



Australian Government

IP Australia

Plant Breeder's Rights Act 1994 - Section 26

PART

1



Application for Plant Breeder's Rights

GENERAL INFORMATION

Privacy Notice

The personal information collected on this form is collected for the purposes of the Plant Breeder's Rights Act 1994 and the Plant Breeder's Rights Regulations 1994 (www.ipaustralia.gov.au/about-us/publications/ip-legislation/) and is protected by the Privacy Act 1988 (www.comlaw.gov.au/series/c2004a03712).

All personal information you provide on this form will be handled in accordance with IP Australia's Privacy Policy (www.ipaustralia.gov.au/about-us/corporate/privacy-policy/).

The Privacy Policy contains relevant information, including:

- how you may seek access to and correction of the personal information we hold;
- how you may make a complaint about a breach of the Privacy Act and how we will deal with your complaint; and
- IP Australia's Privacy Contact Officer details.

Any personal information you provide will be used for the purposes of processing this form. IP Australia may also contact you, using the contact details you have provided, to request your feedback on our products and services.

In accordance with the PBR Act, IP Australia may make this completed form available to any person, upon request and payment of a fee.

IP Australia will publish the:

- Applicant name, phone and fax numbers;
- Agent name, phone and fax numbers;
- Town, State and Country of the applicant's address; and
- full address of the Genetic Resource Centre

in the Register of Plant Varieties, the Plant Varieties Journal and the Plant Breeder's Rights Database. Once information is available on the internet, IP Australia has no control over its subsequent use and disclosure. You should be aware that the information (including personal information) held in IP Australia's online IP Rights databases is also available on request, subject to our terms and conditions.

You should also be aware that under the International Union for Protection of New Varieties of Plants (UPOV) (www.upov.int/portal/index.html.en) Convention, IP Australia is required to disclose information regarding plant breeder's rights applications (including the name of the applicant) to the UPOV in Geneva, Switzerland. Once information is provided to UPOV, IP Australia has no control over its subsequent use and disclosure.

If you do not provide the personal information required on the form, IP Australia may not be able to process this form.

IP Australia will not otherwise use or disclose your personal information without your consent, unless authorised or required by or under law.

Consent

By completing this form, in addition you provide your consent to your personal information being handled in accordance with this privacy notice, including being disclosed as provided above.

When you provide your consent to your personal information being disclosed to overseas recipients, including publication online, you understand that IP Australia will not be accountable for any subsequent use under the Privacy Act, nor are you able to seek redress under that Act, for the actions of any overseas recipient.



Application for Plant Breeder's Rights

GENERAL INFORMATION

Information provided by you on this form 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 qualification of the variety for provisional protection. The authorisation and declaration must be completed.

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:

Is this form intended to be attached as part of an eServices / B2B electronic lodgement? No Yes

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.

One applicant only More than one applicant Supplementary Pages attached: No Yes

Name of Applicant

Address (can be a PO Box)

State

Postcode

Country (if not Australia)

Contact Name

Contact Details

Telephone ()

Fax ()

Mobile Number

Email address

ACN/ARBN (if applicable)

2. Contact details in Australia or New Zealand - If the applicant is not resident in Australia or New Zealand, the applicant must: either appoint an agent resident in Australia or New Zealand to act on the applicant's behalf in the application; or specify an address in Australia or New Zealand for the service of notices on the applicant.

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

Not applicable, applicant is a resident in Australia or New Zealand and contact details are provided in question 1 Go to question 3

Postal address for service of notices on the applicant is different to address in question 1 Provide details on next page

Agent appointed to act on behalf of the applicant

Name of Agent
(if applicable)

Address (can be a
PO Box)

State

Postcode

Country (if not Australia)

Contact Name

Contact Details

Telephone

Fax

Mobile Number

Email address

ACN/ARBN (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 (PBR/00/003) for each additional applicant.

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

Employer
(if applicable)

Address

State

Postcode

Country (if not Australia)

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

▶ Go to question 4

Breeder is not the applicant

▶ How were the ownership rights transferred to the applicant?

By assignment

By will

By operation of
law/other

▶ Specify

Copy of the document attached?

No

▶ Why not?

Yes

Section 2 - General information about the variety

4. **Botanical name** of the variety

5. **Common name** of the species

Does the species have a common name?

No

Yes Provide details

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 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

Yes Provide details

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

Do other names exist?

No

Yes 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 obligation 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 dd/mm/yyyy	Application No.	Current Status	Variety name

14. Is priority 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 (i.e. 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 Date of first sale

dd/mm/yyyy

Under what
variety name

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

No

Yes Date of first sale

dd/mm/yyyy

Under what
variety name

Which country

Section 3 - 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

Open pollination Induced mutation or sport uncultivated populations, from landrace varieties or unnamed plants; or selected from

Genetic manipulation heterogeneous material supplied by a Genetic Resource Centre (GRC)) - further information will be sought in question 17(iv).

Other origin Specify

(ii) Breeding system of the species

Not Known

Self pollination Often self pollinated Cross pollinated Apomixis

Other Specify

(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

dd/mm/yyyy

Date of Lodgement

Application No.

Are there other parent(s)?

No

Yes Name of other parent(s)

Breeder

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

No Yes

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

No

Yes Provide particulars of registration

Country Filed

dd/mm/yyyy

Date of Lodgement

Application No.

Were any of the parents sold in Australia under other names?

No Yes Provide details

(iv) Was 'Selection from `source' material' indicated in question 17(i)?

No

Yes Please complete the following where relevant

Relevant passport data is provided with this application

The source material is: A cultivated/obsolete variety Collected from the wild

A land variety (one which has been traditionally cultivated by farmers for their own use)

Special genetic stock (e.g. breeding lines)

The source material is: Subject to a Material Transfer Agreement

Copy enclosed? No Provide reason

Yes

Subject to FAO trust or material transfer 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 maternal parent or source germplasm/variety	Characteristic(s) in which the candidate variety differs from the maternal parent or source germplasm/variety	Describe the expression of the characteristic for the maternal parent or source germplasm/variety	Describe the expression of the characteristic for the candidate

Comparison with other parent(s). If unsure, list putative pollen parents (attach additional sheets if necessary)

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

(ii) Prima facie case for distinctness

Is the candidate variety the first variety of the species/hybrid?

No ► Provide details of distinctness

Yes ► Go to question 19

Comparison with most similar variety of common knowledge (VCK)

Name of comparator - the 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 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

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.

*Street Address:

*** Must be a street address in Australia or New Zealand**

- 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 trialled in Australia - It is the policy of the PBR office to not 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 DUS 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 dd/mm/yyyy	Growth stage at which the distinguishing characteristics can be observed

Details on overseas DUS test report

Testing Country

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dd/mm/yyyy

dd/mm/yyyy

Test Date

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Estimated date of Availability

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Note: Normally, it is the 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. In some cases, where there is a specific agreement, the testing authority will only supply the DUS test report directly to the PBR Office. For more details on these situations consult the ipaaustralia.gov.au/pbr website.

- 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.

dd/mm/yyyy

Estimated date for DUS examination

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Section 5 - Authorisation and Declaration

For joint applicants, use Supplementary Pages to Part 1 application Form (PBR/00/003) for each additional applicant

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

I (we)

- 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.

Declaration of Agreement:

I

(Please print name)

am the applicant/agent or am a signatory thereof and declare that all parties involved have agreed to the terms and conditions outlined above.

Position in Company/
Department
(if applicable)

Name of Company/
Department
(if applicable)

dd/mm/yyyy

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 (PBR/00/001) for Plant Breeder's Rights
- A copy of the transfer of ownership documentation (e.g. assignment) from the breeder to the applicant, if the applicant is not the original breeder
- Completed Supplementary Pages to Part 1 Application form (PBR/00/003) (if applicable)
- A completed Authorisation of Agent form (PBR/00/004) if you are applying on behalf of the applicant
- A completed Nomination of a Qualified Person form (PBR/00/005)
- Photograph or photographs showing the distinguishing characteristics of the new variety
- Application fee if submitting by Post (see www.ipaustralia.gov.au for payment methods and the current fee schedule).
Note: the fee when submitting by eServices is less than when submitting by Post.
- Have ALL relevant questions been answered?

If you are submitting this form as an attachment for an eServices lodgement, save this PDF form to your desktop, then attach using IP Australia's eServices