

PLANT BREEDERS' RIGHTS

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A few people have mentioned over the last couple of years that plants with Plant Breeders Rights (PBR) have appeared at our HPS plant sales. These plants have probably been propagated without the member knowing that the plant has PBR status. A plant with PBR (also known as Plant Variety Rights, or PVR) cannot be legally propagated for profit without permission, and this means the paying of a duty to the owner of the plant so, strictly speaking, none of us should be selling plants with PBR.

I have mixed views on the PBR issue. If someone has gone to great lengths to produce a plant with better characteristics than any previous cultivar, by using a breeding programme which is time consuming and expensive, I don't have a problem with the breeder reclaiming his outlay and receiving royalties. However, some plants that have PBR have been chance seedlings or sports with naturally occurring new characteristics, and the introducer stands to make a lot of money without expending much time or effort. A good example of this is *Euphorbia* 'Excalibur', which was a chance seedling of two Himalayan species. I entirely dis-agree with someone making PBR profits out of this plant.

Michael Wickenden, of Cally Gardens in Scotland (who, sadly, died in 2016 on a plant hunting trip in south east Asia), had an even stronger opinion on PBR, and I quote from the nursery catalogue:

'I believe that Nature should not be owned. Natural genetic material should be freely available to anybody with the energy and ingenuity to make use of it, as has always been the case, not the preserve of whoever manages to appropriate it first. The gardening public are being charged royalties for plant breeding that, in most cases, has never taken place. Most of these plants came up by chance or were collected in other countries; proof that breeding work has taken place is not required to get PBR.'

Plants with PBR are usually more expensive to buy, because a percentage of the price goes to the introducer. One of the ways round this 'no propagation for resale' issue has been for nurserymen to rename the plant or produce, 'Seedling of —'. This has led to confusion in the trade, as some plants can have three or four different names, and other plants look nothing like the original. There are no regulations or checks in place to stop any nursery entering a new cultivar name in the RHS Plant Finder.

The only other way round this is to do as I do, and buy in plugs of those PBR plants I mention in my talks and want to offer for sale. These plugs have to be bought in bulk and are always more expensive, often double the price of a typical plug plant. The plug plant royalties I pay are relatively small compared with mature plants, however, and I can then grow them on for resale. The wholesaler (who has a licence to produce these PBR plugs) will always state that further propagation is not permitted. But most of us don't want to bulk-buy plants from the wholesalers.

PBRs last for 20 years (longer for woody plants), and therein lies the problem. There is no published up-to-date list of plants which have PBR. You can check in a current Plant Finder, or online, but even this will yield omissions. So I'm afraid we must check our plants before selling them at our plant sales. Giving or swapping a plant is fine, but selling them is a no-no.

Here are some popular and well-known plants which have PBR:

Astrantia 'Roma'
Astrantia 'Venice'
Brunnera 'Jack Frost'
Brunnera 'Looking Glass'
Crocoshia 'Okavango'
Crocoshia 'Walberton Yellow'
Dicentra 'Ivory Hearts'
Epimedium 'Amber Queen'
Eryngium bourgatii 'Picos Blue'
Euphorbia 'Redwing'
Euphorbia 'Silver Swan'

Geranium 'Rozanne'
Heuchera 'Caramel'
Hosta 'June'
Hydrangea paniculata 'Limelight'
Hylotelephium 'José Aubergine'
Phlox 'Sweet Summer Series'
Polemonium 'Brise D'Anjou'
Polemonium 'Stairway to Heaven'
Salvia 'Amistad'
Thalictrum 'Splendide White'
Verbena bonariensis 'Lollipop'

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