



What is the PPSR?

The Personal Property Securities Register (PPSR) is the single, national online database of security interests in personal property in Australia.

Personal property generally includes all forms of property other than land, buildings and fixtures.

Buyers can check the PPSR to see if the valuable second-hand goods they want to buy are debt-free and safe from repossession. A search fee is \$2.00.

For a business selling on terms – such as retention of title or commercial consignment, or hiring or leasing out goods for longer terms – properly registering helps protect its interest, for instance should a customer not pay or go broke. A registration fee starts from \$6.00 for 7 years.

PPSR CASE STUDY 1/4

Automotive – Newaz Repairs

Scenario – a car repairer exercises its right to retain a vehicle while waiting for mechanical work payment ...

Concepts covered:

- repairer's lien
- proceeds.

Automotive car repairer, Newaz, installs a new automatic transmission system in a customer's car.

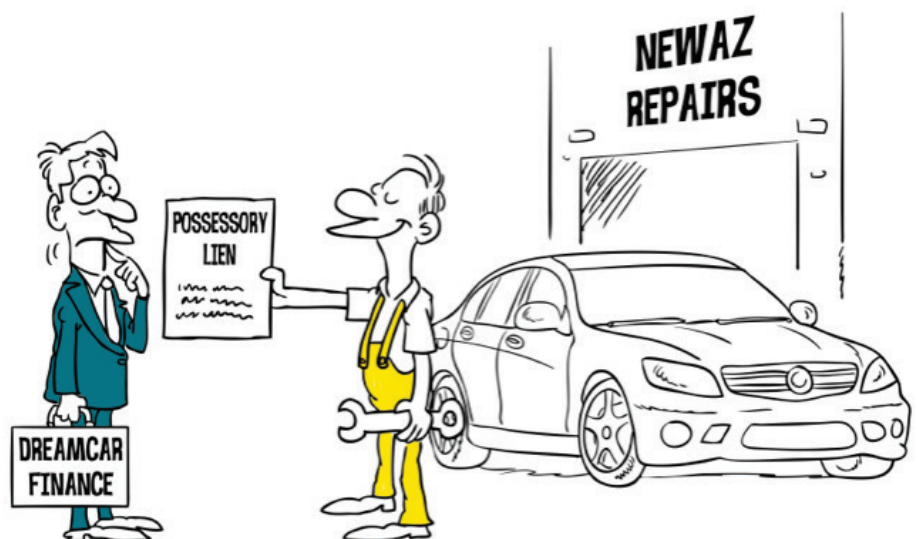
The customer has a five-year lease on the car with Dreamcar Finance Company.

At the beginning of the lease and before the customer took delivery of the car, Dreamcar Finance registered a security interest on the PPSR against the car.

Newaz invoices the customer for its work on the car. Its usual business practice is to hold onto the vehicle until the work has been paid for.

The customer has hit troubled times, and the car repair bill has now been outstanding for a month.

The customer has also defaulted on its lease payments, so Dreamcar Finance is now also seeking recovery of the same car.



continued next page ...

If this sounds like a scenario that could affect your business, the sorts of things you may want to consider are ...

- Automotive car repairers, such as Newaz, are usually protected by the general law – covering work on the vehicle – even if it is not in the terms and conditions. This is commonly known as a ‘repairer’s lien’.
- Repairer’s liens arise by general law, not by a security agreement, and don’t have to be registered on the PPSR. But if you don’t hold on to the car until the repair work is fully paid for, you will lose this lien as it depends on possession. You can use the PPSR to protect yourself to some extent in case you lose possession of the car. This can be done by including a clause in your terms and conditions which gives you a right to take an interest in the car to secure payment for the debt owed to you. It’s important to note however that this may not provide the same level of protection as possession of the car gives you.
- Even though the finance company had a registered security interest from the beginning of the customer’s lease, in this scenario Newaz’s repairer’s lien for its unpaid car repair work takes priority ahead of the finance company.
- If you find yourself in a similar situation, consider getting some advice about whether or not a general law lien may apply to your business. If you have a repairer’s lien, the right to *sell* the vehicle to recover the outstanding repair amounts, and associated charges such as storage, is governed by differing State and Territory laws, so you should check the law in your State or Territory.



Tip

- Dreamcar Finance’s registration entitles it to claim ‘proceeds’ from the sale of the car. In this example, the proceeds are the money received on the sale of the collateral.
- In this scenario, because the customer could not pay at all, Newaz agreed to release the car to Dreamcar Finance, on the basis that it is first in line to receive full payment for the value of their repair work from the sale of the car.
- Newaz enters into a separate agreement with Dreamcar Finance to ensure it is paid the value of the repair work from the proceeds of the sale of the car.

This is a general scenario intended to provide typical examples.

This scenario is not legal advice about how the law applies to your particular business and dealings.

You may wish to seek professional advice from your accountant, financial adviser or lawyer.

For more information about the Australian Government’s Personal Property Securities Register (PPSR) go to:

Website: www.ppsr.gov.au

Email: enquiries@ppsr.gov.au

Telephone: 1300 007 777