

29 FEB 2008



Office of
PUBLIC SECTOR INFORMATION

Waltham Abbey Royal Gunpowder Mills Co Ltd
Powdermill Lane
Waltham Abbey
Essex EN9 1BN

**Her Majesty's Stationery
Office**

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Norwich NR3 1BQ

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www.opsi.gov.uk

**OPSI, operating from within
The National Archives**

Our Ref: SOA27/1039

28 February 2008

Dear Sirs

AGREEMENT DATED 6 February 2001

Under clause 3 of the above Agreement, which I have enclosed for your information, we have the right to end the Agreement by giving 6 months notice of termination. As the existing Agreement no longer reflects current HMSO licensing terms, I am giving you 6 month's notice that the Agreement will end on 31 August 2008.

If you wish to continue to re-use the material covered by the above Agreement you will need to contact the Ministry of Defence direct, their contact is Nicola Hunt at dipr-cu@mod.uk

If you wish to terminate this Agreement before the above date, please contact me.

Yours faithfully

PP KATHRYN DANIELS
Information Policy Adviser

Enc





**CABINET
OFFICE**

Her Majesty's Stationery Office

St Clements House ■ 2-16 Colegate ■ Norwich NR3 1BQ

TELEPHONE: 01603 723004 ■ FAX: 01603 723000 ■ E-MAIL: pam.beckley@cabinet-office.x.gsi.gov.uk

*Please find enclosed your
copy of agreement.*

<i>WARGM Co.</i>	
Date Rec'd / 2 FEB 2001	
File	
Action	Copy

Pam Beckley

With compliments

PAM BECKLEY

Visit our website at www.hmso.gov.uk



INVESTOR IN PEOPLE

THIS AGREEMENT is made this 6th day of February 2001

BETWEEN 1. **THE CONTROLLER OF HER MAJESTY'S STATIONERY OFFICE** ('the Controller') of St Clements House, 2-16 Colegate, Norwich NR3 1BQ

AND 2. **WALTHAM ABBEY ROYAL GUNPOWDER MILLS CO LTD** ('the Licensee') whose address is at Powdermill Lane, Waltham Abbey, Essex EN9 1BN.

WHEREAS

- (i) Material produced by officers and servants of the Crown in the course of their official duties and, prior to 1 August 1989, material produced under the direction or control of a government department is Crown copyright.
- (ii) Her Majesty the Queen is the first owner of Crown copyright, as defined under UK copyright legislation, and She has appointed the Controller, by Letters Patent, to the office of Queen's Printer of Acts of Parliament to hold and exercise Crown copyright and other copyrights owned by Her Majesty as fully as if such copyrights were her own.
- (iii) The Controller authorises HMSO's Copyright Unit to license and administer Crown copyright protected material on her behalf.
- (iv) The Licensee holds an archive of Crown copyright protected material originated or commissioned by the Ministry of Defence.
- (v) The Licensee wishes to reproduce the Crown copyright protected material.
- (vi) The Controller is an official working within the Cabinet Office.
- (vii) The Controller is prepared to grant a licence to the Licensee to reproduce the Crown copyright protected material upon the terms and subject to the conditions of this Agreement.

IT IS HEREBY AGREED AS FOLLOWS:

1. DEFINITIONS.

1.1. In this Agreement, unless the context otherwise requires, the following words and expressions shall have the following meanings:

Commencement Date: The date of this Agreement.

Copyright Unit: The Copyright Unit which is responsible for the administration of this Agreement on behalf of the Controller.

Licensed Material: Crown copyright printed materials, posters, photographs and sound recordings held by the Licensee which were produced by the Ministry of Defence, excluding currently available sale publications and any material of a restricted nature.

Initialled:
Initialled: RST.....

- 1.2. Any reference to a clause or sub-clause shall be interpreted as a reference to the clause or sub-clause bearing that number in this Agreement.
- 1.3. Any reference to a statutory provision shall be interpreted as including a reference to any statutory modification or re-enactment thereof (whether before or after the date hereof) for the time being in force.
- 1.4. Unless the context otherwise requires, words importing the singular number shall include the plural number and vice versa, words importing the masculine gender shall import the feminine and neuter genders and vice versa.
- 1.5. Clause headings are for ease of reference only and do not affect interpretation.

2. **GRANT.**

2.1. The Controller hereby grants to the Licensee the non-exclusive rights to reproduce, publish and sell the Licensed Material in hard copy in the English language throughout the World.

2.2. This grant does not allow the Licensee to sub-licence third party use of the Licensed Material.

3. **PERIOD.** Subject to the terms of clause 7 [*Termination*], this Agreement shall have effect from the Commencement Date for a period of one year and shall continue thereafter unless terminated by either party giving not less than six months' notice in writing to the other party.


4. **CONSIDERATION.** In consideration of the rights granted at Clause 2 (*Grant*), the Licensee shall pay to the Controller the sum of one penny, receipt of which is hereby acknowledged.


5. **COPYRIGHT**

5.1 The Licensee shall ensure that the following acknowledgement appears on any copies or in any publications in which the Licensed Material is reproduced by the Licensee:

“© Crown copyright 19xx. Reproduced by permission of the Controller of Her Majesty’s Stationery Office.”

5.2 The Licensee shall not use the Licensed Material for the principal purpose of advertising or promoting a particular product or service, or in a way which could imply endorsement by a department or generally in a manner which is likely to mislead;

Initialled:.....

Initialled:.....

6 **ADVERTISING.** The Licensee shall have the entire control of the manner and extent of advertising material relating to the Licensed Material save where the advertising material refers to the Controller (other than in the form of acknowledgement mentioned at clause 5 [*Copyright*] above) or any other government departments, when advertising material shall be submitted to the Controller for prior written approval; such approval not to be unreasonably withheld.

7 **TERMINATION.** The Controller shall have the right at any time to give notice in writing to the Licensee to terminate this Agreement on occurrence of any of the following events:

(a) if the Licensee commits a material breach of any of the terms of this Agreement and in the case of a breach capable of being remedied failing to remedy such breach within thirty days of being requested by the Controller in writing to do so; or

(b) where the Licensee is an individual, if a petition for his bankruptcy or a criminal bankruptcy order is made against him, or he makes any composition or arrangement with or for the benefit of creditors, or makes any conveyance or assignment for the benefit of creditors, or if an administrator is appointed to manage his affairs; or

(c) where the Licensee is not an individual but a firm or a number of persons acting together in any capacity, if any event in sub-paragraph (a) or (b) of this clause occurs in any respect of any partner in that firm or any of those persons or a petition is presented for the Licensee to be wound up as an unregistered company; or


(d) where the Licensee is a company, if the company passes a resolution to wind up or the court makes an administration order or a winding up order, or the company makes a composition or arrangement with its creditors, or an administration receiver or manager is appointed by a creditor or by the court, or possession is taken of any of its property under the terms of a floating charge.

8 **CONSEQUENCES OF TERMINATION**

8.2 On termination of this Agreement under clause 7 [*Termination*] all rights granted to the Licensee shall automatically and immediately revert to the Controller and the Licensee shall cease to issue or sell the Licensed Material.

8.3 Termination for any reason shall not affect any claim which the Controller may have against the Licensee for damages or otherwise.

9 **FORCE MAJEURE.** In the event that either party is delayed in the performance of its obligations under this Agreement by force majeure, this Agreement shall remain in suspense until the cause thereof has ceased. Force majeure shall include, although not by way of a limitation, strikes, lock-outs, riots, sabotage, acts of war or piracy, destruction of essential equipment by fire, explosion, storm, flood or earthquake, and delay caused by failure of power supplies or transport facilities.

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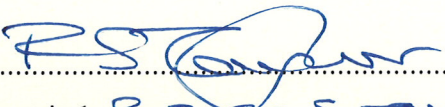
Initialled: .....

- 10 **ASSIGNMENT.** The Licensee shall not assign this Agreement or the benefit or advantage hereof without the prior written consent of the Controller.
- 11 **CHANGE OF ADDRESS.** Each party to this Agreement undertakes to inform the other party of any change of name, address or any such details which pertain to this Agreement, within 21 days of such change.
- 12 **NOTICES.** Any notice or other communication in connection with this Agreement shall be deemed to have been properly delivered if sent by first class post or document exchange to the addresses given at the head of this Agreement.
- 13 **CONFIDENTIALITY.** Except in the proper performance of their respective duties, neither the Controller nor the Licensee shall divulge any terms or provisions of this Agreement to any third party.
- 14 **ENTIRETY.** This Agreement constitutes the entire agreement between the parties and no modification or amendments shall be binding on either party unless it is agreed in writing by both parties.
- 15 **INTERPRETATION.** This Agreement shall be governed by and interpreted in all respects with the laws of England and Wales and shall be subject to the jurisdiction of the Courts of England and Wales.

Signed by  Date 6.2.01

Name in block capitals I QUARTERMAN

for the Controller of Her Majesty's Stationery Office

Signed by  Date 1/02/2001

Name in block capitals ROBERT S. TAYLOR

for the Waltham Abbey Royal Gunpowder Mills

Lynne Lennard

From: "DIPR-CU (Hunt, Nicola Mrs)" <DIPR-CU@mod.uk>
To: <l.lennard@royalgunpowdermills.com>
Sent: 29 April 2008 12:07
Attach: 20080130-COPYRIGHT GUIDANCE NOTE (Non DID) -U.doc; 20071015-CopyrightQuestionnaire-U.doc
Subject: 20080429-HMSO Agreement SOA27/1039-U

Dear Lynne

Thank you for your e-mail. I regret to have to advise that we are unable to issue you with an agreement such as that you have previously had with HMSO. If you wish to reproduce MOD Crown Copyright material you will require a licence on each occasion. I have attached a copy of our general guidance note for your information which explains our conditions of use, reproduction fees, licensing and payment procedures. If after reading it you wish to proceed please complete and return the questionnaire.

I look forward to hearing from you further.

Regards

Nicola Hunt

-----Original Message-----

From: Lynne Lennard [mailto:l.lennard@royalgunpowdermills.com]
Sent: 25 April 2008 13:15
To: DIPR-CU (Hunt, Nicola Mrs)
Subject: Re: 20080417-HMSO Agreement SOA27/1039-U

Dear Nicola,

Please find attached the covering letter received from the Office of Public Sector Information and a copy of the Agreement SOA 27/1039 which was sent to us.

I trust this will help.

Regards

Lynne Lennard

----- Original Message -----

From: "DIPR-CU (Hunt, Nicola Mrs)" <DIPR-CU@mod.uk>
To: <l.lennard@royalgunpowdermills.com>
Sent: Thursday, April 17, 2008 3:34 PM
Subject: 20080417-HMSO Agreement SOA27/1039-U

Dear Lynne

Thank you for your enquiry. Unfortunately we have no knowledge of this agreement and without further information are unable to advise. HMSO say you will have been sent a copy of the old agreement. Perhaps you could forward a copy to me so we can decide what action needs to be taken. HMSO's records have now been sent to their archive.

I look forward to hearing from you.

Regards

Nicola Hunt
MOD Crown Copyright Administrator
Directorate of Intellectual Property Rights

-----Original Message-----

From: Lynne Lennard [mailto:l.lennard@royalgunpowdermills.com]
Sent: 17 March 2008 15:27
To: DIPR-CU (Hunt, Nicola Mrs)
Subject: HMSO Agreement SOA27/1039

Dear Nicola,

We have received a letter from the Office of Public Sector Information informing us that the above agreement no longer reflects the current HMSO licensing terms, and we have therefore been given 6 months notice that the agreement will come to an end. I am contacting you as advised to inform you that we do wish to continue using the material covered by the above agreement and would be grateful if you would advise where we go from here.

I will be away from the office now until the 28th March, but will reply to all emails after that date.

Yours sincerely

Lynne Lennard
Royal Gunpowder Mills
Company Manager
01992 707330

This email was received from the INTERNET and scanned by the Government Secure Intranet anti-virus service supplied by Cable&Wireless in partnership with MessageLabs. (CCTM Certificate Number 2007/11/0032.) In case of problems, please call your organisation's IT Helpdesk. Communications via the GSi may be automatically logged, monitored and/or recorded for legal purposes.

From the Chairman

T Knapp

32 Hawthorne Road
Bickley
Kent BR1 2HH
Tel & Fax: 020 8467 6928

ROYAL GUNPOWDER MILLS

Waltham Abbey

Beaulieu Drive
Waltham Abbey
Essex EN9 1JY England
www.royalgunpowdermills.com

Sir Ian Andrews CBE TD
2nd Permanent Under Secretary Ministry of Defence
Main Building Whitehall
London SW1A 2HB

5 July 2008



You will be pleased to know that we have managed to secure money from the Heritage Lottery Fund for the purchase of the gun collection, which I wrote to you about previously. The grant of some £140,000 includes provision for the salary for a curator post. The job will involve putting the collection into good order, and working together with the Royal Armouries and other museums, City livery companies and specialist organisations to create a wider appreciation of the collection and its heritage and educational value. We hope that this will not only help to raise our profile with a new visitor constituency, but also aid our efforts to find funding for the curator beyond the period covered by the grant.

The founder of the collection, Brian Street, who brought it to us when he became a volunteer here, was a former Army weapons instructor; we hope that we will be able to recruit a retiring or recently retired instructor or armourer to take on the curator task, although we will also be advertising elsewhere. A colleague has given me the names of the appropriate officers in the AG's organisation in Kentigen House in Glasgow, and I will be writing to them about this opportunity. It would be very helpful to us if you were able to drop a line to the AG asking him to encourage his officers to be supportive to our efforts to recruit a specialist we can trust. Enclosed with this letter is a possible draft you might care to use.

Also enclosed with this letter is correspondence with the Office of Public Sector Information and the MOD DIPR-CU organisation about copyright on material held in our archives. We have had a free user agreement with the HMSO. In what looks like a further Treasury inspired delegation exercise, responsibility for these matters has apparently been transferred to individual departments, and we should like to sign an agreement to continue current arrangements. As an internal administrative matter, I assume this falls within your general purview.

The conditions now being suggested by DIPR-CU would be both financially crippling to us, and unworkable since we do not have the staff effort here to prepare and submit applications on each individual occasion. As you know we already work to a significant operational deficit, which is only covered by the help of the Trust Fund set up with the dowry from the Department when the site was disposed of. Our main concern is old photographs held in our various archives. We make use of these all the time in our publicity and marketing, as well as in pamphlets and booklets, and often at short notice. Together with some colleagues here I am writing an historical and pictorial guide to the site for visitors; while it contains a large number of contemporary photographs we have taken, it draws heavily on archival material as you can imagine.

The members of the Foundation Charitable Trust, to which the site was handed over *in toto* as part of the arrangements for setting up the current attraction, are of the view that the site archives together with other artefacts and material here were included in the original legacy, and this would certainly make sense in terms of the Ministry intention to launch the attraction as a self sustaining operation removing any further liability to the Department. At that time material of national significance was transferred to the national archives. Certainly the position of the Trust and the Company differs from the normal run of those wishing to use copyright material. I would be most grateful if the decision notified by Mrs Hunt could be reviewed in the light of the original intentions in the disposal of the site. If it would be helpful we would be prepared to pay a nominal sum to cover our continued use of the material we hold in our archives on site.

A few years ago your secretary was kind enough to let me have the names and room numbers of the editors of FOCUS and the Service magazines. As a result of contacts then a reporter from FOCUS attended one of our main events, but no article resulted. I now have a new young marketing manager, who may be a little more energetic in following up the possibilities of an article(s) next year. I should be grateful if your secretary could send me the latest contact information for the editors of these magazines.

John King
Chairman

Draft letter to AG from 2nd PUS

When some 20 years ago the Department came to dispose of the old Explosives Research and Development Establishment (ERDE) at Waltham Abbey, it was found that significant industrial archaeology remained of the production there over three centuries of gunpowder and later modern explosives. With the help of the Heritage Lottery Fund, arrangements similar to those at Chatham and Woolwich were made to set up a museum and attraction to safeguard this heritage.

After a faltering start in 2001, the now named Royal Gunpowder Mills has held its head above water and achieved a modest visitor income. Over the years we have done what we can to help the establishment, which is a charity run by a former Ministry colleague. He has recently written to tell me that, with the help of the Heritage Lottery Fund, the attraction has recently acquired from one of its volunteers his magnificent collection of 19th and 20th century small arms. The Lottery grant includes provision for a curator of the collection. The former owner was an army weapons instructor; another such person or a REME armourer seems to be a good bet for this curator post. The Royal Gunpowder Mills chairman – Trevor Knapp – will soon be writing to your people in Kentigern House (Col Moffat and Col Halstead) seeking their help in nominating suitable retired or retiring NCOs. I hope you will be able to encourage them to be supportive to this request, which would not only help the museum but provide an interesting and very worthwhile second career for a small arms specialist.

For Robert

NOTES OF MEETING WITH HMSO 'CROWN COPYRIGHT' STAFF 14 NOVEMBER 2000

Present: Ian Quatermann, Margaret Ferre, Karen Eyre and Mireille Galinou

HMSO website: www.hmso.gov.uk refer in particular to 'Copyright' and 'Publishing Copyright' sections

Background history:

- All government material prior to 1989 is Crown Copyright
- After 1989: the photographer/author retains copyright unless negotiated otherwise
- Anything which is not Crown Copyright is subjected to the 70 years rule: i.e. in copyright for 70 years from the death of author/artist/photographer
- Crown Copyright on the other hand obeys the 50 year rule
- Rule is different for unpublished text: 125 years from 1956

1. HMSO is happy to grant WARGM a licence for using all material in its collections.
2. However, anything involving a collaboration with a commercial publisher will have to be cleared by HMSO as a third party is then involved. For instance if Batsford agreed to publish a book in collaboration with WA, using WA material, permission will have to be sought from HMSO. With such scenarios, HMSO have no intention of becoming obstructive, withholding permission or charging fees. Nevertheless, permission will have to be sought and an agreement will be drawn for each particular venture.
3. In the case of POSTCARDS: the same rule will apply. If WA is going to be in control of the distribution of postcards, then no permission is necessary. If the venture is carried out in association with a third party, then a license from HMSO will be required.

Note: Liaising with the Copyright officer at the Public Record Office: Tim Padfield is apparently very helpful.

Further Action: Ian Quarterman to send a draft of proposed license agreement to Karen Eyre. Karen & Mireille to check and discuss before handing over to Trevor Knapp for final correspondence.



Her Majesty's Stationery Office

**CABINET
OFFICE**

St Clements House ■ 2-16 Colegate ■ Norwich NR3 1BQ
TELEPHONE: 01603 723007 ■ FAX: 01603 723000 ■ E-MAIL: ian.quarterman@cabinet-office.x.gsi.gov.uk

Ms K Eyre
22 Elsworthy Road
London
NW3 3DL

DATE ■ 01 December 2000

OUR REFERENCE ■ SOA 27/1039

YOUR REFERENCE ■

Dear Karen

COPYRIGHT LICENCE

It was good to meet with you and Mireille and I would like to thank you for showing Margaret and myself around the site.

As promised I enclose herewith the various documents setting out the duration of copyright in Crown photographs and literary works. In addition I also enclose the draft agreement to cover the reproduction of the Crown copyright material that you hold at your site.

Please let me know if you agree with the terms and conditions of the draft. If so, I will raise a formal licence for signature.

I look forward to hearing from you in due course.

Yours sincerely

Ian Quarterman
Senior Copyright Manager



INVESTOR IN PEOPLE





**CABINET
OFFICE**

Her Majesty's Stationery Office

St Clements House ■ 2-16 Colegate ■ Norwich NR3 1BQ
TELEPHONE: 01603 621000 ■ FAX: 01603 723000 ■

DATE ■ 13 November 1995
(revised 6.9.96)

OUR REFERENCE ■ PU 15/167

YOUR REFERENCE ■

DURATION OF COPYRIGHT: CROWN COPYRIGHT PHOTOGRAPHS

In the light of further advice from the Treasury Solicitor, HMSO would like to update the advice contained in the earlier circular letter dated 19 August 1994.

1. Published Photographs

(a) A photograph taken on or after 1 August 1989 (the date of commencement of the Copyright, Designs and Patents Act 1988) would have copyright protection for 50 years from the end of the calendar year in which the photograph was first published, provided that such publication took place within 75 years from the end of the calendar year in which the photograph was taken. Section 163 of the CDPA 1988 refers.

(b) A photograph taken on or after 1 June 1957 (the date of commencement of the Copyright Act 1956) but before 1 August 1989, would have a copyright life of 50 years from the end of the calendar year in which the photograph was first published. Schedule 1, paragraph 40 of the CDPA 1988 and Section 39(4) of the 1956 Act refer.

(c) A photograph taken on or after 1 June 1957 and first published before 1 August 1989 would enjoy copyright protection of 50 years from publication in accordance with paragraph 41(2)(d) of Schedule 1 of the CDPA 1988.

(d) a photograph taken prior to 1 June 1957 would have a copyright life of 50 years from the end of the calendar year in which the photograph was first taken. Schedule 7, paragraph 30 of the Copyright Act 1956 refers.

2. Unpublished Photographs

(a) A photograph taken on or after 1 August 1989 has a copyright life of 125 years from the end of the calendar year in which the photograph was taken subject to it not being published commercially within 75 years from the end of the calendar year in which the photograph was taken. Section 163 of the CDPA 1988 refers.



INVESTOR IN PEOPLE

(b) A photograph taken on or after 1 June 1957, but before 1 August 1989, would have a copyright life of 50 years beyond 1 August 1989 (to end of 2039) under paragraph 41(4) of Schedule 1 of the CDPA 1988.

(c) A photograph taken prior to 1 June 1957 has a copyright life of 50 years from the end of the calendar year in which the photograph was taken. Paragraph 30 of Schedule 7 of the Copyright Act 1956 refers.

3. **Out of Copyright Photographs**

Departments generally charge fees for the reproduction of Crown copyright photographs which cover both the copyright aspect and also an element to cover access to and provision of the photographs. In the case of "out of copyright" photographs, departments are still entitled to charge access and provision fees.

Any queries or problems relating to this information, please feel free to contact me.



JIM WRETHAM
Head of Copyright

(This letter has been revised to show the Copyright Unit's new address)



CROWN COPYRIGHT GUIDANCE: PROTECTION OF LITERARY WORKS

Position prior to 1911

The first UK legislation to establish the concept of Crown copyright as a separate right enjoyed by the Crown was the Copyright Act of 1911 which changed the established law under which a common law copyright subsisted in unpublished works and provided that all copyright subsisted only by statute. The view taken by Law Officers in 1887 was that the Crown could hold copyrights in the same way as any private employer, there being no specific provision in the Copyright Acts of 1814 and 1842 in respect of works made by the Crown.

Effective dates of the copyright legislation

The periods covered by 20th century UK copyright legislation are as follows:

Copyright Act 1911:	16 December 1911 up to and including 31 May 1957;
Copyright Act 1956:	1 June 1957 up to and including 31 July 1989;
Copyright, Designs and Patents Act 1988:	1 August 1989 to the present.

Definition of Crown copyright in the various legislation

The definitions within each individual Act are as follows:

Copyright Act 1911:	Works, whether before or after the commencement of the Act, which have been prepared or published by or under the direction or control of His Majesty or any government department. (Section 18 refers)
Copyright Act 1956:	Every original literary, dramatic, musical or artistic work made by or under the direction or control of Her Majesty or a government department. (Section 39(1) refers) Every original literary, dramatic or musical work first published in the United Kingdom or in another country to which Section 2 of the Act extends, if first published by or under the direction or control of Her Majesty or a government department. (Section 39(2) refers)
Copyright, Designs and Patents Act 1988:	Where a work is made by Her Majesty or by an officer or servant of the Crown in the course of his duties. (Section 163(1) refers)

It should be noted that the 1988 Act does not operate retrospectively to determine the copyright status of works made before its enactment and therefore it is still necessary to consider the terms of the 1911 and 1956 Acts in relation to some works.

Duration of Crown copyright in published works

The terms of protection in the various copyright legislation is as follows:

Copyright Act 1814:	28 years commencing from the day of first publication and if the author was living at the expiration of that period for the residue of his natural life.
Copyright Act 1842:	The life of the author and seven years after his death or a term of 42 years from publication, whichever should be longer, or 42 years from publication if published after the author's death.
Copyright Act 1911:	Fifty years from first publication of the work. (Section 18 refers)
Copyright Act 1956:	Fifty years from the end of the calendar year in which the work was first published. (Section 39(3)(b) refers)
Copyright, Designs & Patents Act 1988:	Fifty years from the end of the calendar year in which the work was first <u>commercially</u> published.

Duration of Crown copyright in unpublished works

Crown copyright material enjoyed perpetual protection under both the 1911 and 1956 Acts. In the 1988 Act, however, the question of duration of copyright in unpublished Crown copyright works was specifically addressed. The basis upon which Crown copyright subsists under the Act is as follows:

(a) 125 years from the end of the calendar year in which the work was made unless the work is published commercially within 75 years of the end of the calendar year in which the work was made. If the work is commercially published within that 75-year period, then the period of protection is 50 years from the end of the calendar year in which it was first so published. (Section 163(3) refers)

OR

(b) 50 years from 31 December 1989 (ie the end of the calendar year in which the 1988 Act came into force. (Schedule 1, paragraph 41(3) refers)

- whichever is the later.



JIM WRETHAM
20 August 1997



HMSO Guidance Note

3

Copyright in Public Records

18 June 1999
(Revised 6 November 2000)



HMSO Guidance Notes

Publishing and Copyright

1. This is the latest in a series of Guidance Notes issued by Her Majesty's Stationery Office (HMSO) covering various publishing and copyright issues. These Guidance Notes may be freely copied and distributed to ensure dissemination of the information contained in this Guidance Note to as wide an audience as possible. The Public Record Office, the Scottish Record Office, the Public Record Office of Northern Ireland and the United Kingdom Hydrographic Office assisted in the drafting of this Guidance Note.

2. HMSO Guidance Notes can be accessed on HMSO's web site at:

<http://www.hmso.gov.uk/guides.htm>

This Guidance Note can also be accessed on the Public Record Office's web site at:

<http://www.pro.gov.uk>

3. If you require any additional copies or if you have any questions about this particular Guidance Note, please contact HMSO's Licensing Division at:

HMSO
The Licensing Division
St Clements House
2-16 Colegate
Norwich
NR3 1BQ

Tel: 01603 621000
Fax: 01603 723000
e-mail: copyright@hmso.gov.uk



Number: 3

Date: 18 June 1999

(Revised 6 November 2000)

HMSO Guidance Notes

Copyright in Public Records

Unpublished public records and those open for public inspection are reproducible freely under waiver of copyright. This guidance explains how this works in practice.

Background

1. In the Government White Paper, *The Future Management of Crown Copyright*¹, it was announced that copyright would be waived for certain types of material which are Crown copyright protected. One of the categories of material which is covered by waiver is unpublished Crown copyright protected public records.
2. The purpose of this guidance is to describe how the waiver will be applied and which Crown copyright protected material will be covered.
3. Crown copyright subsists in all copyright works produced by officers or servants of the Crown in the course of their duties, in accordance with section 163 of the Copyright, Designs and Patents Act 1988. Her Majesty the Queen is the owner of Crown copyright but she has vested this right in the Controller of HMSO, as Queen's Printer, by Letters Patent. The Queen's Printer is appointed Queen's Printer for Scotland under the Scotland Act 1998, section 92 in relation to Crown copyright protected works in Scotland.

¹ Cm 4300 published 26 March 1999. The full text of this publication can be accessed on HMSO's web site at: <http://www.hmso.gov.uk/document/copywp.htm> or is available from The Stationery Office Ltd. price £9.50.

Definitions

4. Some of the terms used in this Guidance Note need some explanations, and they are defined as follows.

Controller:	The Controller of Her Majesty's Stationery Office in her role as Queen's Printer and Queen's Printer for Scotland.
Crown Material:	Crown copyright protected material contained within Public Records.
Publication:	The authorised issuing of copies of a work to the public in any medium: <ul style="list-style-type: none">• by the legal copyright holder: or• by a person or organisation acting with the consent of the legal copyright holder, except in those cases where the term of copyright protection has expired.
Public Records:	Public Records, for the purposes of this guidance, are the records of central government in the United Kingdom and its constituent countries, and of the central courts of law, including bodies under the government such as the national museums, the National Health Service, and national regulatory authorities. The records have been selected for permanent preservation and are preserved in record offices and other repositories in the United Kingdom. Most become available for public inspection when they are thirty years old, but a longer or shorter period may be set in certain cases. They are selected, preserved and made available to the public under the authority of the Public Records Act 1958, the Public Records (Scotland) Act 1937, the Public Records Act (Northern Ireland) 1923 and the Government of Wales Act 1998.

Public Record Repositories: Public Records are preserved in the Public Record Office, the National Archives of Scotland, the Public Record Office of Northern Ireland and some 240 places of deposit in England and Wales appointed by the Keeper of Public Records (such as local authority record offices, national museums and galleries and the archives of specialised public record-creating bodies). In the future they may also be preserved in a record office established by the National Assembly for Wales.

Work: A product or publication in which Public Records are to be featured.

What is meant by Waiver

5. For those Public Records which are subject to waiver, users may copy, quote, index, transcribe, publish and broadcast Crown Material in all formats and media throughout the world without:

- payment of a fee or royalty; or
- requiring a specific licence or approval.

6. The waiver of copyright is, however, subject to the following conditions being observed:

- that the source of the Crown Material is provided by quoting the archival document reference and the name of the Public Record Repository where the records are held on any copies of the material which are to be made available to the public and in any publication or broadcast reproducing or using the Material;
- that the material is not used in a misleading context or in a derogatory manner;
- that a complimentary copy of the Work is supplied to the Controller and/or the Public Record Repository where the Crown Material is held. In the case of electronic products and publications which reproduce Public Records, the Controller and/or the Public Record Repository should be provided with an appropriate end-user licence and password access.

7. For material in which the period of Crown copyright protection has expired the conditions listed at paragraph 6 do not apply.

Which material is covered?

8. The waiver of Crown copyright in Public Records covers those Public Records which:

- were unpublished at the point when they were deposited with the Public Record Repository in question or which contain material that was unpublished at the point it was deposited (see the definition of Publication at paragraph 4);
- are open for public inspection.

Which material is excluded?

9. The following Public Records are not subject to the waiver conditions:

- those which have been published prior to deposit with the Public Record Repository in question;
- those which have not been deposited with a Public Record Repository;
- those which are not open to public inspection;
- those which constitute Tradeable Information (see paragraph 14);
- those which are not Crown copyright protected (see paragraphs 7 and 12);
- any records held in a Public Record Repository that are not defined as Public Records.

10. Any user wishing to reproduce any Public Records listed at paragraph 9 or any material which is Crown copyright protected should apply in writing to one of the following:

For Public Records held by the Public Record Office or in a Place of Deposit:

The Copyright Officer
Public Record Office
Kew
Richmond
Surrey
TW9 4DU

Fax: 020 83925295
e-mail: copyright@pro.gov.uk

For all other Crown Material:

HMSO
The Licensing Division
St Clements House
2-16 Colegate
Norwich
NR3 1BQ

Fax: 01603 723000
e-mail: copyright@hmsso.gov.uk

11. The fair dealing provisions² of the Copyright, Designs and Patents Act 1988 which cover copying for the purposes of research and private study, criticism, review and news reporting and incidental inclusion of copyright material apply equally to Crown Material as to other copyright protected works. Similarly, the provisions contained in the Copyright, Designs and Patents Act 1988 relating to education, library privilege³ and to uses for public administration cover Public Records as well as other copyright works.

Public Records which are not Crown Copyright protected

12. Many Public Records are not Crown copyright protected and users wishing to reproduce such material remain responsible for determining where ownership of the copyright rests and for obtaining the appropriate consents from the legal copyright holders. General guidance on the copyright status of particular documents can be obtained from some Public Record Repositories, such as the Public Record Office. However, Public Record Repositories cannot undertake to identify the names and addresses of copyright holders.

13. Copies of any Public Record can be obtained from the appropriate Public Record Repository in accordance with section 49 of the Copyright, Designs and Patents Act 1988 without infringing copyright. However, the subsequent reproduction of such material, may be subject to copyright restrictions unless such copying falls within the scope of the fair dealing provisions of the Copyright, Designs and Patents Act 1988.

Tradeable Information

14. The waiver of Crown copyright does not apply to Public Records which fall within the scope of Tradeable Information, which will be subject of a separate Guidance Note to be issued by HMSO. The following material falls within the scope of Tradeable Information:

- 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 other related publications.
- Microfilm, microfiche, digital form and photographic copies of Public Records created by Public Record Repositories but not the data which they contain.

² Sections 29-31.

³ Sections 32-50.

15. The reproduction of such material may be subject to formal licensing and payment of fees.

Provision of copies

16. Public Record Repositories retain the right to determine the means by which copies of Public Records are made available in fulfilment of their statutory responsibility and, furthermore, reserve the right to charge for the provision of such copies.

Undertakings of confidentiality

17. Public Records that are available for inspection by users only after completion of an undertaking of confidentiality will continue to have access and use restricted on that basis.

18. The details of the policy described in this Guidance Note takes immediate effect.



CAROL TULLO
Controller HMSO
Queen's Printer