

# Plant breeders' rights... What are they?

Plant breeders' rights are a form of intellectual property rights that allow plant breeders to protect new varieties of plants. Other forms of intellectual property protection include patents, trademarks and copyrights.

When a plant breeder's right is granted, the breeder gets exclusive rights to produce (for sale) and to sell reproductive material of the new plant variety.



## What is a variety?

A plant variety is a group of plants within a single species or sub-species that:

- can be distinguished from other plant groups of that same species by at least one characteristic, and
- can be reproduced unchanged into the next generation.

For instance, most of us recognize that there are many different varieties of apples such as Granny Smith, McIntosh and Red Delicious. Although they are all the same species, each variety can be distinguished from the others by the fruit shape, size or colour and other similar traits.



## What is reproductive material?

Reproductive material is the part of the plant that is used to reproduce the variety. For example, many field crops such as corn and wheat, and vegetables such as beans and cucumbers, are grown from seed. Consequently, the reproductive material for these crops is the seed.

Other plants are reproduced vegetatively from plant cuttings or budwood. This includes many ornamental plants, such as roses and spirea, and most fruit, such as apples and strawberries. Even though these types of plants commonly produce seeds, it is the cuttings that are considered to be the reproductive material.

## What is plant breeding?

Plant breeding has existed for thousands of years. It is the science of working with the genetics of plants to produce new plants with desired characteristics. Today's breeders can be gardeners, farmers or professionals who work for government research centres, universities, private companies or industry associations.

The techniques of plant breeding range from simply selecting certain plants for reproduction, to deliberate crossing of individual plants to develop new varieties with a combination of desired traits. Modern technology has expanded the scope of plant breeding to also include complex molecular techniques.

## What are the benefits of plant breeders' rights for the breeder?

A plant breeder who obtains plant breeders' rights collects royalties each time reproductive material of the protected plant variety is sold, similar to the way an author collects royalties on a copyrighted book.

## What are the benefits of plant breeders' rights for Canadians?

An effective plant breeders' rights system encourages the development and promotion of new plant varieties.

A strong plant breeding program can:

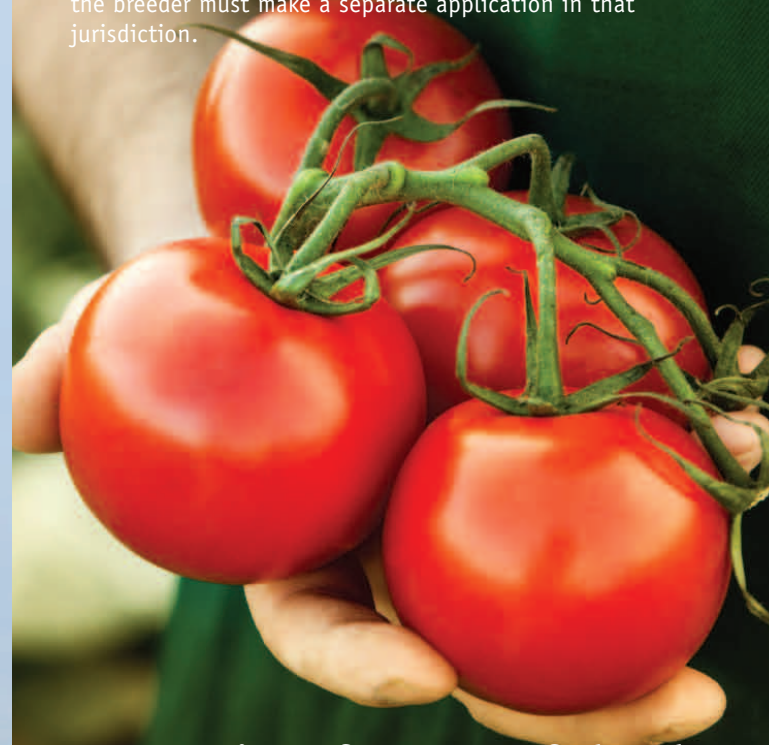
- increase yields in crop varieties
- improve quality in new varieties, leading to higher value products with increased marketability
- improve nutritional content in new varieties, leading to health benefits
- enhance disease resistance and stress tolerance, resulting in reduced losses
- reduce the need for fertilizers and pesticides, leading to environmental benefits
- provide a wider selection of plant varieties for landscaping, cut flowers and potted plants

## Who administers plant breeders' rights?

Since 1990, Canada has had legislation called the *Plant Breeders' Rights Act*. This law is administered by the Canadian Food Inspection Agency's Plant Breeders' Rights Office.

Canada's Plant Breeders' Rights program is voluntary: a breeder may choose to protect a new variety or not. The grant of a plant breeder's right does not overrule any other mandatory regulatory requirements.

Plant breeders' rights that are granted in Canada only apply in Canada. To protect that same variety in another country, the breeder must make a **separate** application in that jurisdiction.



## Can a variety of any type of plant be protected by a plant breeders' right?

In Canada, varieties of all plant species are eligible for protection. Algae, fungi and bacteria cannot be protected under plant breeders' rights.

## Can heritage varieties be protected by plant breeders' rights?

In most cases, heritage varieties are not eligible for protection by plant breeders' rights because they do not meet the requirement of being "new."

## How is a plant variety evaluated?

Before being granted protection under plant breeders' rights, new plant varieties must be evaluated in growing trials to confirm that they are:

- distinct from all other varieties, and
- sufficiently uniform and stable in their characteristics.

## Exceptions to the breeder's right

Plant breeders' rights do not restrict anyone from using the protected variety for several purposes, including:

- using the protected variety for plant breeding and developing new varieties
- saving and using seed of a protected variety for planting on their own land
- using the plants or plant parts of a protected variety for human consumption or other private, non-commercial purposes

## How long does the breeder's right last?

Once granted, a right can last for up to 18 years. The breeder maintains the right by paying an annual fee. He or she can surrender the right anytime before the end of the 18-year period.

Find more information on plant breeders' rights in Canada on the CFIA website. Visit [www.inspection.gc.ca](http://www.inspection.gc.ca), then click on Plants, then Plant Breeders' Rights.

You can contact us by mail at:  
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