

LMCTs should always be prepared for a Consumer Affairs Victoria inspection

VACC Licensed Motor Car Trader (LMCT) members are reminded that Consumer Affairs Victoria (CAV) Compliance and Enforcement Officers remain active for the entire year and can attend your dealership with or without advance warning.

As part of the compliance and enforcement activity, CAV may focus on areas of obligation an LMCT has under the *Motor Car Traders Act 1986 (Vic)* (the Act), the *Motor Car Trader Regulations 2018 (Vic)* (the Regulations) and the *Australian Consumer Law 2010 (Cth)* (ACL).

LMCTs should always be in a state of readiness for a CAV inspection. Needless penalty notices can be prevented if LMCTs are following their legislative and regulatory obligations.

Some of the areas of compliance inspection by CAV may focus upon include:

Dealings Book

CAV may inspect your dealings book. You must ensure that your dealings book is up to date. Refer Reg 9 of the Regulations.

Section 35 (9) of the Act allows for LMCTs to keep an electronic dealings book. It must be accessible at each location where you conduct business, you must also keep all relevant signed electronic documents which identify the vehicle, and the person's (acquirer or disposer) name and address.

Consumer Complaints Handling Procedure

Whilst not a legislative requirement, CAV do prefer that LMCTs have a documented consumer complaints handling procedure.

The procedure takes no prescribed form, it can be as simple as having a person within your business as the allocated person to handle all consumer complaints citing the ACL or the Act.

Form 4 Used Motor Car Price and Data Sheet

CAV will look to ensure that the current version window display Form 4 is being used (Regulation 11 and 12 of the Regulations). The Form 4 should be affixed to the right-side window (rear where applicable).

CAV considers a demonstrator vehicle to be treated as a used vehicle. As such, traders are advised that demonstrator vehicles must be recorded in the dealings book. The relevant Form 4 must also be attached. This issue has caused confusion amongst dealers. It has also created an additional work burden for some brands. See [this link](#) for a copy of the current Form 4 .

Any LMCTs using window displays Form 5, 6, 7, 7a or 7b are informed that they are not using the current regulated forms and should make the change to the Form 4 immediately.

LMCTs can have a 'NOT YET READY FOR SALE' sign on a vehicle. It is important to note in this instance that the vehicle must also have a current version Form 4.

Contracts of Sale

CAV may review your new or used motor vehicle contracts of sale to ensure compliance with the Act and the ACL.

The current version for VACC Contracts of Sale for New Cars and Used Cars is *Version 14 April 2019*. The contracts have been tested to ensure they are compliant under the Australian Consumer Law (ACL) and the *Australian Securities and Investments Commission Act 2001* (ASIC Act). The VACC contracts of sale will be further reviewed in mid-2023 to ensure they take in the full force of new ACL Unfair Contract Term reforms that come into effect on 10 November 2023.

Please note, under Section 82AE (1) (a)(b)(c) or (d) of the Act, CAV Inspectors have the right to either make or seize copies of all paperwork prescribed under the Act.

LMCT Number

CAV will look to ensure that LMCTs are complying with Regulation 8 of the Regulations. Regulation 7 requires LMCTs to use a prescribed sign. Section 34 of the Act announces that a prescribed sign to be clearly visible to a person entering the place of business (for e.g., on the main entrance door to the facility). This will include having your LMCT number located on your dealership webpage.

CAV advice to VACC in June 2018 advises that there is a requirement for an LMCT to have its current LMCT number printed on a business card.

Form 3 & Police Check

CAV will view personnel files to ascertain whether a Form 3 and police check has been completed for any person employed in a customer service capacity from 1 December 2008.

If any member has issues with this, you are encouraged to call VACC Industrial Relations on (03) 9829 1111.

Price Advertising

In some instances CAV will research your dealership in advance of an inspection. This may include CAV having already retrieved a portfolio of printed copies of recent advertising carried out by your dealership from various sources. Those sources for the CAV advanced research can include on-line social media, web pages, local and mainstream newspapers, and periodicals.

Typically, CAV is looking for compliance with advertising requirements as mandated under ACL provisions. Please view [ACCC Pricing manual for the motor vehicle industry](#) for more information.

Transfer of Motor Vehicle

Particular emphasis is often placed on the legislated requirement for LMCTs to lodge with VicRoads a completed transfer of registration application and all transfer fees, including motor vehicle duty. LMCTs must lodge paperwork and payment within 14 days of selling any vehicle. This facet is monitored by agencies such as the State Revenue Office. Failure to transfer a vehicle within the legislated time frame is a serious breach of the *Duties Act 2000 (Vic)* and the Act. It is also an instance where an audit trail is created and action can be taken.

It is the view of VACC Executive Committees that consignment selling, failure to pay fees, presenting dishonoured cheques, lodging transfer documents and/or not discharging security interests in a timely manner are all early signs that an LMCT may be in financial difficulty.

What are other punitive measures available to Government Agencies?

LMCTs have legislated obligations under the Motor Car Traders Act, Duties Act and Australian Consumer Law that they must adhere to.

LMCTs should also note that other consequences for a legislative or regulatory breach may result in court action, a loss of license and other criminal or civil punitive measures being available to the various Government Agencies.

Is there any other place to find information?

In an effort to assist LMCTs with as much information as possible you can take [this link](#) to the CAV webpage that will provide further guidance to LMCTs about their business rights and responsibilities.

Other sources of compliance relating to [Motor Vehicle Duty](#) and [VicRoads Registration and Licensing Information](#) can be sourced via the highlighted links.

Members who have concerns with how they can meet their licensing obligations are encouraged to call VACC.

If you have any feedback from any CAV visits, please call us. We are looking to celebrate members 'caught' doing the right thing.

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