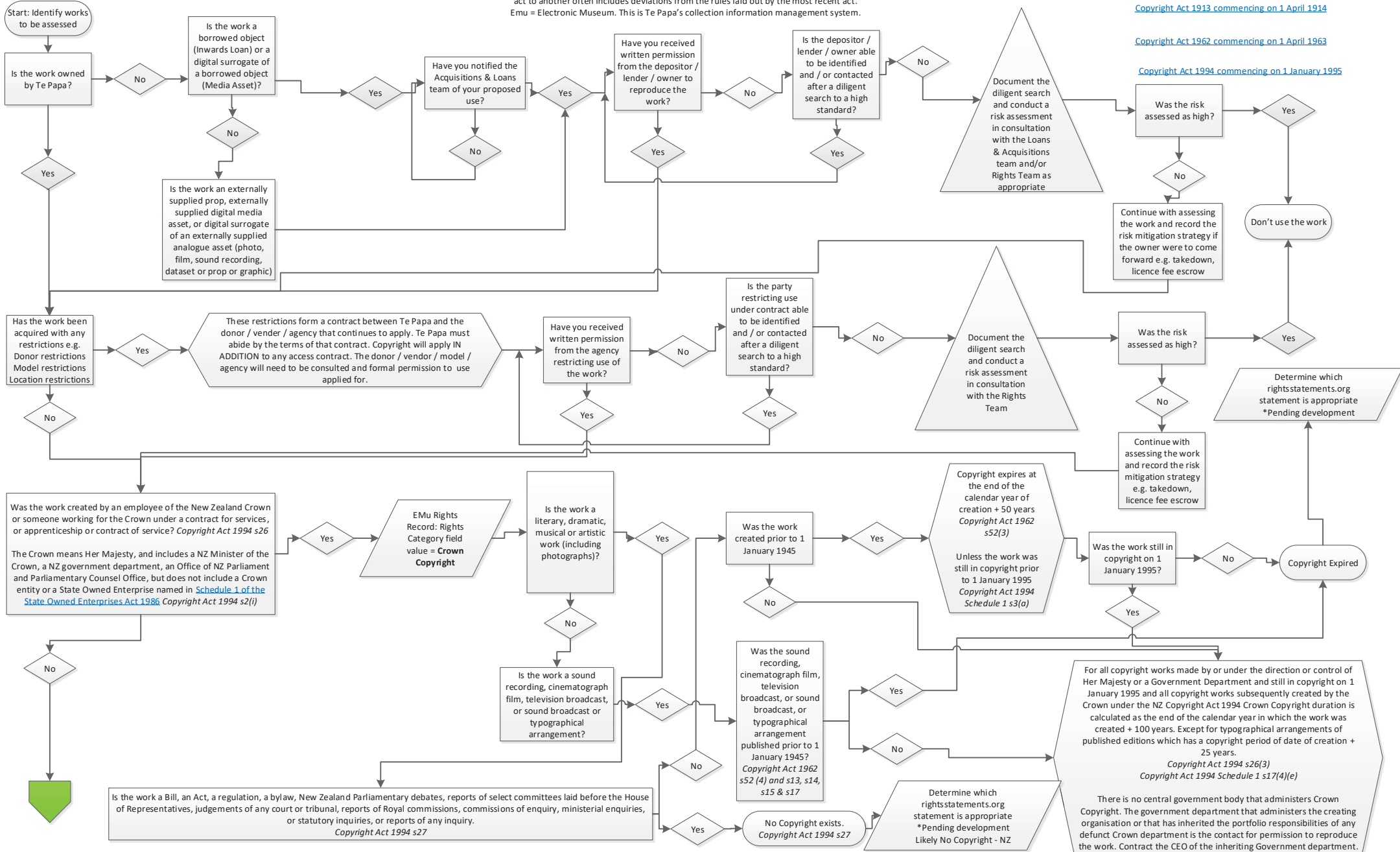


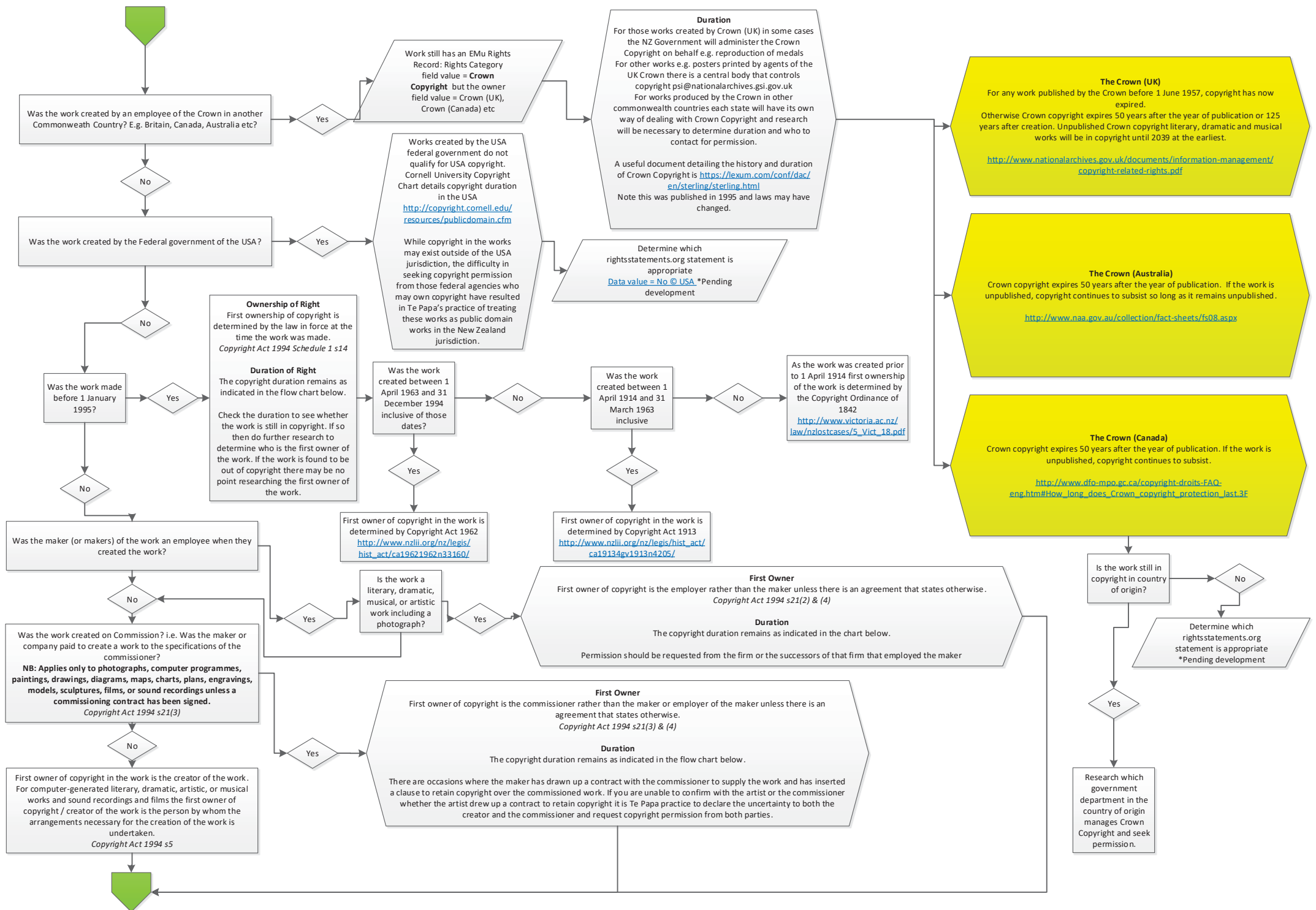
Working out Copyright Duration for Te Papa's Collection

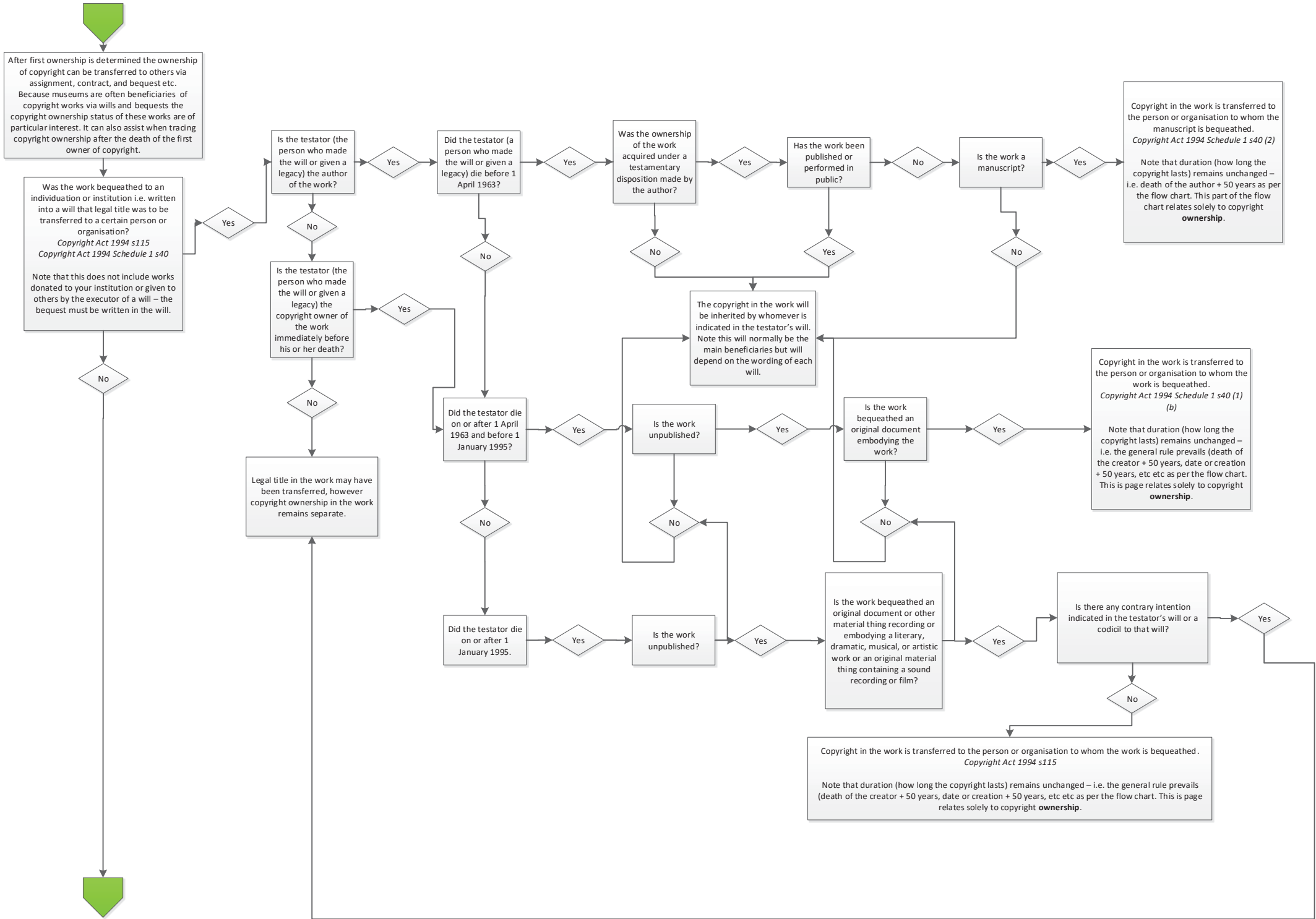
Under the Berne Convention the principle of national treatment is also extended to cases in which the author is not a national of the country of origin of his or her work. In such cases, the author is entitled to the same protection as nationals of such countries. Article 5(3) Generally for works created in New Zealand by New Zealand nationals who died more than 50 years ago Te Papa recognises the works are out of copyright in the NZ jurisdiction and labels them with the NZGOAL "No Known Copyright Restrictions" copyright statement when reproducing online. <https://www.ict.govt.nz/guidance-and-resources/open-government/new-zealand-government-open-access-and-licensing-nzgoal-framework/>

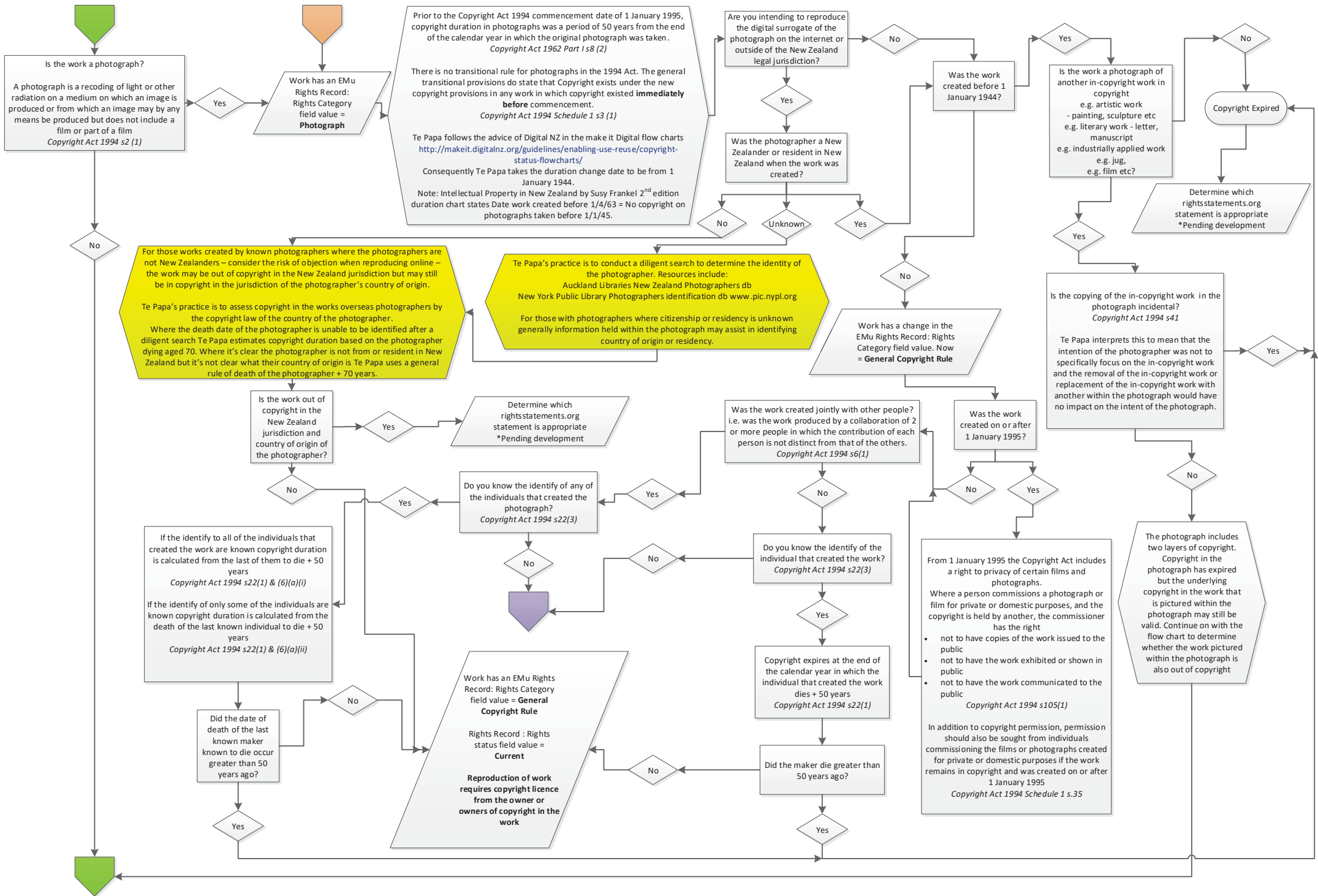
For Non-New Zealand authors / creators whose country of origin are partners in the Berne Convention and have death + 70 years as the general duration, Te Papa applies an end-of-calendar-year-of-death-of-the-author/creator + 70 years duration when considering reproduction online or copying outside of the New Zealand legal jurisdiction. This includes online. If the work qualifies for a shorter copyright duration in its home country, Te Papa will apply those rules e.g. Japan has a general copyright duration of end of the year of death of the author + 50 years.

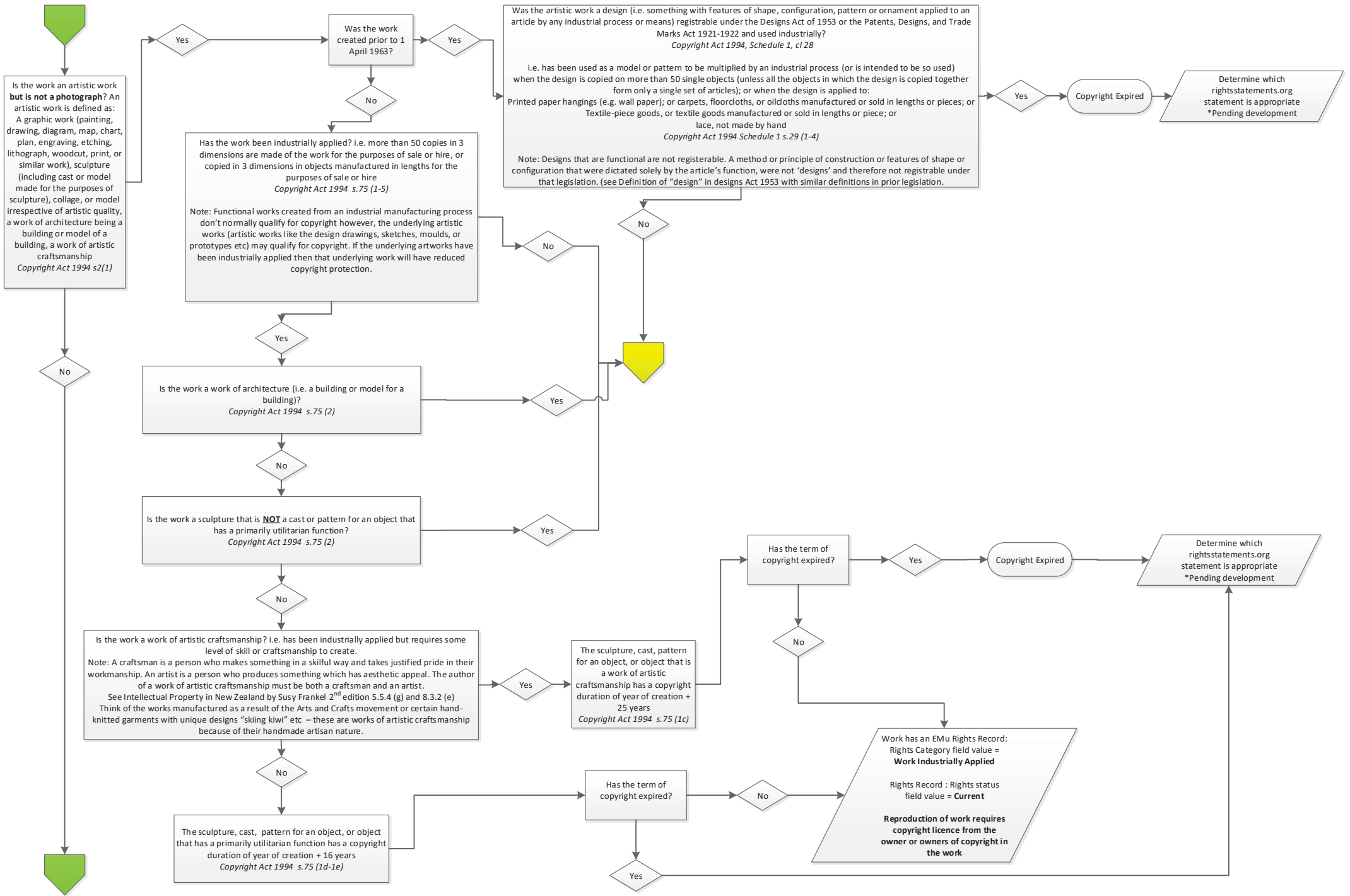
This flowchart is attempting to bring certainty of copyright duration for those tasked with researching the copyright status of items in heritage collections at Te Papa. These types of collections are more likely to contain copyright works created under copyright laws that have been updated and changed. The transition from one act to another often includes deviations from the rules laid out by the most recent act. [Copyright Act 1913 commencing on 1 April 1914](#)
[Copyright Act 1962 commencing on 1 April 1963](#)
[Copyright Act 1994 commencing on 1 January 1995](#)
 Emu = Electronic Museum. This is Te Papa's collection information management system.

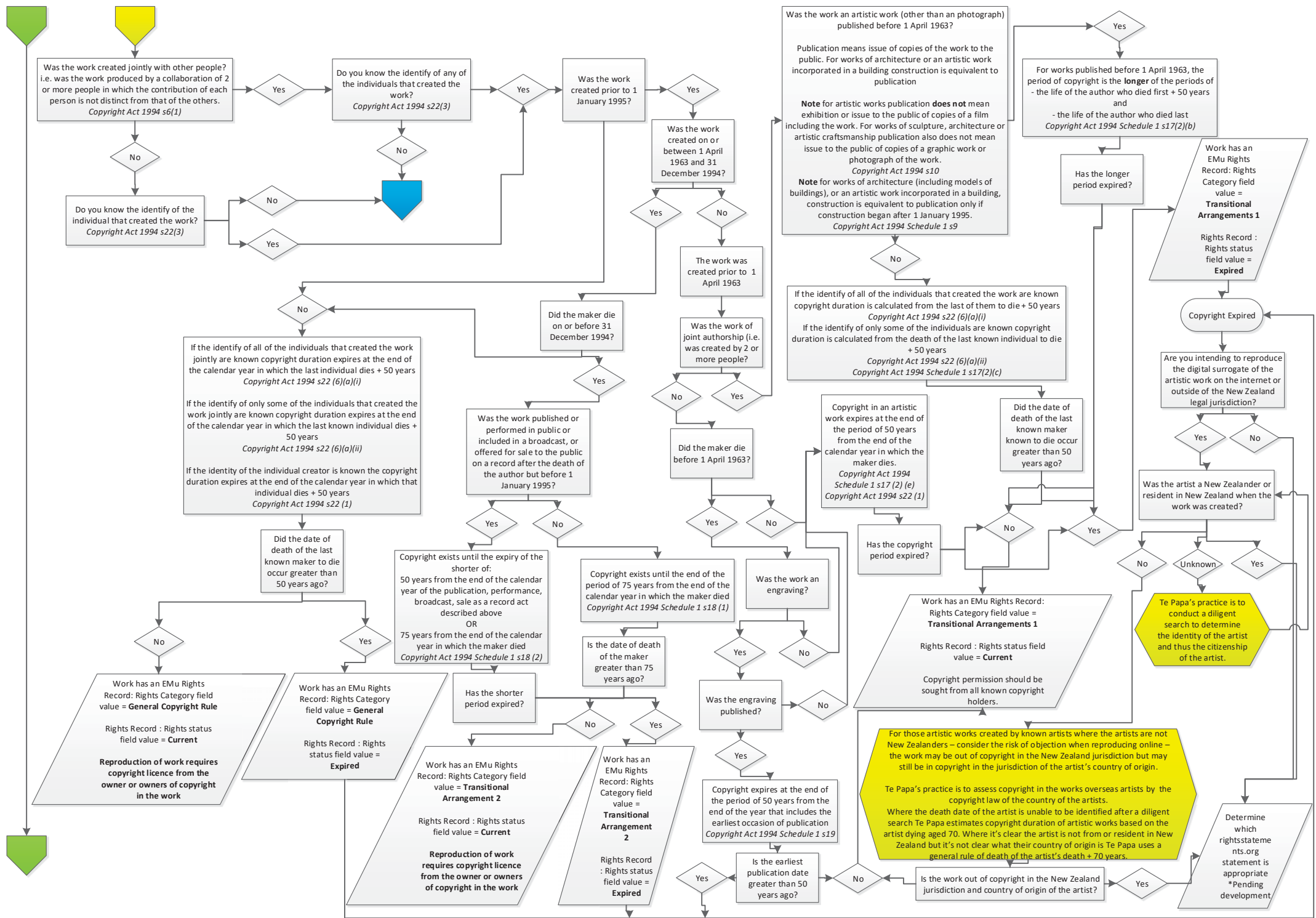


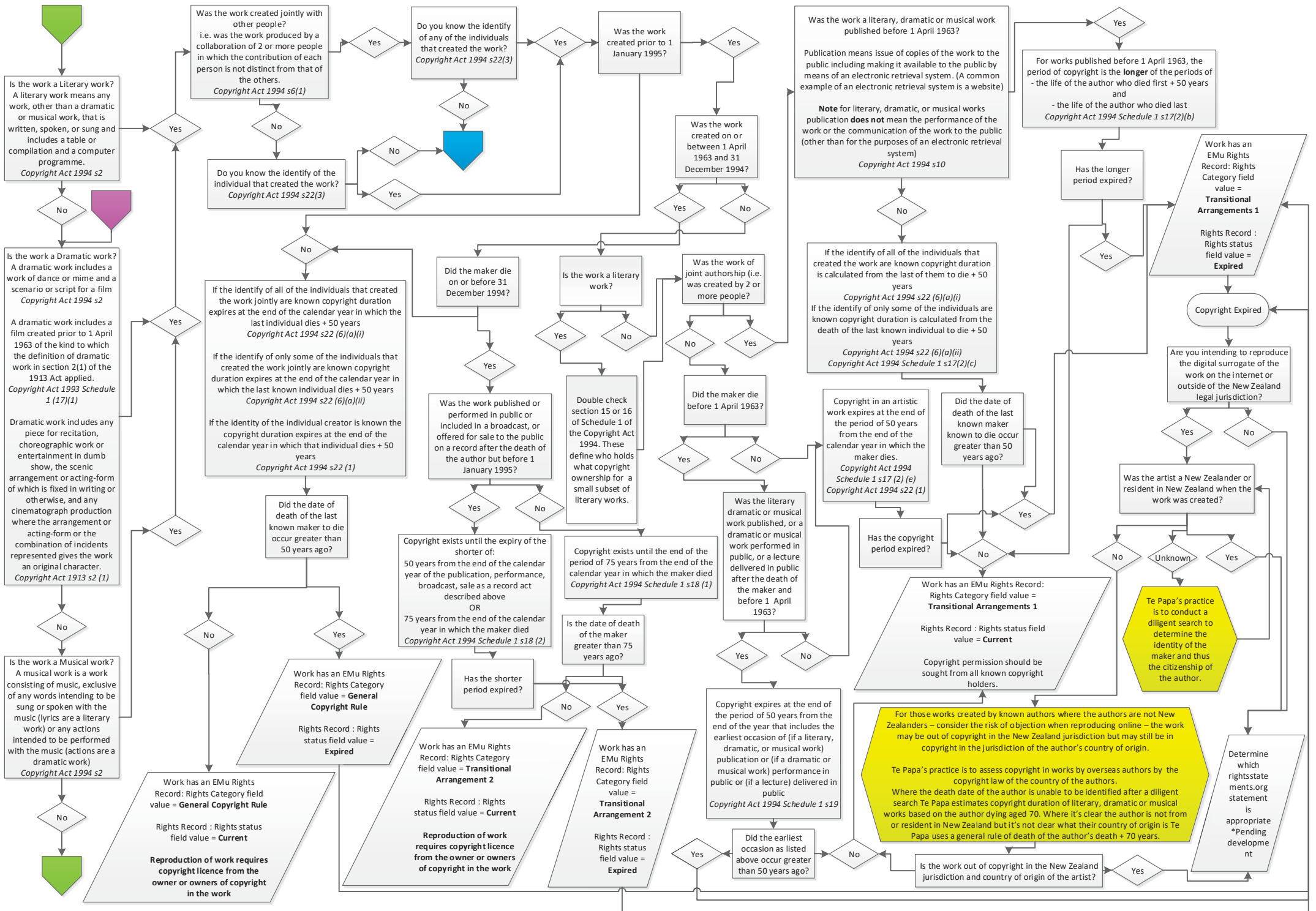


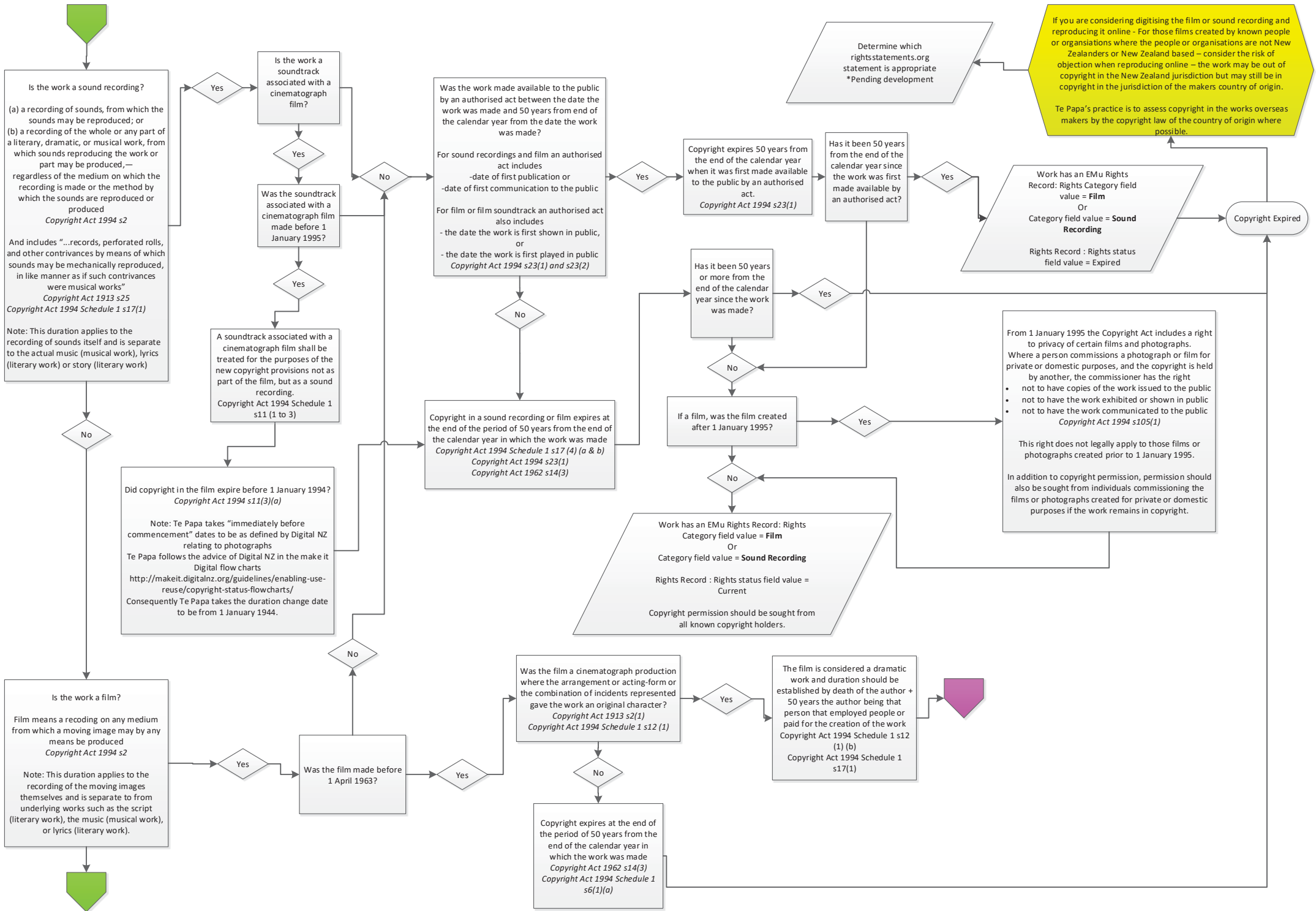


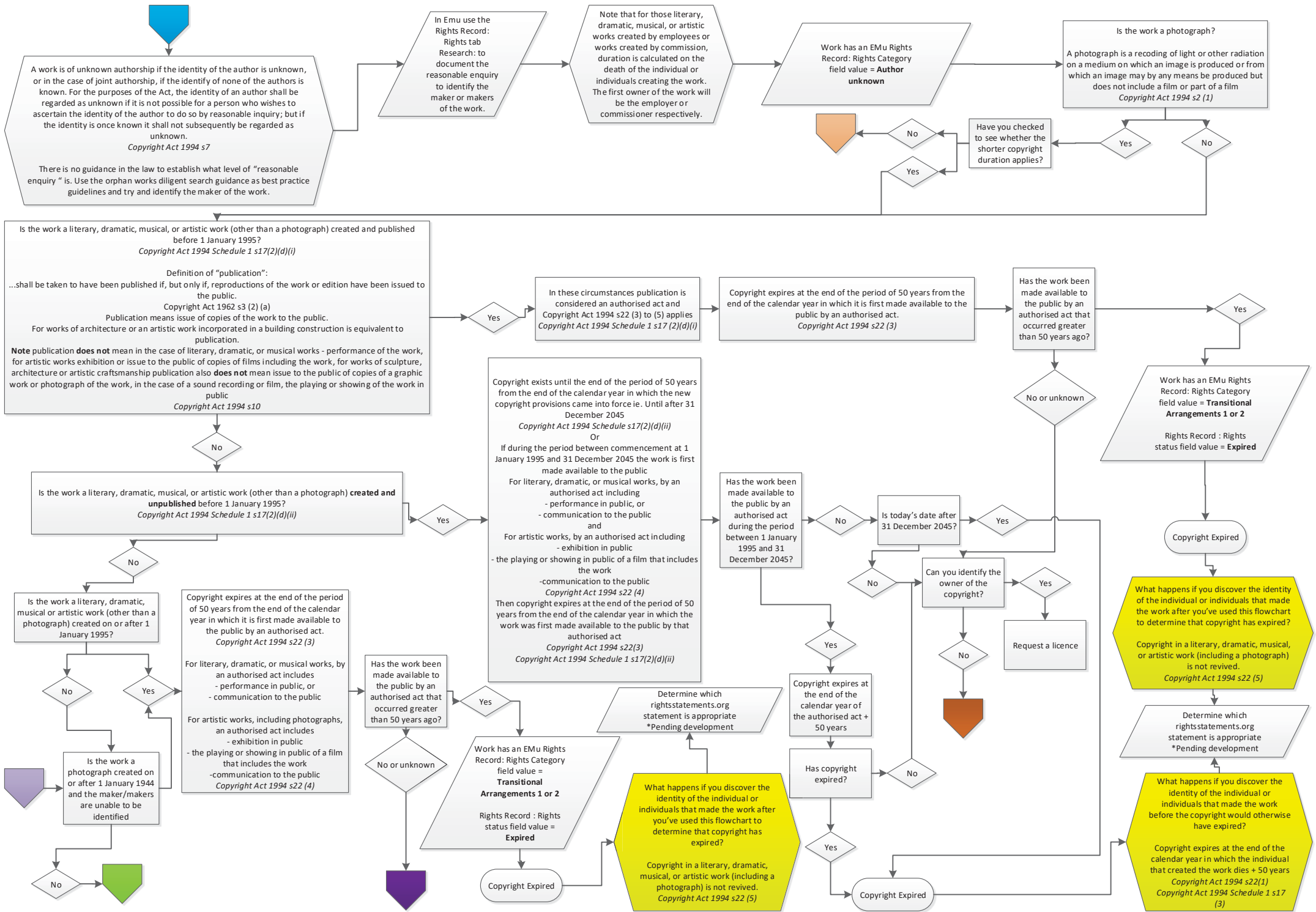


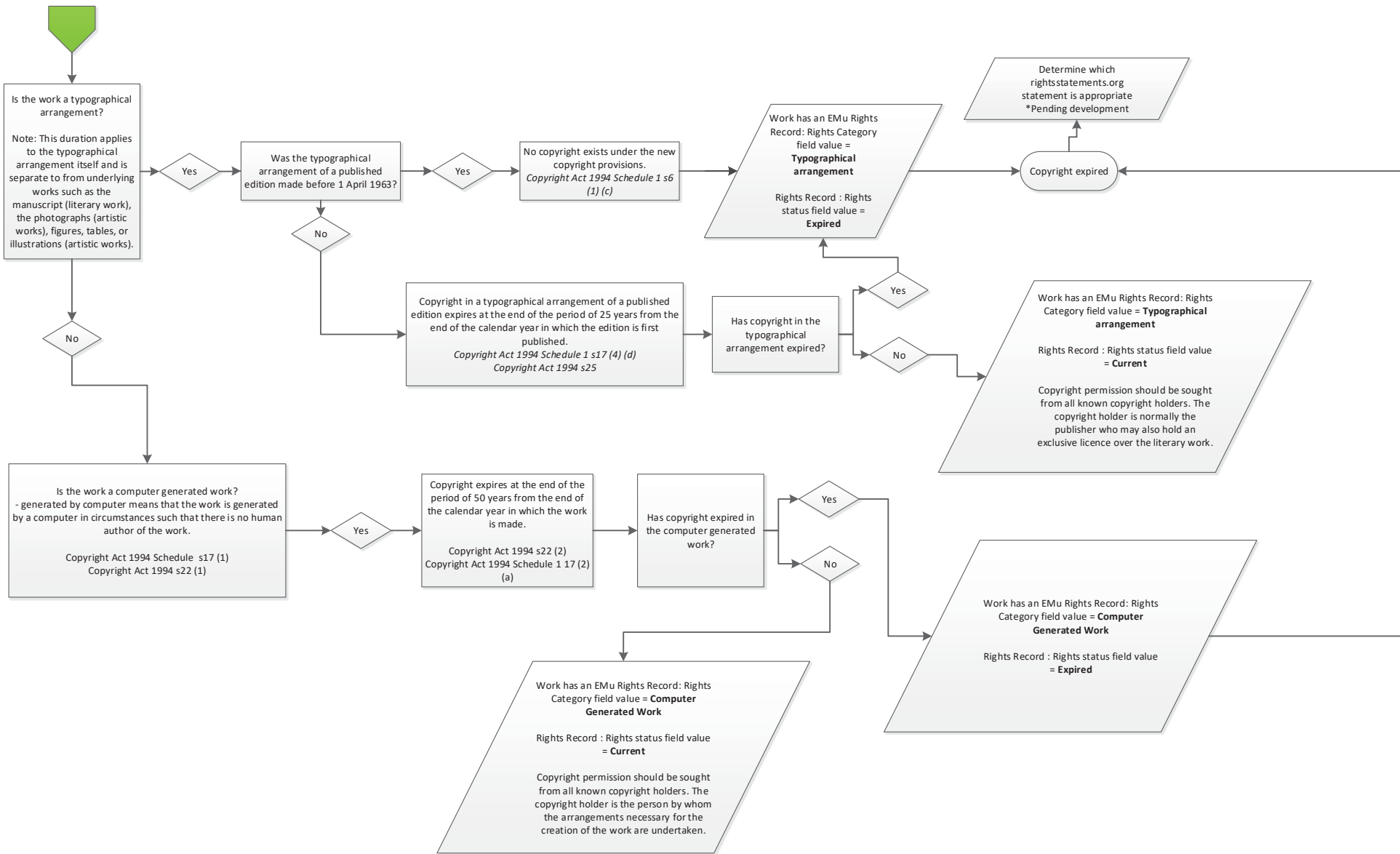












Orphan works, Identifying copyright holders and contact information



Diligent search assistance

A google search is the best place to start when searching for information on artist death dates, biographical information, representing dealer galleries, other GLAMs with works by the same maker in their collections. This site lists some good google search tips <http://www.lifehack.org/articles/technology/20-tips-use-google-search-efficiently.html>

Useful sites to seek copyright holder biographical details, identities and contact information for New Zealand makers include:

- Births Deaths and Marriages Online <https://www.bdmhistoricalrecords.dia.govt.nz/Home/>
- Archives New Zealand – search for probates for deceased makers to determine who may have inherited their estate. You can either visit to view or order copies (fees apply) <https://www.archway.archives.govt.nz/>
- Probates and wills greater than 50 years old have been digitised and appear here: <https://www.familysearch.org/search/catalog/1865481>
- This collection can be looked up by knowing the court at which the probate was filed and the probate number – this information is available from the Archives NZ Probate entry.
- Papers Past – digitised NZ newspapers up until 1950s <https://paperspast.natlib.govt.nz/>
- New Zealand telephone white pages – not as useful as it was some years ago <https://whitepages.co.nz/>

For New Zealand photographer information search Auckland Libraries Photographers Database <http://www.aucklandcitylibraries.com/DigitalLibrary/resourcepages/photographersdatabase.aspx>

The blog Early New Zealand Photographers is also helpful <https://canterburyphotography.blogspot.co.nz/>

For international photographers check out World Photographers Identities Catalogue <http://pic.nypl.org/>

For companies information The New Zealand companies office is helpful <https://www.companiesoffice.govt.nz/companies>

IPONZ will also have information on trademarks registered over time <https://app.iponz.govt.nz/app/Extra/IP/TM/Qbe.aspx?sid=636430726292831253>

For British manufacturers this website is useful http://www.gracesguide.co.uk/Main_Page

Searching other GLAM databases can also be useful – for NZ institutions use Digital NZ <https://www.digitalnz.org/>

The unpublished collections search of Alexander Turnbull Library can search on works or on people <https://tiaki.natlib.govt.nz/#home>

For european makers Europeana is helpful <https://www.europeana.eu/portal/en>

“The WATCH DB” Writers Artists and their Copyright Holders website <http://norman.hrc.utexas.edu/watch/>

Visual Art Collecting Agencies <http://www.bildkunst.de/en/service-for-users/artist-search/reproduction-rights.html>

Getty Union of Artists Names <https://www.getty.edu/research/tools/vocabularies/tgn/index.html>

Published collections – to identify original publisher use <https://tepuna.on.worldcat.org/discovery>

VIAF can help with biographical and publisher information <https://viaf.org/>

Biographical information: Wikidata https://www.wikidata.org/wiki/Wikidata:Main_Page

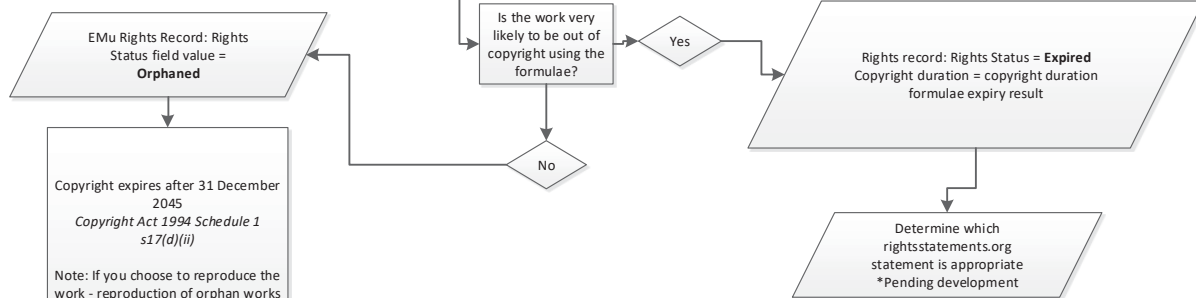
A diligent search has been completed and failed to identify the maker and/or copyright holder of the work and/or failed to identify the death date of the maker and/or trace the contact information for the maker and/or copyright holder. The search has been documented and there are no leads left.

Often Te Papa has not been able to establish the date of death of a maker or only knows the date of creation or date of acquisition of an artistic work including works of mana taonga, handmade textile items, tourist items from the Pacific, other non-manufactured works. Te Papa’s approach has been to reasonably assume a work by an identified artist with an unknown date of death or an unknown artist is out of copyright using this formulae:

Establish latest estimated date of production by consulting with appropriate Curator

Assume work created when creator was 25

Assume creator died aged 75 and add 70 years



New Zealand does not have Orphaned works diligent search guidelines. There does exist in other legal jurisdictions guidelines that can assist:

UK orphaned works diligent search guidelines <https://www.gov.uk/government/publications/orphan-works-diligent-search-guidance-for-applicants>

Society of American Archivists Statement of Best Practice for Orphan works: <https://www2.archivists.org/sites/all/files/OrphanWorks-June2009.pdf>

Links to helpful sites for copyright duration in other legal jurisdictions

USA <https://copyright.cornell.edu/publicdomain>

EU public domain calculator <http://outofcopyright.eu/>

Other helpful copyright sites

Library and Information Association of New Zealand Aotearoa <https://lianza.org.nz/our-work/voice-profession/copyright/copyright-resources>

Copyright Cortex EU <https://copyrightcortex.org/about>

Orphan works

To reproduce orphan works is an infringement under the law. If the copyright owner is identified later or discovers the reproduction and objects to the reproduction then the risk will include:

- Destruction of any hardcopy of the material that reproduces the work
- Removal of the reproduction from the product
- Monetary compensation paid to the copyright owner for loss suffered in respect of the infringement

Before authorising the reproduction of an orphan work

- Consult with the Rights Manager who will be able to give you a risk assessment on reproducing the work.
- If the reproduction is digital consider establishing a takedown plan
- If the reproduction is analogue consider accruing a standard sum to offer as a copyright licence fee should the copyright holder be identified.
- Consider including a statement in association with the work similar to “Every effort has been made to locate the copyright owners of material used in this project. In cases where this has not been possible copyright owners are invited to contact Te Papa – enquiries@tepapa.govt.nz”

Each time Te Papa conducts a risk assessment on reproducing the work a further diligent search should be conducted. Often digitisation and research by other organisations will result in the copyright holder being traced sometime after Te Papa’s search failed to trace the copyright holder so following up on additional leads that occur after a new search is important.

Te Papa has a practice of reproducing orphan works in Te Papa’s Collections Online database. This is because the risk of infringement action is low and because reproducing the work increases the likelihood of a copyright holder coming forward and identifying themselves.

Te Papa has a takedown process it actions if a copyright holder does come forward. Te Papa has a practice of immediately taking down the reproduction of the work, ensuring the takedown has been actioned in response to a valid request, and then applying to the copyright holder to grant Te Papa the standard non-commercial museum use copyright licence used by Te Papa.

Disclaimer and Copyright Statement

Disclaimer

These flowcharts are provided for informational purposes only and focus primarily on determining the ownership and duration of copyright in works held by Te Papa. We hope the flowcharts are useful for others in the GLAM (Galleries, Libraries, Archives, and Museums) sector and we have taken reasonable steps to ensure they are correct but we are not providing legal advice and will not be responsible for the consequences of another party relying on the flowcharts. You are responsible for seeking your own legal advice where required. If you disagree with any element of the flowcharts, please let us know by emailing copyright@tepapa.govt.nz

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