the reporting of current events, provided that suitable acknowledgement is given. The legislation recognises however that in a broadcast it may not be practicable to give such an acknowledgement.

Users should also bear in mind that the reporting current events provisions will fall away through time (ie when the event is no longer current) and standard copyright provisions will then apply.

In an NAS context, examples of ‘current events’ might be:

- documents opened in response to a particular Freedom of Information request;
- documents opened following a decision that particular Freedom of Information exemptions no longer apply;
- documents opened because particular Freedom of Information exemptions have fallen away after a statutory period of time;
- newly catalogued documents being made available to the public for the first time.

4.4 Education

Students and teachers can make unlimited manual (ie handwritten) copies of unpublished literary, dramatic, musical or artistic works. Otherwise, they are subject to the same provisions as other users. The inclusion of documents in theses, assignments etc can be regarded as answering examination questions and therefore copyright is not infringed. If the thesis is subsequently published, the user must then take due account of copyright legislation.

4.5 Copyright and Freedom of Information

The Freedom of Information (Scotland) Act 2002 (Consequential Modifications) Order 2004 extends the application of section 50 of the Copyright, Designs and Patents Act 1988 (Acts done under statutory authority) to the Freedom of Information (Scotland) Act 2002. This means that Scottish public authorities (including NAS) will not be breaching copyright if in response to a Freedom of Information request they disclose information in which they do not own the copyright. Recipients of the information, however, will be responsible for ensuring that any further use of that information is in accordance with copyright legislation.

³ Further information can be found in Padfield, §5.2.10.

4.6 Parliamentary, judicial and public proceedings

Copyright is not infringed in any work, of any date, whether published or unpublished, when copied for such purposes. This includes the making of multiple copies. No declaration form is required.

4.7 Crown copyright

4.7.1 Use of unpublished Crown copyright Public Records: waiver

Crown copyright continues to subsist in unpublished Crown copyright protected public records, but in practice it is waived. Users may copy, quote, index, transcribe, publish and broadcast the text of Crown copyright material in all formats and media throughout the world without specifically asking for permission. The following conditions must however be met:

- acknowledgement must be given as described at §4.11;
- the material must not be used in a misleading context or derogatory manner;
- a complimentary copy of the work must be given to NAS (in the case of electronic publications, an appropriate end-user licence must be provided).

Where Crown copyright protection has expired, there is no requirement to provide NAS with a copy of any publication.

4.7.2 Use of unpublished Crown copyright Public Records: exclusions to waiver

Material is excluded from the waiver of Crown copyright described at §4.7.1, if it:

- was published prior to deposit in a public record repository; *or*
- is not deposited in a public record repository; *or*
- is not open to public inspection; *or*
- constitutes tradeable information⁴; *or*
- is not subject to Crown copyright.

4.7.3 Use of unpublished Crown copyright Public Records excluded from waiver

For permission to do this, users should apply to the Office of Public Sector Information via the click-use licence scheme.

4.8 Private copyright: older, unpublished works

4.8.1 Known author (excluding independent artistic works)

The conditions described in this paragraph are relevant for: 1. the supply of copies for publication 2. subsequent use for publication of copies, quotations etc which were originally obtained for the purposes of a permitted act.

- a) If a document is out of copyright, copyright is not infringed by its use for any purpose.

⁴ Tradeable Information is defined as: 1. Unpublished records of the Ordnance Survey, the Ordnance Survey of Northern Ireland and the United Kingdom Hydrographic Office which form the basis of maps, charts mapping data and related items. 2. Microform, microfiche, digital form and photographic copies of public records created by public record repositories, but not the data which they contain.

- b) If the copyright holder has granted permission for a particular use, copyright is not infringed by such an act.
- c) With literary, dramatic and musical works including any accompanying illustrations, although still in copyright, that copyright will not be infringed if a document is published, where:
 - the author is known, and has been dead for at least 50 years; *and*
 - the identity of the copyright holder is not known; *and*
 - the item is deposited in NAS, *and*
 - the item is over 100 years old.

4.8.2 Unknown author, all works

With literary, dramatic, musical or artistic works (both published and unpublished), copyright will not be infringed by any act (eg copying, publication) where:

- the author cannot be reasonably ascertained; *and*
- it can reasonably be assumed that copyright has expired; *or*
- it can reasonably be assumed that the author died more than 70 years ago.

Exceptions to the above:

1. The notion of reasonable assumption about the expiry of copyright does not apply to photographs created before 1 August 1989.
2. The notion of reasonable assumption about the death of the author does not apply to works subject to Crown copyright.

4.9 Artistic works with a known author

The special provisions for the supply of copies by libraries and archives described at §4.3.1 do not apply to independent artistic works. Consequently, NAS can only supply a copy of an independent artistic work with a known author if the item is a public record, or if it is out of copyright. It is the user's responsibility to determine if an item is out of copyright, but the following pointers may provide guidance (all refer to situations where the author is known):

Photographs

- Unpublished photographs, taken prior to 1 June 1957: copyright expires 70 years after death of author
- Photographs, taken after 1 June 1957 and published prior to 1 August 1989: if the author died more than 20 years before publication, copyright will expire 50 years after first publication; if the author died less than 20 years before publication, copyright expires 70 years after the death of the author.
- Photographs, taken after 1 June 1957 and unpublished prior to 1 August 1989: if the author died before 1 January 1969, copyright expires on 31 December 2039; if the author died after 1 January 1969, copyright will expire 70 years after the death of the author.

Maps and plans

- Unpublished manuscript plans with a known author: copyright expires 70 years after death of author
- Unpublished engraved/lithographed plans: copyright expires on 31 December 2039, and at present there is no provision in copyright legislation which permits the use of such items for purposes other than the permitted acts.
- Published engraved/lithographed plans: if the author died more than 20 years before publication, copyright will expire 50 years after first publication; if the

author died less than 20 years before publication, copyright expires 70 years after the death of the author.

Users should always check the NAS catalogue first, since this may provide sufficient information to determine the copyright status of an item. Otherwise, the artistic work itself will need to be consulted. If you are unable to do this in person, search room staff may be able to help with reasonable requests.

If you would like to use an artistic work which is still in copyright for a purpose other than the permitted acts, you will first have to obtain the written permission of the copyright holder. If you would then like NAS to provide you with a copy of the item, you should send a copy of the written permission along with your request.

4.10 Copying of Ordnance Survey maps

Under an agreement negotiated with Ordnance Survey (OS) and the Libraries and Archives Copyright Alliance (LACA), OS now permits libraries and archives (such as NAS) to make copies of OS copyright mapping material (both paper and electronic) on behalf of their users, for purposes akin to fair dealing. Particular conditions of the agreement are as follows:

- OS is content for users to be supplied with up to four copies from separate mapping data, up to a maximum area of one A4 sheet, or 625 cm²;
- Copies are for non-commercial private study and research only, and will not be used for any other purpose;
- No person is supplied with more than one copy of the same material;
- The copies are charged for at NAS search room rates;
- Where practicable, copies have the following rubrik: © *Crown copyright. Reproduced by permission of Ordnance Survey*®.

Crown copyright in published OS mapping lasts for 50 years, so this agreement is relevant for published OS maps which are less than 50 years old.

The agreement is effective from 1 November 2006, and will be reviewed in December 2009. In an NAS context, this agreement is likely to be most relevant for modern OS maps which have perhaps been annotated with boundaries or other information.

4.11 Acknowledgement of NAS

We realise that there are many different bibliographic styles, but as a minimum we ask for a form of acknowledgement which mentions NAS and which includes the full document reference, for example: ‘National Archives of Scotland, CC1/1/1 fol 24r’ or ‘NAS, CC1/1/1 fol 24r’.

As mentioned at §4, NAS cannot give permission to use documents which are subject to private copyright, so there is no requirement that users write to NAS prior to quoting from such material in a publication. Rather, it is the user’s responsibility to comply with copyright legislation, and if you feel that you can do this you should use the form of acknowledgement described above.

5 Copies of copies

Where copies take the place of an original document (eg for preservation purposes or due to loss), copyright conditions are the same as those for original documents.

Where a document (eg one held in another archive) has been copied in accordance with copyright legislation, and that copy has been acquired by NAS, staff will advise you whether any particular conditions are attached to use of the copies. As a general rule, you should always approach the original repository for guidance on copyright and reproduction.

5.1 Copies of copies of plans where original is held in private hands (NAS ref. RHP)

Due to the often fragile nature of the originals, copies of plans where the original is held in private hands can be regarded as preservation copies. Consequently in terms of copyright, they are subject to the same provisions as original plans. As well as taking account of copyright, prior to placing a request for copies users must obtain the permission of the original plan's owner via the National Register of Archives for Scotland (nra@nas.gov.uk).

6 NAS records subject to particular copyright conditions

6.1 Church of Scotland and Associated Presbyterian Churches (NAS refs. CH1, CH2 & CH3)

Where the Church of Scotland is the copyright holder, NAS administers that copyright on behalf of the Church, and readers are welcome to copy, transcribe, publish or broadcast reasonable portions of them for any purpose. We would ask for acknowledgement as described at §4.11.

6.2 Upper Clyde Shipbuilders (NAS ref. UCS)

Items created after 31 July 1912 are © Queen's Printer for Scotland (a form of Crown copyright whereby copyright has been assigned to the Crown). Items created prior to 31 July 1912 are subject to private copyright (see §2.1 and 3.2).

6.3 Railway Company and British Rail Works of Art, Posters and Photographs (NAS ref. BR)

NAS can supply copies of these for the purposes of non-commercial private study and research only. If the purpose of your research does not come into this category, you should first write for permission to: the Picture Librarian, Science and Society Picture Library, Science Museum, Exhibition Road, London, SW7 2DD; email: piclic@nmsi.ac.uk. You should include a copy of this permission when you approach NAS for copies.

6.4 Other Railway Company and British Rail records (NAS ref. BR)

NAS can supply copies of these records for the purposes of non-commercial private study and research only. If the purpose of your research is commercial (including publication), you should first write for permission to Mr Peter Trewin, The Secretary, Strategic Rail Authority, Whittles House, 14 Pentonville Road, London, N1 9HF

(email: Peter.Trewin@brbr.gov.uk). You should include a copy of this permission when you approach NAS for copies.

6.5 Records held under Charge and Superintendence of the Keeper of the Records of Scotland

The guidance in this leaflet applies to these records as if they were still deposited in NAS. Archives holding such material can provide copies for users as long as the relevant conditions at §4 and §12.1 are met.

7 National Register of Archives for Scotland

The NRAS does not hold any collections itself, but rather acts as a clearing house for information about privately held archives. The special library and archive provisions for the supply of copies described at §4.3.1 only apply to collections deposited in a repository open to the public, so consequently they do not apply to many NRAS collections. This means that users can only be supplied with copies from NRAS collections if the items are out of copyright, or if the copyright holder's permission has been obtained (see §11 for further information on tracing copyright holders). Users should also take great care when considering the 'permitted acts' in relation to privately held collections, because there are some important exclusions.

The provisions at §4.8.2 are valid for all works, whether deposited or not. Where the author is known the following actions are unlikely to infringe copyright in privately held collections:

- Taking notes about a document;
- Publishing insubstantial quotations.

8 Published works held by NAS

For reasons of copyright and licensing, NAS does not supply copies from books held in its library which are still subject to copyright protection. Instead, we suggest that users contact the National Library of Scotland, George IV Bridge, Edinburgh, EH1 1EW; Edinburgh Central Library, George IV Bridge, Edinburgh EH1 1EG, or your local or university library. Similarly, we cannot supply copies of copyright protected published works from within non-public record archival collections. For guidance on copyright protected published material held within public records see §3.1.2.

9 NAS website (www.nas.gov.uk) and leaflets

Unless otherwise stated, content of NAS's website and leaflets is Crown copyright core information (ie created as part of NAS's core functions) and can be used freely as long as due acknowledgement is given. This permission does not extend to departmental logos or the Royal Arms. Users can apply for a free 'Click-Use licence' via the website of the Office of Public Sector Information.

10 NAS publications and online catalogue

In Crown copyright terms, NAS's online catalogue and most NAS publications are 'value added' (ie information beyond the statutory function of a Crown body, or information which has been added to other data to enhance its value). For information on re-use, you should consult the website of the Office of Public Sector Information.

11 Tracing copyright holders

This can be a difficult area, and NAS staff are unable to provide detailed advice. Publications in the bibliography (eg Padfield) will give you some suggestions on how to proceed. You could also try the websites: *Writers, Artists and their Copyright Holders* and *New General Catalog of Old Books and Authors: A Companion to On-line & Off-line Literature*.

You should note the following points:

- Unless stated in this leaflet, where material is subject to private copyright NAS does not hold information on the copyright holder(s).
- Following on from this, although the owner of a collection will sometimes also hold relevant copyrights, in many instances the copyright holder(s) will be quite separate from the physical owner of a collection. For example, it is possible (but by no means definite) that a collection's physical owner will also own the copyright in an ancestor's diary. Letters received by family members from non-family members will belong to the family in a physical sense, but the family will be unlikely to hold the copyright in them.

12 Other considerations

12.1 Preservation

NAS will only provide copies of items which are in a condition suitable for copying, using an appropriate reprographic process.

12.2 Restricted Access Collections

In some cases the depositor has placed restrictions on the use which can be made of a collection; this is quite separate from copyright considerations. You must comply with these conditions, and NAS staff will advise if necessary. If other restrictions apply (eg Data Protection) you will be informed.

12.3 Deposited Collections

There are many collections of private papers in NAS, held on deposit (mainly referenced GD: gifts and deposits), where the owner makes no specific request that users make contact in the event of their wishing to publish parts of his or her records. In practice, for small quotations from such records it is not therefore necessary for authors to contact the owners. Good manners, however, require that where there is to be substantial use made of and/or quotation from such records, the author should make the owner aware of their intentions. While it is difficult to define 'substantial' in this context, we would suggest that it embraces a publication of book status where the development of the argument or narrative is based wholly or mainly on a particular collection.

13 Further advice on copyright in NAS

If you have any questions not covered by this leaflet, please contact us by writing to H M General Register House, Edinburgh, EH1 3YY; by emailing enquiries@nas.gov.uk, or by telephoning 0131 535 1334.

14 Bibliography

14.1 Websites and publications

Note: the books can be found in NAS search rooms using the given shelf mark, and the websites can be accessed under the Copyright section of the search room internet facility.

Graham P Cornish, *Guidelines on the Recent Changes to Copyright Law* (The Libraries and Archives Copyright Alliance, and Museums Copyright Group, 2003). Available at <http://www.cilip.org.uk>

Graham P Cornish, *Copyright: interpreting the law for libraries, archives and information services* (Facet Publishing, 2004) ISBN 1 85604 508 0. Fourth edition.

Libraries and Archives Copyright Alliance, <http://www.cilip.org.uk>

The National Archives' copyright leaflet, <http://www.nationalarchives.gov.uk/>

New General Catalog of Old Books and Authors: A Companion to On-line & Off-line Literature, <http://www.kingkong.demon.co.uk/ngcoba/ngcoba.htm>

Office of Public Sector Information (formerly HMSO), <http://www.opsi.gov.uk>.

Tim Padfield, *Copyright for Archivists and Records Managers* (Facet Publishing, 2007) ISBN 1 85604 604 4. Third edition.

Thomas Smith and Robert Black et al., eds.: *The Laws of Scotland: Stair Memorial Encyclopaedia*, vol 19 (The Law Society of Scotland & Butterworths, 1990) ISBN 0 406 237 19 0.

UK Intellectual Property, <http://www.intellectual-property.gov.uk/>

UK Patent Office, <http://www.patent.gov.uk>

Writers, Artists and their Copyright Holders: <http://tyler.hrc.utexas.edu/index.cfm>

14.2 Copyright Legislation

Below are listed the Acts of Parliament and statutory instruments which are most pertinent to this leaflet. A comprehensive list of copyright and related legislation can be found in Padfield.

Copyright Act 4&5 Eliz2 c74 (1956)

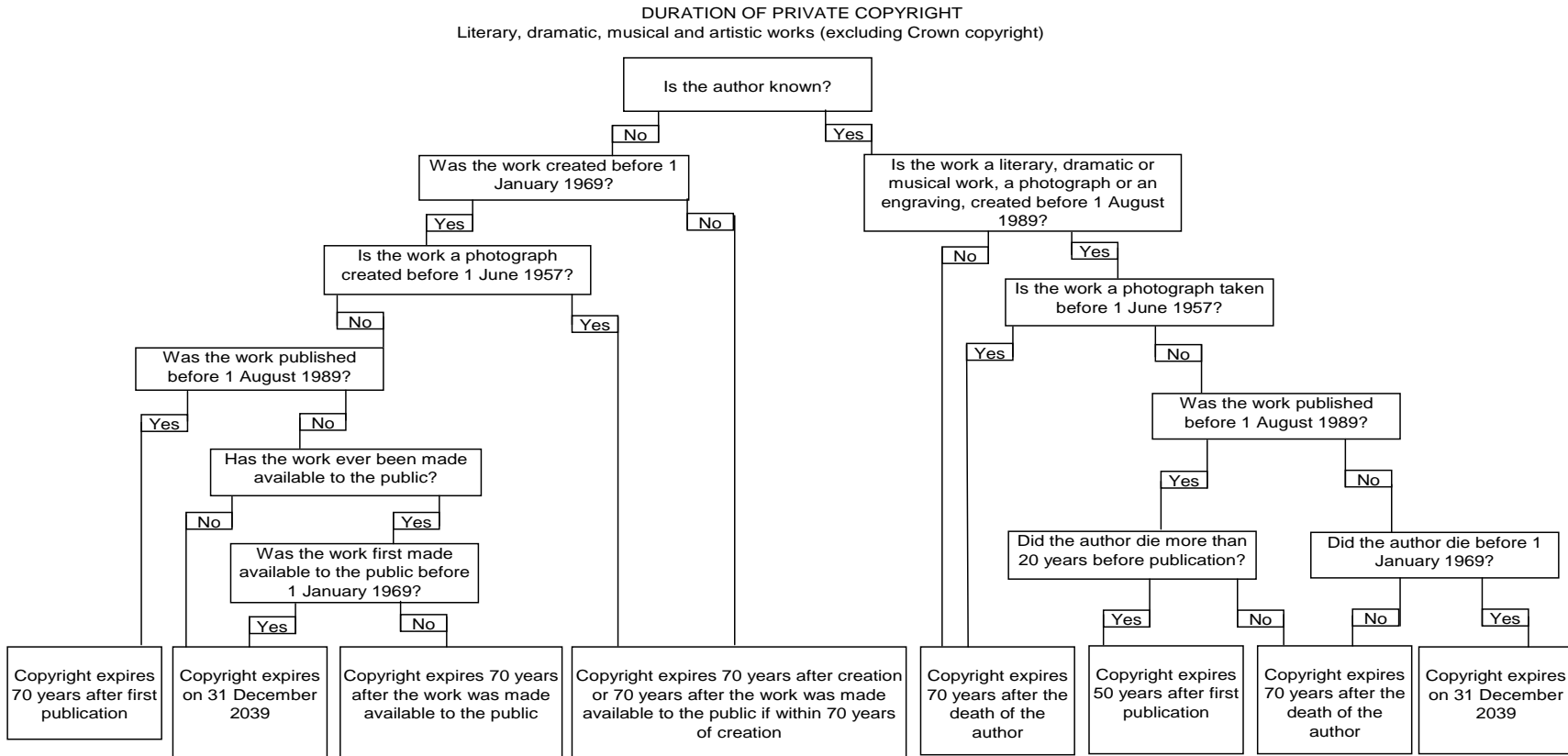
Copyright, Designs and Patents Act c48 (1988)

SI 1989/1212 Copyright (Librarians and Archivists) (Copying of Copyright Material) Regulations 1989

SI 2003/2498 Copyright and Related Rights Regulations 2003

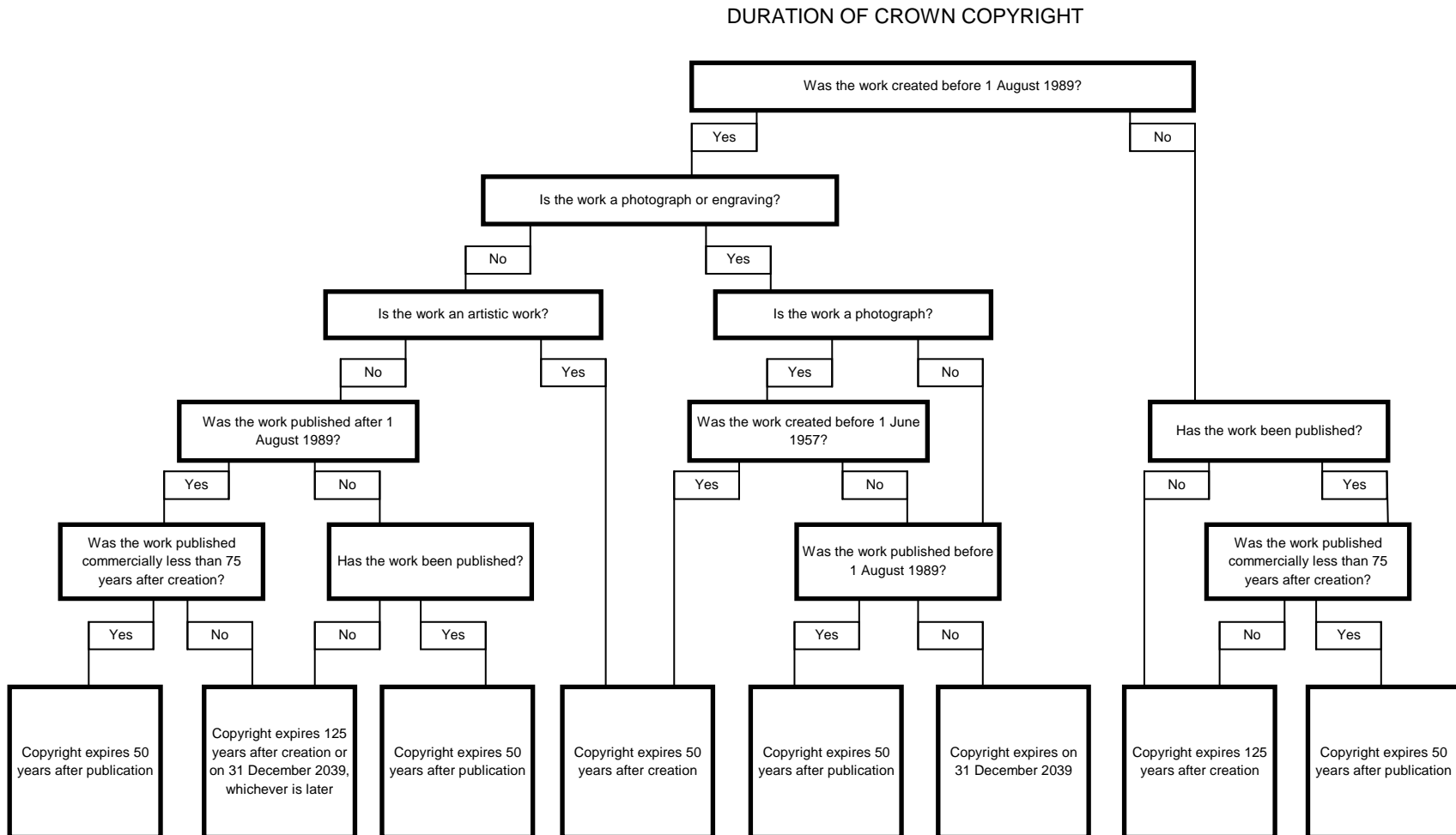
Appendix 1: Duration of private copyright

This table on the duration of private copyright is from TNA's Copyright leaflet, which can be found at <http://www.nationalarchives.gov.uk>.



Appendix 2: Duration of Crown copyright

This table on the duration of Crown copyright is from TNA's Copyright leaflet, which can be found at <http://www.nationalarchives.gov.uk>.



Appendix 3: Commercial or non-commercial purpose?

These notes are taken from the appendix to Graham P Cornish, *Guidelines on the Recent Changes to Copyright Law* (The Libraries and Archives Copyright Alliance, and Museums Copyright Group, 2003) which can be found at http://www.cilip.org.uk/NR/rdonlyres/C0627F34-2D98-4BD3-9CCC-765D787D374E/0/mcglaca_legislationguidelines.pdf

COMMERCIAL OR NON-COMMERCIAL PURPOSE?

Please note that the examples given below are non-exclusive and do not constitute legal advice. They are intended for broad guidance only to library, information, archive and museum staff with the proviso that it is unwise for them to attempt to advise users (who should make up their own minds as to whether or not their copying is 'commercial' before proceeding). This is important as staff cannot be expected to offer legal advice to users and have no protection if they do so.

These examples are based on guidelines produced by Professor Charles Oppenheim of Loughborough University.

These uses might be considered non-commercial:

- Work done by day-release students in employment but undertaking further education outside their place of work
- Work done by lecturers entirely for their students
- Articles for scholarly journals or papers for conferences unless a fee is anticipated
- Work done for personal professional development
- Work done exclusively for an NHS Trust

These uses might be considered to be commercial:

- Company R&D
- Market research
- Information brokerage
- Articles or papers where a fee is offered
- Work done for spin-off companies owned by universities or similar
- Work done for a private medical facility, including copying which is to be used partly for private work and partly for NHS work
- Work done by students for an employer while on placement
- Research done by students which it is known or expected will be used for commercial purposes
- Work done by charities or non-commercial organisations to earn income even if it is then used to further the charity's aims
- Work done by for-profit companies to earn money which is covenanted to a not-for-profit organisation or charity
- Training or professional development funded by an employer which is linked to a commercial company's work or linked to carrying out a commercial activity

Status uncertain:

- Work done by staff/students in academia sponsored by a commercial company but not necessarily for the benefit of that company
- Work done for charities to raise funds
- Work done to gain a qualification which will ensure a pay rise

Appendix 4: NAS Copyright Declaration: copy of unpublished literary, dramatic or musical work



Name (BLOCKS)

DECLARATION: COPY OF UNPUBLISHED WORK

This declaration is required in terms of the Copyright (Copying by Librarians and Archivists) Regulations 1989 (SI 1989 No. 1009)

To: The Keeper of the Records of Scotland
National Archives of Scotland
General Register House
EDINBURGH EH1 3YY

Please supply me with a copy of the following unpublished document(s) required by me for the purposes of non-commercial research or private study only.

Reference(s):

1. I declare that, where this material is still in copyright:
 - (a) I have not previously been supplied with a copy of the same material by you or any other librarian or archivist;
 - (b) I will not use the copy of this material except for non-commercial research or private study;
 - (c) I will not supply a copy of it or any part of it to any other person;
 - (d) To the best of my knowledge the material had not been published before it was deposited in your archive;
 - (e) To the best of my knowledge the copyright owner of no work listed above has prohibited copying.
2. 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:

*This must be the personal signature of the person making the request. A stamped or typewritten signature, or the signature of an agent, is NOT acceptable.