



## Money owing by a previous owner

What happens if a finance company contacts you claiming the right to repossess the vehicle because a prior owner still owes them money for it? The finance company may say it has a “security interest” registered under the Personal Property Securities Act (PPSA).

## Sales by registered motor vehicle trader

### Personal Property Securities Act

The Personal Property Securities Act (PPSA) protects consumers who buy vehicles from registered motor vehicle traders where there is an existing security interest over the vehicle.

If the security interest is not disclosed in writing to you, the law provides that you will purchase the vehicle from the motor vehicle trader free of any security interest. This means the finance company must recover their money from the motor vehicle trader not from you.

If a security interest is disclosed, you will buy the vehicle subject to the security interest. This means the finance company has rights over the vehicle.

### Consumer Information Notice

If you bought your vehicle from a registered motor vehicle trader, and there was no warning on the Consumer Information Notice that said “There is a security interest registered over this vehicle”, the finance company has no right to take the vehicle.

You must tell the finance company to contact the registered motor vehicle trader for their money.

### For example

Reginald bought a car from Cheep Cars Ltd (a registered motor vehicle trader). There was no security interest noted on the Consumer Information Notice. A few weeks later Key Loans Ltd calls him to say there is still money owing on the car by a previous owner. Reginald tells Key Loans to go and see Cheep Cars for their money because they have no right to claim the car or any money from him.

[See here for more information on the Consumer Information Notice.](#)

## Checking if the trader is registered

[You can check if the motor vehicle trader is registered by searching the Motor Vehicle Traders Register online](#) or phone 0508 MOTOR TRADERS (0508 668 678). The register search is free.

## Checking for a security interest

You can search the Personal Property Securities Register (PPSR) online to find out if there is security interest on a vehicle. [To check the PPSR you must first register as a user at the PPSR website](#). There is no charge to register but there may be a small fee for searches, which is payable by credit card.

You can use your mobile phone to access the PPSR by ending a text message to FIND (3463), with the motor vehicle registration number and/or Vehicle Identification Number (VIN) or vehicle chassis number (if the vehicle does not have VIN). You will receive a result telling you whether there seems to be a registered security over the motor vehicle or not. This service will cost you \$1 [\$1.02 from 1 October 2010]. [You can check your results by completing a motor vehicle search online](#). Remember to keep a copy of your search results for future reference.

Or, you can check a security interest through using the services of a business which provides vehicle information checks.

## Consumer Guarantees Act

The Act provides a guarantee of title. The trader must have the right to sell the vehicle.

- if your vehicle is taken because someone else owed money on it, you can claim your money back from the trader
- if the vehicle you bought from the trader was stolen, you do not get title to it.

You may have to return the car. The Act entitles you to claim compensation from the trader in this situation.

The Act does not apply to private sales, sales by auction or sales by tender.

## Private sales, private sales through car markets and fairs

If a finance company had a registered security interest in the vehicle at the time you bought the vehicle, then they will have the right to claim the vehicle from you. But there are some exceptions to this rule:

**Exception 1:** The PPSA has a special rule for consumer goods worth less than \$2,000 at the time the previous owner used them as security – e.g. buying the goods on credit contract, or using them to get a loan. Consumers who buy these types of goods take them free of any security interest even if the interest is registered. If you bought a cheaper car, ask the finance company to prove that it was worth more than \$2,000 at the time the loan was taken out or credit contract was signed.

**Exception 2:** If at any time between when the security interest was created and when you bought the vehicle, the vehicle passed through a registered motor vehicle trader.

### **For example**

Henrietta bought a car from her friend Ellie. Ellie had bought the car for cash a few months before from Easy Cars Ltd, a registered motor vehicle trader. Henrietta gets a call from a finance company to say that the car is still on a credit contract to a past owner. Henrietta finds out that the person who sold the car to Easy Cars Ltd used the car as security on a cash loan. Henrietta tells the finance company to get their money from Easy Cars. The finance company can't take Henrietta's car because it was sold through a registered motor vehicle trader after it became subject to the security interest.

**Exception 3:** If there was something wrong with the information which the finance company included on the Personal Property Securities Register (PPSR) – e.g. if the registration or Vehicle Information Number is incorrect.

### **For example**

Hammond bought a car at a car fair and he paid for a PPSR search before he bought the car. He was very surprised when a finance company called him and said they were coming to take the car because it still had money owing on it. Hammond asked the company to send him proof that they could take the car. When he gets the information he finds out that the finance company listed the wrong VIN number on the PPSR when they registered their interest. Hammond tells the finance company that this means that they cannot take his car.

Even if Hammond had not checked the PPSR before he bought the car, the result would have been the same. The fact that the finance company entered the wrong VIN number means the registration of the security interest is invalid.

## **Claiming your money back**

If the finance company does have the right to take the vehicle, you may be able to claim your money back from the seller.

### **Sale of Goods Act**

The Sale of Goods Act gives you the right to cancel a contract or claim compensation where, unknown to you, the seller did not have the right to sell the goods, or the goods were being used as security. You can claim your money back from the seller because they sold you a vehicle when they did not have the right to.

### **For example**

Elizabeth buys a car from a friend. She's had the car for two weeks when she gets a call from a finance company saying that the car was on a credit contract, and they want it back. Elizabeth can take a claim to the [Disputes Tribunal](#) to recover her money from her friend.