



Plant Breeder's Rights^(b) information and variety update for 2003

By Peter McCormack Commercialisation Manager, Crops, SARDI and
South Australian Field Crop Evaluation Program staff, SARDI

Key Points

- Most new varieties are protected by PBR and growers need to be aware of the implications.
- Seed of varieties with PBR protection can only be bought from the owner, commercial partner/licensee or an agent (seed merchant) authorised by the owner.
- Once purchased, growers can maintain seed of a variety with PBR protection to satisfy their seed requirements for the following season.
- commercial use as feed or food (e.g. deliver to SACBH, flourmill or sell as animal feed) unless bound by a "closed loop" contract
- Farmers cannot sell, trade or give away the variety for seed.
- Farmer to farmer trading of seed without authorisation of the owner will make them liable to prosecution.
- Commercial marketing arrangements between the owners and the licensee can vary between crops and varieties, and farmers must be aware of the conditions of the marketing arrangements.
- Before you take delivery of certified seed of a new variety, you are encouraged to request a copy of the paddock inspection report and the certificate of analysis report. It is important that you read the information contained in the inspection report and the seed analysis certificate to make sure you are buying the best available seed.
- When purchasing seed of a PBR Cultivar you should purchase it in the name or names of the entity or entities in which you intend to deliver. You should retain invoices to prove that you have entitlement to that seed and the crop produced.
- If farmers are unsure, they should seek information from the owner, commercial partner/licensee or the agent (seed merchant).

Introduction

The introduction of Plant Breeder's Rights (PBR) on new plant varieties has caused some confusion among agricultural producers. This leaflet explains some of the origins, benefits and restrictions associated with PBR.

Plant Breeder's Rights

PBR was introduced to stimulate private investment in plant breeding by conferring ownership rights to varieties and thereby the potential to market those rights as part of a commercialisation process.

The Plant Breeder's Rights Act 1994 gives an owner of PBR the exclusive right to sell, produce or reproduce, import, export, stock or condition the seed of a variety protected by PBR (or license another person or organisation to undertake these activities).

The rights are similar to patents or copyright, (these record ownership of the genetic material) and are administered under the Act. PBR protection can last up to 20 years for broadacre crops.

PBR guarantee ownership of a variety but do not specify how the variety should be commercialised or whether or where royalties should be charged.

In the absence of a contract stating otherwise, farmers can sell the harvest of a protected variety for direct consumption as food or feed (for example, deliver it for animal feed or to a flour mill) but they are not permitted to sell, trade or give away the variety for seed without the authorisation of the owners or licensee.

Royalties

- There is a strong push from many industry sectors for a system of "end point royalty" collection to replace royalties on seed thereby decreasing the initial seed cost.
- The concept generally referred to as "end point royalty" collection gives the licensee the right to collect royalties on harvested grain.
- Some varieties currently grown by farmers, e.g. "Kukri" and "Yitpi", use this method of royalty collection.
- In the future, this method of collection may negate the need for the restrictions on farmer to farmer seed trading.
- Farmers should carefully read any documentation provided to be fully aware of the conditions when purchasing seed of a variety. While the restrictions in the use of seed under the PBR Act are clearly defined, other contractual arrangements may have been imposed by the licensee following agreement by the owners. For example, some contracts specify that the harvested grain must be delivered to certain collection agencies; these are commonly called "closed loop" marketing arrangements.



Explanation of Abbreviations

ABB	=	Australian Barley Board Grain Ltd	SAGIT	=	South Australian Grains Industry Trust
AEXCO	=	Australian Exporters Company	SAFCA	=	South Australian Field Crop Association
AFCA	=	Australian Field Crop Association	TLC	=	The Lentil Company
AWB Seeds	=	Australian Wheat Board Seeds Ltd	WASGA	=	Western Australian Seed Growers Association

Wheat

Variety	State of Origin	Year of Regist.	Commercial Partner/Licensee	Royalty	Maximum Quality in SA	Comments
Annuello	Vic	2001	Graintrust	End Point	APW	Mitre replacement
Brennan	NSW	1998	AWB Seeds		Winter wheat	* See note below
Babbler	NSW	2000	PlantTech	End Point	APW	tested as WW2455
Chara	Vic	1999	AWB Seeds	End Point	AH	tested as VI341
Denis	NSW	1999	AWB Seeds		Winter wheat	* See note below
Goldmark	Vic	1996	AWB Seeds	End Point	APW	
Gundaroi	NSW	1999	Durum Growers Ass	Seed	Durum	"over the fence" trading permitted
Harrismith	WA	2001	WASGA	End Point	Feed	tested as WAWHT2182
H45	NSW	1998	PlantTech	End Point	APW	formerly GalaxyH45
Karlgarin	WA	1999	AWB Seeds	End Point	ASW	
Kukri	SA	1999	AWB Seeds	End Point	Hard	tested as RAC820
Mulgara	NSW	2001	PlantTech	End Point	APW	
Mira	Vic	1999	AWB Seeds	End Point	ASW	tested as VG127/14
Mitre	Vic	2000	PlantTech	End Point	APW	tested as VK237R
Silverstar	Vic	1996	AWB Seeds	End Point	Hard	
Tamaroi	NSW	1997	Durum Growers Ass	Seed	Durum	"over the fence" trading permitted
Tennant	NSW	1998	AWB Seeds	Winter wheat		* See note below
Wyalkatchem	WA	2001	PlantTech	End Point	APW	tested as WAWHT2212
Yitpi	SA	1999	AWB Seeds	End Point	Hard	tested as WI96080

All the varieties (with the exception of Gundaroi and Tamaroi) listed above are PBR varieties and therefore seed of these varieties cannot be sold, traded or given away, nor can it be "traded over the fence" without the authorisation of the owners or licensee.

* These varieties have "End Point" (EP) royalty or "grazing fee" depending on the "end use" of the crop.

Growers purchasing seed of any of these varieties should seek information from the agent (seed merchant), or licensee regarding the type of royalty payment to be made.

Barley

Variety	State of Origin	Year of Regist.	Commercial Partner/Licensee	Royalty	Maximum Quality in SA	Comments
Franklin	Tas	1989	Cultivaust	Seed	Malting	
Gairdner	WA	1997	PlantTech	Seed	Malting	
Keel	SA	1999	ABB/SAFCA	Seed	Feed	tested as WI 2976
Torrens	SA	2001	Graintrust	Seed	Feed	tested as WI 3107
Sloop SA	SA	2002	Graintrust	End Point	Malting	tested as WI 3167
Sloop Vic	Vic	2002	Graintrust	End Point	Malting	tested as VB9953
Dhow	SA	2002	Graintrust	End Point	Malting	tested as WI 3102

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Oats

Variety	State of Origin	Year of Regist.	Commercial Partner/Licensee	Royalty	Quality
Hotham	WA	1997	WASGA	Seed	Milling
Needilup	WA	1998	AgraCorp	Seed	Feed
Quoll	SA	1998	Plant Tech	Seed	Feed
Vasse	WA	1997	Plant Tech	Seed	Hay
Wintaroo	SA	2001	AEXCO	Seed/E.P.	Hay

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Notes on Wintaroo

Growers wanting to purchase seed of Wintaroo need to contact one of the AEXCO Export Hay Processors or SAFCA seed growers.

Growers will be asked to declare “end use” (ie export hay or on farm feed) at the point of sale so as to determine the royalty type.

Hay sold through an AEXCO export hay processor will incur an “end point” royalty.

Hay for “domestic sale” or “on farm use” will incur a seed royalty.

Triticale

Variety	State of Origin	Year of Regist.	Commercial Partner/Licensee	Royalty	Comments
Credit	SA	1997	AFCA	Seed	
Jackie	NSW	2000	Waratah Seeds Co.	Seed	late maturing hay variety
Tickit	SA	1999	Nugrain	Seed	seed available 2003
Treat	SA	1998	SGB	Seed	

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Field Peas

Variety	State of Origin	Year of Regist.	Commercial Partner/Licensee	Royalty	Comments
Cooke	WA	1999	Agracorp Pty Ltd	End Point	
Excell	Vic	1999	Harvest Grain Pty Ltd		
Dunwa	WA	2001	WASGA	End Point	
Helena	WA	1999	PlantTech	End Point	
Kiley	SA/NSW	2000	Sunprime seeds	End point	tested in SA as M250-1-2
Kaspa	Vic	2001	AWB Seeds Pty Ltd		tested as PSL4 Seed available 2003
Morgan	VIC/NSW	1998	Hart Bros Seed		“forage” use also
Mukta	SA	1999	ABB/SAFCA	End point	“Closed-Loop”
Parafield	SA	1999	PlantTech	Seed	
Paravic	Vic	1998	PlantTech	Seed	
Santi	SA	1999	ABB/SAFCA	End point	“Closed-Loop”
Snowpeak	Vic	1999	Harvest Grain Pty Ltd		
Soupa	SA	1999	The Lentil Company	Seed	“Closed Loop”

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Lupins

Variety	State of Origin	Year of Regist.	Commercial Partner/Licensee	Royalty	Comments
Belara	WA	1997	Agracorp/WASGA	Seed	limited seed in SA
Jindalee	NSW	2000	AWB Seeds	End Point	Tested as WL318 limited seed
Ludet	Vic	1997	West Vic Ag. Serv.	Seed	Albus Lupin Limited Seed
Moonah	Vic	1998	AWB Seeds	Seed	
Quilinoock	WA	1999	Plant Tech	End Point	Seed available 2003
Tanjil	WA	1998	Plant Tech	Seed	Seed available 2003
Wonga	NSW	1995	Naracoorte Seeds	Seed	
Wodjil	WA	1997	Plant Tech	End Point	Yellow Lupin

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Canola

Variety	Year of Regist.	Commercial Partner/Licensee	Royalty
ATR Eyre	2001	Dovuro	Seed
ATR Grace	2000	Dovuro	Seed
ATR Hyden	2000	Dovuro	Seed
AG Outback	2000	Dovuro	Seed
AG Emblem	2000	Dovuro	Seed
AG Castle	2001	Dovuro	End Point
AV Sapphire	2002	Dovuro	End Point
Charlton	1998	Dovuro	Seed
Clancy (TT)	1996	Plant Tech	Seed
Drum (TT)	1996	Plant Tech	Seed
Hyola 60	2001	Pacific Seeds	Seed
Mystic	1998	Plant Tech	Seed
Purler	2000	Plant Tech	Seed
Pioneer 46C01	1998	Pioneer Hi-Bred	Seed
Pioneer 46C72 (IT)	2000	Pioneer Hi-Bred	Seed
Pioneer 44C73 (IT)	2001	Pioneer Hi-Bred	Seed
Pioneer 44C74 (IT)	2001	Pioneer Hi-Bred	Seed
Pioneer 44C75 (IT)	2001	Pioneer Hi-Bred	Seed
Pioneer 47C04	2002	Pioneer Hi-Bred	Seed
Pioneer 45C05	2002	Pioneer Hi-Bred	
TI 1 Pinnacle	1997	Dovuro	Seed
Ripper	2000	Plant Tech	Seed
Surpass 60TT	1998	Pacific Seeds	Seed
Surpass 402CL	2001	Pacific Seeds	Seed
Surpass 603CL	2001	Pacific Seeds	Seed
Surpass 400	2000	Pacific Seeds	Seed

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This is NOT a complete list of PBR'd Canola varieties but a selection of recently released varieties. Space prevents us from listing all varieties.

If growers intend sowing seed of varieties other than those listed above they will need to check the PBR status of those varieties.

Beans

Variety	State of Origin	Year of Regist.	Commercial Partner/Licensee	Royalty	Maximum Quality	Comments
AscotVF	SA	1996	Seed Co/Paramount	Seed	Faba Grade 1	
Fiesta VF	SA	1998	Plant Tech	Seed	Faba Grade 1	
Manafest	SA	1999	AWB Seeds	End Point		Not PBR protected
Tanami		2001	Plant Tech	Narbon Bean		

All the varieties listed above are PBR varieties or have “commercial marketing arrangements” and therefore seed of these varieties cannot be sold, traded or given away, nor can it be “traded over the fence” without the authorisation of the owners or licensee.

Chickpeas

Variety	State of Origin	Year of Regist.	Commercial Partner/Licensee	Royalty	Maximum Quality	Comments
Bumper	NSW	1997	The Lentil Co	Seed	Kabuli Type	“Closed Loop” marketing
Howzat	NSW	2000	The Lentil Co	Seed	Desi Type	Release 2002

- Two new varieties Heera and Sona released from Western Australia are **NOT** protected by PBR but do have a seed royalty for the commercial life of the variety.

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Lentils

Variety	State of Origin	Year of Regist.	Commercial Partner/Licensee	Royalty	Market restrictions
Northfield	SA	1996	SAFCA	Seed	None, but PBR so no farmer to farmer trading
Aldinga #	SA	1994	SAFCA	None	None
Cassab #	WA	1998	Agracorp/TLC/Aust Grain Export Pty Ltd/PeaCo	End Point	“closed loop”
Cobber #	Vic	1994	TLC	End Point	“closed loop”
Digger #	Vic	1994	TLC	End Point	“closed loop”
Matilda #	Vic	1994	TLC	End Point	“closed loop”
Nugget #	CIPAL	1999	Plant Tech	End Point	Under contract, multiple buyers

Northfield is the only varieties listed above to have PBR and therefore seed of this variety cannot be sold, traded or given away, nor can it be “traded over the fence” without the authorisation of the owners or licensee.

These varieties are not subject to PBR but have a number of different types of royalty/marketing arrangements associated with the growing of these varieties. Farmers choosing to buy any lentil seed should check the royalty/marketing arrangements for that variety with the seed agent.

Vetch

Variety	State of Origin	Year of Regist.	Commercial Partner/Licensee	Royalty	Comments
Capello	SA	1999	Seedco	Seed	Namoi alternative
Haymaker Plus		1999	Seedco	Seed	High level hard seed
Morava	SA	1999	PlantTech	Seed	Forage use also

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