

# GUIDELINE

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## Introduction and purpose

When a consumer trades in a used vehicle as part of the transaction for a newer one, it's important for both the consumer and the dealer to know the rules. We've prepared this document after consulting with stakeholders to help ensure awareness and compliance.

## Terminology

- For the purposes of these guidelines, the word “Act” refers to the [Motor Vehicle Dealers' Act](#) (MVDA).
- [The Regulation](#) refers to Regulation 333/08 GENERAL
- [The Code of Ethics](#) refers to Regulation 332/08 Code of Ethics and Operation of Committees

## Guidelines

The most detailed explanation of the contract requirements for trade-ins appears in [Section 43 of the Regulation](#). Among other requirements, Section 43 lays out the contract requirements for the sale or lease of trade-ins. Additional detail appears in the appendix at the end of this document.

Several other parts of this guideline refer to Section 43, and Registrants are advised to ensure they're familiar with its provisions. Some examples include:

### Deposits

- If a customer requests the return of a deposit or a trade-in vehicle before the contract for another vehicle is complete, [Section 38 of the Regulation](#) stipulates that the dealer must return the deposit or trade-in vehicle immediately. This rule applies to contracts for both new and used vehicles.

### Disclosures in contracts relating to trade-ins

- [Section 39 of the Regulation](#) covers the disclosures required in the contract for a new vehicle. [Section 40](#) covers the requirements for used vehicle sales. OMVIC has also published [a separate guideline on disclosures](#).
- According to [Section 41 of the Regulation](#), a Registrant who isn't a fleet lessor must ensure that any leasing contract meets the relevant requirements of [Section 43](#).

- [Section 49](#) details what's required of contracts between Registrants and brokers when it comes to trade-ins, as well as other requirements.

#### Records relating to trades

- [Section 53 of the Regulation](#) tells Registrants that they must maintain records of each purchase of a motor vehicle by the dealer, including as a trade-in.

#### Disclosure and marketing

- Regardless of the type of transaction, Registrants are required to operate according to the provisions of the Act and its regulations. This includes being clear and truthful about the provisions of a trade-in, or advertising related to a trade in, according to [Section 4, sub-sections 1 and 2 of the Code of Ethics](#).

#### About OMVIC and these guidelines

The Ontario Motor Vehicle Industry Council (OMVIC) administers and enforces the [Motor Vehicle Dealers Act, 2002](#) (MVDA), its regulations and code of ethics, as well as relevant sections of the [Consumer Protection Act](#) (CPA), on behalf of Ontario's Ministry of Public and Business Service Delivery. OMVIC's mandate is to maintain a fair and informed marketplace by protecting the rights of consumers, enhancing industry professionalism, and ensuring fair, honest, and open competition for registered motor vehicle dealers.

The list of available guidelines can be found [here](#). Once the page opens, you'll see the guidelines listed on the left-hand side.

#### Contact

The Dealer Support team is available to assist dealers in achieving and maintaining compliance with the MVDA and Code of Ethics. Registrants who wish to contact Dealer Support can reach the team at the phone number below and leave a message. Messages are returned in priority sequence.

Phone: 1-800-943-6002 ext. 4

Email: [dealers@omvic.on.ca](mailto:dealers@omvic.on.ca)

## Appendix – legislative/regulatory references

Excerpts from the Regulation 333/08 GENERAL

### [Section 38 – Deposits given before contract made](#)

If a customer who is not a registered motor vehicle dealer gives a registered motor vehicle dealer a deposit or a motor vehicle as a trade-in before entering into a contract for the purchase or lease of a motor vehicle, then requests the return of the deposit or the vehicle being traded-in before entering into the contract, the dealer shall immediately return the deposit or the vehicle being traded-in, as the case may be, to the customer, even if,

- (a) the dealer is not the dealer who sells or leases the vehicle being sold or leased to the customer; or
- (b) the customer does not enter into a contract for the purchase or lease of a motor vehicle.

### [Section 39, sub-section 2\(23\) - Contracts for sales of new motor vehicles](#)

Before entering into a contract to sell a new motor vehicle to a purchaser who is not a registered motor vehicle dealer, a registered motor vehicle dealer shall ensure that the person providing financing for the purchase has provided to the purchaser the information that must be disclosed in any initial disclosure statement required under Section 79 of the *Consumer Protection Act, 2002* with respect to the financing if... there is a trade-in of another motor vehicle under the contract, anything required to be included under Section 43.

### [Section 41, sub-section 1\(12\) – Leases](#)

A registered motor vehicle dealer, other than a fleet lessor, that enters into a contract to lease a motor vehicle to a lessee who is not another registered motor vehicle dealer shall ensure that the contract includes, in a clear, comprehensible and prominent manner, if there is a trade-in of another motor vehicle under the contract, anything required to be included under section 43.

Section 43, sub-section 1 – additional contract requirements for trade-ins

Subsection (2) applies if,

- (a) a registered motor vehicle dealer enters into a contract to sell or lease a motor vehicle to a purchaser or lessee who is not another registered motor vehicle dealer; and
- (b) the purchaser or lessee trades in another motor vehicle to the dealer under the sale or lease contract or to another registered motor vehicle dealer under a separate contract. O. Reg. 333/08, s. 43 (1).

(2) If the selling or leasing dealer described in clause (1) (a) receives the motor vehicle being traded in, the dealer shall ensure that the sale or lease contract includes, in a clear, comprehensible and prominent manner, the information set out in subsection (4) with respect to the vehicle being traded in. O. Reg. 333/08, s. 43 (2).

(3) If another registered motor vehicle dealer receives the motor vehicle being traded in under a separate contract, as described in clause (1) (b), the dealer shall ensure that the contract for the trade-in of the vehicle includes, in a clear, comprehensible and prominent manner, the information set out in subsection (4) with respect to the vehicle.

(4) The information mentioned in subsection (2) or (3) is the following:

1. The name and address of the owner of the motor vehicle.
2. For the registered motor vehicle dealer involved in the trade-in described in clause (1) (b) who is not the selling or leasing dealer described in clause (1) (a),
  - i. a registered name and the registration number of the dealer, together with the legal name of the dealer if it is different from the registered name, and
  - ii. if a registered salesperson is acting on behalf of the dealer respecting the trade-in, the registered name and registration number of the salesperson.
3. The date that the motor vehicle is to be traded in, if known, or a manner of determining the date, if the date is not known.
4. The make, model, trim level and model year of the motor vehicle.
5. The colour of the motor vehicle.

6. The vehicle identification number of the motor vehicle.
  7. The body type of the motor vehicle.
  8. The credit for the motor vehicle being traded in, if the selling or leasing dealer described in clause (1) (a) receives the motor vehicle being traded in.
  9. The amount paid for the motor vehicle being traded in by the registered motor vehicle dealer, if another registered motor vehicle dealer receives the vehicle under a separate contract, as described in clause (1) (b).
  10. A statement obtained from the person trading in the motor vehicle with respect to the information required to be included under section 42.
  11. The motor vehicle's recorded odometer reading.
  12. Revoked: O. Reg. 221/09, s. 16.
  13. If the registered motor vehicle dealer receiving the motor vehicle being traded in agrees under the contract for the trade-in to pay any outstanding loan on the vehicle or any outstanding bill for the repair or storage of the vehicle, a statement to that effect. O. Reg. 333/08, s. 43 (4); O. Reg. 221/09, s. 16.
- (5) If a sale or lease contract mentioned in subsection (2) or a contract for a trade-in mentioned in subsection (3) provides for the trade-in of more than one motor vehicle, the registered motor vehicle dealer described in the applicable subsection shall ensure that the matters required under subsection (4) are shown separately for each vehicle.

#### Section 43, sub-section 3

If another registered motor vehicle dealer receives the motor vehicle being traded in under a separate contract, as described in clause (1) (b), the dealer shall ensure that the contract for the trade-in of the vehicle includes, in a clear, comprehensible and prominent manner, the information set out in subsection (4) with respect to the vehicle.

#### Section 49 – Contracts with brokers to facilitate purchase or lease

##### Sub-section 4

The information mentioned in subsection (2) or (3) is the following:

1. The name and address of the owner of the motor vehicle.
2. For the registered motor vehicle dealer involved in the trade-in described in clause (1) (b) who is not the selling or leasing dealer described in clause (1) (a),

- i. a registered name and the registration number of the dealer, together with the legal name of the dealer if it is different from the registered name, and
- ii. if a registered salesperson is acting on behalf of the dealer respecting the trade-in, the registered name and registration number of the salesperson.

#### Sub-section 5 - Contracts with brokers to facilitate purchase or lease

If the customer is prepared to trade in a motor vehicle in connection with the trade, a description of the motor vehicle to be traded in and the minimum amount for the trade-in that is acceptable to the customer.

#### [Section 53, sub-section 1\(h\) - Records relating to trades](#)

(1) A registered motor vehicle dealer shall maintain records of...

(h) each purchase of a motor vehicle by the dealer, including as a trade-in.

#### [Excerpt from the Code of Ethics](#)

##### [Section 4 – Disclosure and marketing](#)

(1) A registrant shall be clear and truthful in describing the features, benefits and prices connected with the motor vehicles in which the registrant trades and in explaining the products, services, programs and prices connected with those vehicles.

(2) A registrant shall ensure that all representations, including advertising, made by or on behalf of the registrant in connection with trading in motor vehicles, are legal, decent, ethical and truthful.