



# CRA BULLETIN

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Signed: \_\_\_\_\_ Dated: \_\_\_\_\_

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## LIENS

The issue of an unpaid account arises from time to time. If you still have possession of the vehicle you are in a very strong position.

A lien is the right to hold another's property until the debt is paid. Certain conditions must apply:

- You have done work on the vehicle
- You have permission to do the work
- You are still in possession of the vehicle

If these conditions are satisfied and the debt is more than 2 months overdue, then under the Act you can sell the vehicle at auction to recover your costs. The process is:

1. Provide the owner of the vehicle with one week's notice in writing of the proposed sale. The notice should be sent to the owner's usual or last known address.
2. Advertise in the local newspaper where the work was done. The advertisement must state:
  - the person or company owed the money for the repairs (you)
  - the amount of the debt
  - a description of the vehicle
  - the time and place for the sale
  - the name of the auctioneer

If the owner still does not come forward to pay the account then the vehicle can be sold at auction. The proceeds of the sale are applied as follows:

1. You get paid for your costs in advertising the auction.
2. You get paid for the debt owed.
3. Any surplus is paid to the Registrar of the District Court nearest to the place of sale.

Sometimes there may be another party who has a financial interest in the vehicle. Typically this may be a finance company. Your lien under the Wages Protection and Contractors' Liens Act Repeal Act 1987 has priority over the Personal Properties Securities Act 1999 (PPSA) – **your claim rates above the finance company.**

We have heard of finance companies taking a heavy handed approach here but stand your ground. You have first call on the vehicle. Be sure to keep it under your control until either the debt is paid or the above process is followed and the vehicle is auctioned.