



Australian Government

IP Australia

Plant Breeder's Rights Act 1994 – Section 26

Application for Plant Breeder's Rights GENERAL INFORMATION

PART
1

Information provided by you on this form is required by the Plant Breeder's Rights Act 1994 to assess your application for a plant breeder's right and may be used in facilitating the operation of the Plant Breeder's Rights Program.

Note: There are two parts of the PBR application.

Part 1 – GENERAL INFORMATION: Successful completion of this form is a prerequisite to acceptance into the PBR scheme and qualifications of the variety for provisional protection. All questions must be answered and the relevant sections must be signed by the applicant or applicant's agent.

Part 2 – DESCRIPTION OF NEW VARIETY: After acceptance of the Part 1, the results of the comparative trial are presented – the evidence of distinctness, uniformity and stability (DUS).

Office Use Only

Application No.:

Date:

Section 1: Information about the applicant, agent and breeder

1 Name and contact details of the applicant – The name and address of each applicant is required.

For joint applicants, use Supplementary Pages to Part 1 Application form (PBR00003) for each additional applicant.

Number of applicants Supplementary pages attached: Not applicable No Yes

Name of applicant

Address

State	Postcode
Country	

Contact person

Contact details

Telephone No.	()
Facsimile No.	()
Mobile No.	
Email address	

ACN or company registration number (if applicable)

2 Contact details in Australia – If the applicant is resident overseas, the applicant must: either appoint an agent resident in Australia to act on the applicant's behalf in the application, or specify a postal address in Australia for the service of notices on the applicant.

If the applicant is resident in Australia, the applicant may appoint an agent resident in Australia to make the application on the applicant's behalf.

When the agent is signing the declaration at question 24 on behalf of the applicant, an Authorisation of Agent form (PBR00004) signed by the applicant must accompany the Part 1 Application.

- Not applicable, applicant is resident in Australia and contact details are provided in question 1
- Agent appointed to act on behalf of the applicant, details are provided below
- Postal address for service of notices on the applicant, details are provided below

Name of agent
(if applicable)

Address

<input type="text"/>	
<input type="text"/>	
State	Postcode

Contact person

Contact details

Telephone No. ()
Facsimile No. ()
Mobile No.
Email address

ACN or company
registration number
(if applicable)

3 Name and address of the breeder – The breeder of the variety is the applicant, unless ownership has been transferred by assignment, by will or by operation of law. Where the breeder is an employee or member of an organisation and the variety was bred in the course of performing duties as an employee or member of that organisation, then consider the organisation as the breeder.

A statement in relation to each applicant as to whether or not they are the breeder of the variety is required. Where the applicant is not the breeder the particulars of the transfer of ownership must be provided.

For joint applicants, use Supplementary Pages to Part 1 Application form (PBR00003) for each additional applicant.

Name of the original
breeder(s) who conducted
or directed the work

<input type="text"/>
<input type="text"/>
<input type="text"/>
<input type="text"/>

Employer (if applicable)

Address

<input type="text"/>	
<input type="text"/>	
State	Postcode
Country	

Relationship of the breeder to the Applicant detailed in question 1

- Breeder is the applicant
- Breeder is an employee or member of an organisation which is the applicant
- Breeder is not the applicant – provide details of transfer of ownership of the variety below

How were the ownership rights transferred to the applicant? (only applicable where the breeder is not the applicant)

- Not applicable By assignment By will
- By operation of law, specify:

Copy of the document attached?

- Yes No, provide reason

Section 2: General information about the variety

4 **Botanical name** – provide the botanical name of the variety

5 **Common name** – provide the common name of the species

No known common name

6 **Proposed name for the variety** – If an application for this variety has already been lodged overseas then you must propose the same name. Please note that before a name is accepted, it must also conform with section 27 of the PBR Act. When accepted, the variety name is protected under the PBR Act.

7 **Synonym** – A synonym is an alternative name for a variety. Please note that once accepted, the synonym is also protected. A synonym must also conform with section 27 of the PBR Act.

No Synonym proposed

8 **Other names** – Please list any other names under which the variety has been known in Australia or overseas.

Nil

Breeder's code

Trade name

Other name

9 **Is the variety an Australian native species?**

No Yes – it is mandatory to submit a herbarium specimen to the Australian Cultivar Registration Authority (ACRA).

Please indicate the time of flowering and/or ideal time for a specimen to be collected and sent to ACRA.

10 **Has this species ever been declared a noxious weed in any Australian state or territory?**

No Yes – provide details

11 **Are you under any obligation to notify the supplier/owner of the original germplasm about your intention to obtain PBR?**

Not applicable No obligation Yes, notified

12 **Are you required under any agreement with your current employer/funding agency, to inform them of your intention to acquire rights to this variety?**

Not applicable No requirement Yes, notified

13 Has an application for PBR in this variety been lodged in a country other than Australia?

No Yes, provide details

Country filed	Date of lodgement	Application No.	Current status	Variety name

14 Priority is claimed in respect of the earliest overseas application lodged with a UPOV member state –

Note: A claim for priority can only be made if the Australian application is lodged within 12 months of lodgement of the earliest overseas application with a UPOV member state. If this is the first lodgement of an application for this variety (ie. no overseas applications with a UPOV member state), please indicate 'Not applicable.'

Not applicable No Yes

15 Has the variety been sold in Australia with the breeder's consent?

No Yes

If yes, date of first sale and under what variety name

16 Has the variety been sold overseas with the breeder's consent?

No Yes

If yes, date of first sale and under what variety name
and in which country

Section 3: General information about the origin and breeding procedure used to originate the variety

17 Origin and parentage of the variety

(i) Origin of the variety – the variety arose from:

- Controlled pollination
 Spontaneous mutation or sport
 Selection from "source" material (including, but not restricted to, selections: from within uncultivated populations, from landrace varieties or unnamed plants; or selected from heterogenous material supplied by a Genetic Resource Centre (GRC)) – further information will be sought in question 17(iv).
- Open pollination
 Induced mutation or sport
- Genetic manipulation
- Other origin, specify

(ii) Breeding system of the species

- Not known
 Self pollinated
 Cross pollinated
- Often self pollinated
 Other, specify
- Apomixis

(iii) Information on parent material

Name of maternal parent or source germplasm/variety

Breeder

Is the maternal parent or source germplasm/variety protected by PBR in Australia?

No Yes

Is the maternal parent or source germplasm/variety protected by PBR in another country?

No Yes, provide particulars of registration

Country filed

Date of lodgement

Application No.

Name of other parent(s) (if applicable)

Breeder

Is the other parent(s) protected by PBR in Australia?

Not applicable No Yes

Is the other parent(s) protected by PBR in another country?

Not applicable No Yes, provide particulars of registration:

Country filed

Date of Lodgement

Application No

(iv) If selection from "source" material was indicated in question 17(i), please complete the following where relevant

Relevant passport data is provided with this application

The source material is:

- A cultivated/obsolete variety
- A land variety (one which has been traditionally cultivated by farmers for their own use)
- Collected from the wild
- Special genetic stock (eg. breeding lines)

The source material is:

Subject to a Material Transfer Agreement Copy enclosed: Yes No, provide reason

- Subject to FAO trust agreements
- Still available for inclusion in a comparative trial

18 Prima facie case for breeding and prima facie case for distinctness – List the characteristics or combination of characteristics which make your variety (the candidate) clearly distinguishable from its parents/ source material and the ‘most similar varieties of common knowledge (VCK)’ (the comparators). Characteristics must be capable of precise definition to establish a prima facie case. Please attach a photograph of the variety showing its distinguishing features.

Example

Name of comparator	Characteristic(s) in which the candidate variety differs from the comparator	Describe the expression of the characteristic for the comparator	Describe the expression of the characteristic for the candidate
<i>Variety X</i>	<i>Flower colour</i>	<i>Red</i>	<i>White</i>

(i) Prima facie case for breeding

Comparison with maternal or source germplasm/variety

Name of comparator – maternal parent or source germplasm/variety	Characteristic(s) in which the candidate variety differs from the comparator	Describe the expression of the characteristic for the comparator	Describe the expression of the characteristic for the candidate
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Comparison with other parent(s). If unsure, list putative pollen parents (attach additional sheets if necessary)

Name of comparator – other parent(s)	Characteristic(s) in which the candidate variety differs from the comparator	Describe the expression of the characteristic for the comparator	Describe the expression of the characteristic for the candidate
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(ii) Prima facie case for distinctness

The candidate variety is the first variety of the species/hybrid Yes No, provide details of distinctness

Comparison with most similar variety of common knowledge (VCK)

Name of comparator – most similar VCK	Characteristic(s) in which the candidate variety differs from the comparator	Describe the expression of the characteristic for the comparator	Describe the expression of the characteristic for the candidate

Comparison with other similar varieties of common knowledge (VCK)

Name of comparator – other VCK	Characteristic(s) in which the candidate variety differs from the comparator	Describe the expression of the characteristic for the comparator	Describe the expression of the characteristic for the candidate

19 Breeding procedures used to initiate the new variety

Describe the breeding procedures used to initiate the new variety - This information will help assess whether the activities of the breeder qualifies as breeding under section 5(1) of the PBR Act. If required please attach additional sheets. Texts and diagrams are acceptable.

When observations were first made

Where observations were first made (property and/or town and country)

Where other work was conducted (if applicable)

Number of cycles of selection

Main selection criteria used to develop the variety

Mode of propagation between generations

The number of generations the variety has been maintained in its present form

The occurrence of any off types

Briefly outline the procedures used in developing the variety (add additional sheets if required)

20 Is the variety a Genetically Modified Organism?

No Yes

Gene Technology Regulator Licence Number Dated

Section 4: Information about the Genetic Resources Centre and DUS trial

21 Nominate the name and location of the Genetic Resources Centre (GRC) where propagating material of the variety will be maintained – A Genetic Resource Centre is a place considered to be suitable for the storage and maintenance of germplasm material and may include a part of a nursery set aside for the purpose of maintaining stock plants.

- at address of the applicant (only if resident in Australia)
 at address of the agent
 Other (specify)

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22 Details of the proposed DUS test – Usually applicants conduct comparative growing trials in Australia. However the PBR office has the discretion to accept overseas DUS test reports provided certain conditions are met (details available on the PBR website).

Some taxa must be trialed in Australia – It is the policy of the PBR office not to accept overseas data for the following taxa due to the wide genotype by environment interactions that have been previously experienced. Varietal descriptions from overseas trials have consistently been different from those obtained from trials grown under Australian conditions. Consequently, for the following taxon a full DUS trial must be conducted in Australia: *Solanum tuberosum* (Potato).

The proposed test will be:

- a comparative trial in Australia, including the candidate variety and the most similar varieties of common knowledge
 a verification trial in Australia, including the candidate variety only, grown to confirm the states of expression provided in an overseas DUS test report
 based solely on an overseas DUS test report

Details on trials grown in Australia

Location	No. of plants	Date of commencement	Growth stage at which the distinguishing characteristics can be observed

Details on overseas DUS test report

Testing country	Test date	Estimated date of availability

Note: It is the sole responsibility of the applicant to procure the overseas DUS test report directly from the relevant testing authority and supply a certified copy of it to the PBR office. If the report is already available to you then include a certified copy with this application. Once supplied, the PBR office will review the data for acceptability.

23 Nominate the date when you wish the examination to occur - The estimated examination date should be the time when the examiner can verify the distinguishing characteristics claimed in this application. It is mandatory to provide a date. If necessary, it can be changed later in consultation with the PBR office.

Estimated date

Section 5: Authorisation and Declaration

24 Application for PBR, declaration that all information is true and correct.

When the agent is signing on behalf of the applicant, an Authorisation of Agent form (PBR00004) signed by the applicant must accompany the Part 1 Application.

For joint applicants, use Supplementary Pages to Part 1 application form (PBR00003) for each additional applicant.

I (we) the

Applicant as outlined in Question 1

Agent as outlined in Question 2

- apply for Plant Breeder's Rights to the variety described in this application, and
- authorise the Plant Breeder's Rights Office, for the purposes of examination, to exchange with the Plant Breeder's Rights Authorities of other countries all necessary information and material related to the variety, provided that the rights of the Applicant are safeguarded, and
- agree to the release of propagative material prior to the granting of PBR if required for comparative testing or scientific purposes, providing the material is used for no other purpose and all material relating to the variety is returned when the trials are complete, and
- declare that the information given in all parts of and attachments to this application is true and correct.

Signature of applicant or agent*

Name (please print)

Position in Company/Department
(if applicable)

Name of Company/Department
(if applicable)

Date

*The penalty under section 75(1) for intentionally or recklessly making a false statement in support of an application is six months imprisonment.

Checklist of Attachments – Part 1 Application

Have you included the following?

- One completed original Part 1 Application form (PBR00001) for Plant Breeder's Rights.
- A copy of ownership documentation (eg. assignment) from the breeder to the applicant, if the applicant is not the original breeder.
- Completed Supplementary Pages to Part 1 Application form (PBR00003) (if applicable).
- A signed Authorisation of Agent form (PBR00004) if you are applying on behalf of the applicant.
- A completed Nomination of a Qualified person form (PBR00005).
- Photograph or photographs showing the distinguishing characteristics of the new variety.
- Application fee of \$300.00 (Three hundred Australian dollars).
- Have ALL questions been answered?
- Has an authorised signatory signed question 24 and the Nomination of a Qualified Person form?
- Has the Qualified Person signed the Nomination of a Qualified Person form?

Forward the application with attachments to:

POSTAL ADDRESS: The Registrar
Plant Breeder's Rights
IP Australia
PO Box 200
WODEN ACT 2606