

BULLETIN

Industry Divisions



Reference No: F4-07-2019

Date issued: 31/07/2019

Clarity on advice regarding window display Form 4

VACC has received a number of calls from LMCT members with regards to Consumer Affairs Victoria (CAV) Inspectors advising LMCTs that the VACC generated window display 'Form 4' with version dates of September 2018, April 2019 or May 2019 not being valid and that LMCTs must use the CAV version Form 4.

What are CAV Inspectors advising LMCTs?

VACC members are informing my office that CAV Inspectors are advising the LMCTs that the Form 4 must display the following price display as is produced on the CAV generated sample copy Form 4:

- Cash price of motor car excluding fees and duties \$
- Transfer fees (if applicable) \$
- Motor Vehicle Duty (if applicable) \$
- Registration (if applicable) \$
- Total price of motor car including fees and duties \$ Inc. GST

The direction from CAV Inspectors to VACC members is incorrect and causing confusion to LMCTs.

This advice from CAV Inspectors to LMCTs is contrary to what the prescribed wording from the current [Motor Car Traders Regulations 2018 \(the Regulations\) pg.26](#) mandates.

The current Regulations prescribe that the Form 4 includes a cash price and a statement as to whether the cash price does not include transfer fees or duty, and a statement as to whether the car is sold with or without registration. This is what is reflected on all versions of the VACC Form 4. The CAV version is over and beyond what is regulated.

A single price for the motor vehicle inclusive of all fees and duties must be displayed on the Form 4. If the car is sold unregistered, then no duties would/will apply.

What has VACC done to help cease this confusion?

VACC has written to CAV Policy Team highlighting the inaccuracy of the statements from CAV Inspectors in this regard and requesting that situation be corrected before any more confusion is created.

CAV has advised VACC that it has liaised with staff in its Investigation Services Division and has spoken with the relevant regional offices for the areas VACC has identified. CAV Policy has also sent a general notice regarding this issue to all its regional offices. VACC thanks CAV for this action.

About the Form 4

VACC members were advised in May, August and September 2018 of a remake of the Motor Car Traders Regulations.

Of impact to LMCTs were minor changes to Regulations 11 & 12. The changes to the Regulations were activated from 1 September 2018.

It is from those current Regulations and the Australian Consumer Law (ACL) that VACC informs its member provided Form 4. The current version VACC Form 4 reflects Regulation 11 & 12, Schedule 1 of 1 September 2018 Regulations. The CAV version is over and beyond what is regulated.

VACC generated Form 4s, and other forms connected to prescribed wording in both the Regulations and ACL, had been reviewed by our external legal advisors at HWL Ebsworth prior to the September 1 changes. These forms are reviewed annually by our external advisors for fairness and compliance with legislation.

CAV reaction to VACC concerns regarding new forms

In August 2018 CAV informed VACC that our concerns regarding the inconvenience and cost implications of creation of the new forms were noted. Further CAV advised VACC that it had liaised with the Office of the Chief Parliamentary Counsel in relation to those concerns. Parliamentary Counsel have advised that, because there have not been substantial changes to the content of the forms, the updated forms will fall within sections 30 and 53 of the Interpretation of Legislation Act 1984.

Advice from CAV informed that Section 53 provides that strict compliance with a prescribed form is not required for it to be sufficient in law. Section 30 provides that where a subordinate instrument is repealed and re-made with modifications, anything done under the repealed subordinate instrument will be taken to be done under the re-made instrument. **Therefore, LMCTs can continue using the current forms (and current numbering) to use up their current stock, until substantive changes are made to their content.**

VACC members are encouraged to run down stocks of September 2018 and April 2019 versions of the Form 4. Whilst those Forms are compliant with the Regulations the current May 2019 version Form 4 has some slight changes with respect to formatting etc.

Further advice

VACC members are asked to contact my office directly when faced with any other issue of concerns regarding issues emanating from CAV Inspections.

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