

Photographs - NZ copyright status flowchart v1.1

DISCLAIMER

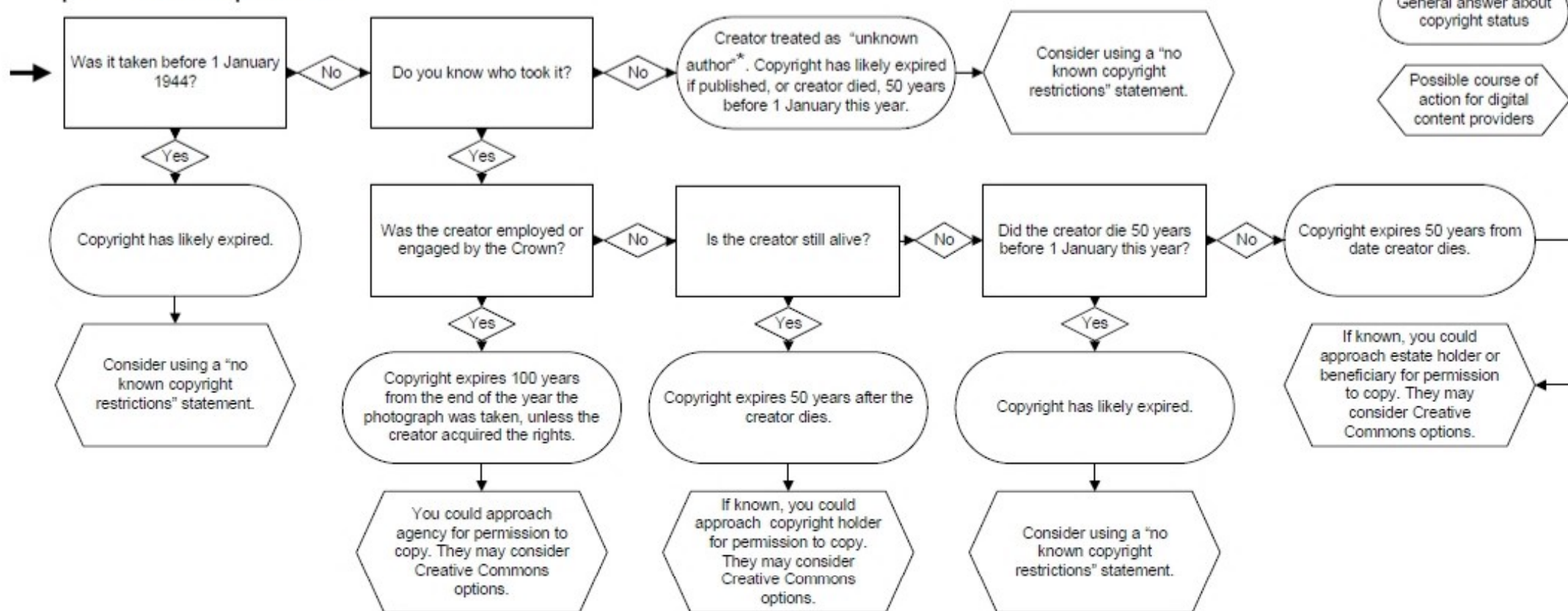
This flowchart is of a generalised nature, for information only. Nothing in this flowchart constitutes professional advice and DigitalNZ is not responsible for any loss caused as a result of using this flowchart. Users should seek professional advice from a suitably qualified professional about specific issues.

KEY

Information gathering point

General answer about copyright status

Possible course of action for digital content providers



Take note

Status changes: New information may change the copyright status - you could even use the Web as an opportunity to find out this information, using appropriate disclaimers.

Conditions on use: If a photograph is out of copyright any conditions placed by the copyright owner on its use are no longer binding unless expressly agreed. However, you may decide to observe other conditions such as donor agreements or protocols around images of taonga Maori.

Privacy: Individuals have the right to privacy in photos taken for private and domestic purposes on or after 1 January 1995. Privacy rights last for the duration of the copyright term

Fair dealing & educational use: You can make copies of in-copyright photos for certain things, such as criticism, review, research, private study, and education. See Sections 42-43 of the Copyright Act 1994.

Commissions & contracts: Keep in mind that people who commission photographers to take photos own the copyright in the work unless there is agreement otherwise. Refer to Section 21(3) and (4) of the Act. Contractors can also negotiate to own copyright instead of their employer. The Commissioning Rule is currently being reviewed and may change.

***Reasonable enquiry:** Unknowns (such as assumptions about when a creator died or that a photographer is unknown) are subject to you making a 'reasonable enquiry', which you may have to defend.