



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 \$3.40.

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 \$6.80 for 7 years.

PPSR CASE STUDY 1/VI

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.

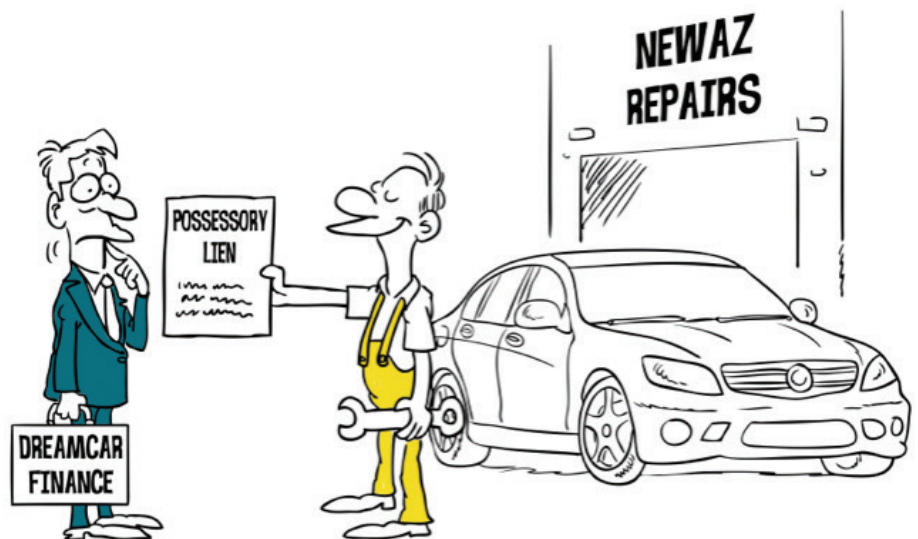
The customer has a five-year lease on the car with Dreamcar Finance Company.

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 general law – covering work on the vehicle – even if it is not in the terms and conditions. This is known as a ‘repairer’s lien,’ or a ‘customary possessory lien.’
- Repairer’s liens arise by general law, not by a security agreement, and can’t be registered on the PPSR.
- 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.



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.

The technical stuff

PPS leases – I’m leasing, renting or hiring out goods to customers, what’s in it for me?

If the lease or hiring arrangement is for at least one year, could last for more than one year, or is for an indefinite period, then the PPSR can be applied.

Making a registration helps protect your interest in your goods or assets when they are not in your possession.

It shows you are claiming an interest over the goods or assets you are hiring, renting or leasing out. If you don’t make a registration and your customer goes broke-your stuff may be sold to pay creditors.

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