



INSPECTION GUIDE & CHECKLIST

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Purpose of this Inspection Guide & Checklist

This Inspection Guide & Checklist has been produced as a resource for:

- Individuals employed by an Ontario dealership whose responsibilities may include assisting OMVIC staff during the course of an inspection
- Registrants who want to be informed of OMVIC's inspection process

This Inspection Guide & Checklist contains important information to help dealers with the inspection process, including:

- Suggested steps to take **before the OMVIC Inspector arrives** to ensure a successful and compliant inspection
- What to expect during an OMVIC inspection
- Appropriate steps to take upon receipt of an Inspection Findings Notice (post-inspection)

Inspections Overview

OMVIC is responsible for the administration and enforcement of the *Motor Vehicle Dealers Act* (MVDA). Inspections are conducted by the authority set out in section 15 of the MVDA in order to ensure ongoing compliance with the MVDA and its regulations (332/08 and 333/08). Inspections also help reduce the potential for non-compliance by educating dealers and salespeople about compliance issues they may face.



Why is my business being inspected?

All dealerships are inspected periodically. Inspections can be routine, such as those for newly-registered dealers, or result from a number of factors including, but not limited to:

- Time elapsed since the previous inspection
- Consumer complaints
- Past compliance history

What should I do before an OMVIC inspection?

Dealers should consider the following before an OMVIC inspection:

- Self-inspect their own advertising, books and records **regularly** to identify possible areas of non-compliance
- Routinely review OMVIC Dealer Bulletins and *Dealer Standard* newsletters
- Review terms and conditions of registration (if applicable) and take steps to correct non-compliance before an OMVIC inspection
- Sign up for OMVIC's online services to allow real-time checks on the status of salespeople and to receive important notifications



OMVIC Inspectors visit with or without an appointment

Inspectors do frequently attend dealerships without an appointment as a result of several factors, including area specific visits and/or the nature of a complaint or information received. In the case of an unscheduled inspection, OMVIC Inspectors will do their best to review the records with minimal interruptions to the dealership's normal business activities.

If OMVIC intends to conduct a scheduled inspection with an appointment, an Inspection Notice is sent in advance, usually by email. Dealers should read all emails from OMVIC and confirm that the email account provided to OMVIC is current in order to avoid missing a scheduled appointment.



The Inspection Notice will contain the following:

- Time and date for the inspection
- List of the books and records required to be available for review
- Name and contact information of the OMVIC Inspector

Inspection Notices are provided as a courtesy and are not a requirement under the MVDA. Therefore dealers should make best efforts to have their books and records available for the inspection as scheduled. In most circumstances, the Inspector will try to accommodate a short postponement if they know well in advance there is a scheduling problem.

Note: *The owner of the dealership is not required to be present during the inspection although it is recommended, whenever possible, in order to ask or respond to questions and when findings are reviewed at the end of the inspection.*

How long will the inspection take?

Inspections are typically completed in less than a day and some may only require a few hours. The length of time it takes to inspect a dealership varies widely depending on a number of factors, including:

- How well the records are organized and if they are readily accessible
- Dealer's class of registration
- Volume of sales and advertising
- Number of questions to or from staff of the dealership

While the essential structure of an inspection does not vary widely, the focus may change depending on the circumstances and reason for the inspection.

Cooperation during an inspection

A dealer must assist the Inspector when asked, such as producing a document or record, or helping the Inspector with the use of the dealer's data storage, processing or retrieval device (e.g. past advertisements from online accounts).

What happens at the end of the inspection?

The Inspector will usually review his/her findings with the dealer, discuss best practices and respond to any questions or concerns. Written comments in the form of an Inspection Findings Notice are typically provided to the dealer at this time, and detail items discussed that require changes or items deemed non-compliant. If the owner or dealer principal is not present during the inspection, the Inspection Findings Notice specifically states that a copy will be provided to them by their authorized representative. The dealer (or representative) will be asked to sign the Inspection Findings Notice. However this is not an admission of wrong-doing but rather an acknowledgement of receipt.

OMVIC Inspectors prepare final written reports of their inspections which may be referred to OMVIC Senior Management to determine what (if any) further action is required. Inspectors do not decide if the results of an inspection will trigger disciplinary, administrative or investigative action.

Note: *It's important to ask questions about these findings and take necessary steps to immediately rectify any problems.*

Help/Resources

OMVIC's website: www.omvic.on.ca.

OMVIC Certification Course: Take advantage of educational opportunities available through OMVIC. If dealers and salespeople have not completed the current version of the OMVIC Certification Course (i.e. post 2010), OMVIC highly recommends to do so. This version of the course includes the many changes introduced in 2010 with the updated MVDA and its regulations.

Advertising and Disclosure Seminars/Webinars:

Webinars are also conducted regularly for dealers and salespeople to attend from the comfort of their own office. Recordings of past webinars are available for viewing on OMVIC's website. In-person seminars are also available and conducted by OMVIC Inspectors or OMVIC educational staff.

OMVIC Inspectors: Inspectors can be contacted with any questions or concerns.

Business Standards Team: OMVIC's Business Standards Team specializes in interpretation and enforcement of the advertising regulations and is available to assist dealers with any advertising questions or other inquiries related to the Code of Ethics.

Note: *This Inspection Guide & Checklist has been prepared to provide an overview of the OMVIC inspection process for information purposes only. It is not intended to substitute, supersede or limit the requirements of the Motor Vehicle Dealers Act, 2002 (the "MVDA") in any way. This Inspection Guide & Checklist is prepared for convenience of reference only. Should there be any discrepancies between this Inspection Guide & Checklist and the MVDA and/or its related regulations (including the Code of Ethics), or other applicable laws, the legislative provisions will apply.*

Dealers are encouraged to use this checklist in order to perform periodic self-inspections and proactively avoid non-compliance issues. If you have any questions about interpretation please contact OMVIC.

Records Generally

- records stored at the registered premises (or location approved by OMVIC)
- books and records organized and easily accessible
- bills of sale and/or lease agreements filed together with other relevant documents including work sheets, invoices, safety certificates, financing documents, ads, history reports, and reconditioning records

Written disclosures on retail and wholesale bills of sale include:

- vehicle's prior use (e.g. daily rental, taxi, police cruiser)
- all accidents/incidents over \$3,000 in damage are listed, including details about the nature and estimated **cost of repairs** (note: in the case of multiple incidents, repair costs to be written out separately)
- other mandatory disclosures related to the vehicle's past use, history and condition disclosed
- disclosures found after physical inspection of vehicles conducted
- disclosures noted in a vehicle history report (e.g. outstanding recalls)
- any fact that may affect a retail purchaser's decision to buy the vehicle or to purchase at that price (e.g. accident disclosures less than \$3,000, U.S. lemon law or CAMVAP buy-backs)
- any fact about the vehicle that affects the structural or mechanical quality or performance that would reasonably be expected to influence the decision of a wholesale buyer
- all mandatory disclosure statements for "AS-IS" vehicles

- all verbal disclosures are also reflected on the bills of sale

Trade-ins

- outstanding loans and liens related to trade-ins are removed immediately
- consumer trade-in disclosure forms completed (regardless of the trade value)
- trade-in disclosure forms kept together with original deals and subsequent sale of the trade-in

Aftermarket Products

- aftermarket items and/or inducements individually priced and identified on bills of sale without short forms or industry jargon
- mandatory products included in the all-in advertised price
- other products are described verbally and on option sheets in a clear and comprehensible fashion that the products are indeed optional

Extended Warranties

- extended warranties sold are insured or secured by a letter of credit (see OMVIC website for list)
- contracts and payment submitted to the extended warranty company within seven days
- terms and conditions of all warranties outlined in writing (e.g. existence of activation fees)

Consumer Finance/Lease Agreements

- lease/finance contracts kept in the deal file
- complete and accurate terms of financing included on the bills of sale and consistent with finance documents
- receipt of incentives from financial institution initialled by the customer, if applicable
- finance disclosure requirements in compliance with the *Consumer Protection Act* (including adjustments to the APR to account for any finance fee, vehicle disabling devices or other costs a cash customer isn't required to pay)

Dealer Self-Inspection Checklist

Other Items Related to the Vehicle Transaction

- copy of the purchase agreement including attachments provided to customer
- vehicles sold free and clear without liens, verification done by lien check
- due diligence exercised (ordering history report, conducting physical and visual inspection of vehicle) regardless of where vehicle was purchased (e.g. salvage auction, franchise dealers)
- signed copy of the vehicle history report provided to the customer and maintained on file (recommended)

Dealership Bank Account and Sources of Financing

- business bank account in dealer's name is used and maintained according to MVDA requirements
- all funds related to vehicle transactions (including cash) deposited to and withdrawn from business account
- non-traditional sources of financing disclosed to OMVIC (e.g. loans from family/friends, other dealers or businesses) including written agreements with names of the parties, financing availability, repayment arrangements, interest etc.
- accurate bank signing authority information maintained
- electronic bank statements and cheques accessible

Dealership Staff Records

- detailed employee records maintained including payroll, position/title and dates of employment
- all employees who "trade" in motor vehicles, including attempts to induce a sale, are registered with OMVIC
- all managers, including GM, GSM, SM, F&I and Business Manager registered with OMVIC
- dealership registered as an online user with OMVIC to check registration status of staff, renew registration and pay all required fees (not mandatory but highly recommended)

Consignment Sales (vehicles being sold by dealer on behalf of another party)

- consignment agreements completed in writing (required even if consignor is another dealer)

OMVIC's Best Practices for Retail Consignments followed

- all funds related to consignment sales placed into a trust account as required under the MVDA regardless of amount

Trust Account

- trust account established for all consignment funds (any amount)
- trust account established for transactions involving a deposit of over \$10,000
- signed reconciliations completed and maintained monthly

Advertising

- all vehicle advertisements, including signage in/on vehicles, that **include** a price for a vehicle comply with all-in pricing requirements (ALL fees and charges the dealer intends to collect other than HST and the actual licensing cost)
- ad clearly, comprehensibly and prominently indicates HST and licensing are extra
- vehicle's former daily rental history clearly, comprehensibly and prominently identified in ads (if applicable)
- term, interest rate, cash price of the vehicles and cost of borrowing indicated for finance offers
- ads do NOT make savings claims compared to MSRP
- savings claims are verifiable
- details of term and claim limits for extended warranties included in advertisements
- all websites monitored regularly to ensure advertising compliance
- vehicles advertised are available

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