

## Farm-Saved Seed Definition – a mini-guide

Nearly all modern crop varieties are protected by Plant Breeders' Rights (PBR). The rights may be EU PBR or UK PBR. A protected variety may not be propagated or sold without the permission of the holder of the PBR. This is usually granted via a licence and requires payment of a royalty to the rights holder (breeder). This is how plant breeders derive their income for reinvestment in breeding new varieties.

There are some exceptions to PBR where the rights holder's permission is not needed. One of these is the farm-saved seed or agricultural exemption. In the [UK Plant Varieties Act](#) "PBR shall not extend to the use by a farmer for propagating purposes *in the field on his own holding* of the product of the harvest which he has obtained by planting *on his own holding* propagating material of ..the protected variety".

Similarly in the [EU Plant Variety Rights Regulation](#) "farmers are authorised to use for propagating purposes in the field, *on their own holding*, the product of the harvest which they have obtained by planting, *on their own holding*, propagating material of a variety other than a hybrid or synthetic variety, which is covered by a Community plant variety right".

To qualify as farm-saved seed the seed must have been grown *on the farmer's own holding and resown on his own holding*. Only then does the farmer benefit from the farm-saved seed exemption and may use the seed as propagating material provided that he declares this and makes the appropriate payment.

If seed does not meet the above definition is it not farm-saved seed.

Seed may not be traded or otherwise marketed, transferred or bartered, even if no money changes hands unless it is officially certified and the person doing the trade is licensed by Defra to trade in seed and by BSPB to trade in protected varieties. Unless these conditions are met the transfer of seed will be in breach of seeds marketing regulations (which are enforced by APHA) and infringe PBR (enforced by the holder of rights). It is irrelevant whether a farm-saved seed payment has been made if the seed is not re-sown on the farmer's own holding.

Where grain is brought in by a farmer and then sown as seed, there is no breach of seeds marketing regulations but there is an infringement of PBR as the farmer does not have permission from the holder of rights, the breeder, to use this material as propagating material and the breeder has not had opportunity to collect a royalty for the use of the variety. The breeder is entitled to seek an injunction to prevent the farmer continuing to grow the crop and/or compensation for the infringement of PBR.

See also

<http://www.fairplay.org.uk/farm-saved-seed-faqs.html>

<https://www.gov.uk/guidance/farm-saved-seed>