

Control of Weapons Act 1990

EXEMPTION TO POSSESS SWORDS – RE-ENACTORS AND COLLECTORS

Order in Council

The Governor in Council, under section 8B of the **Control of Weapons Act 1990**, exempts from the operation of section 5(1), (1AA), (1AB) and (1A) and section 5AA of the **Control of Weapons Act 1990**, a person who is of a class of persons set out in an item in Column 1 of the following Table, in relation to activities involving swords as listed in Column 2 of the Table, for the purposes listed in Column 3 of the Table.

TABLE

Item	Column 1 Class of person	Column 2 Activities	Column 3 Purposes
1	A person aged 18 years or over who is a member of a member group of the Australasian Living History Federation (ALHF).	Bring into Victoria, cause to be brought or sent into Victoria, display or advertise for sale, sell, purchase, possess, use or carry a sword.	Study and participate in the re-enactment of historical or cultural events.
2	A person aged 18 years or over who is a member of an Historical Re-enactment Organisation listed in Schedule 1.	Bring into Victoria, cause to be brought or sent into Victoria, display or advertise for sale, sell, purchase, possess, use or carry a sword.	Study and participate in the re-enactment of historical or cultural events.
3	A person aged 18 years or over who is a member of a Collectors' Organisation listed in Schedule 2.	Bring into Victoria, cause to be brought or sent into Victoria, display or advertise for sale, sell, purchase, possess, use or carry a sword.	Study, collect and display swords with an historical or cultural significance.
4	A person aged under 18 years who is: <ul style="list-style-type: none"> • a member of a member group of the Australasian Living History Federation (ALHF); or • a member of an Historical Re-enactment Organisation listed in Schedule 1; or • a Collectors' Organisation listed in Schedule 2. 	Possess, use or carry a sword.	Engage in the purposes specified in items 1 to 3 in this Table that relate to the class of person to which the person aged under 18 years belongs.

Conditions

A person seeking to rely on this Order is subject to the following conditions:

General Conditions

1. *Use:* A sword may only be used for the purposes for which the exemption was granted.
2. *Storage:* When not being used for the purposes specified in this Order, swords must be stored safely and securely.

‘stored safely and securely’ means:

- (a) stored in a manner calculated to ensure that the sword:
 - (i) is not readily accessible to a person other than the person seeking to rely on the exemption; and
 - (ii) is not available for possession, carriage or use by a person who is not themselves a holder of an approval issued by the Chief Commissioner of Police or who does not fall within a class of exempt persons specified in the above Table; and
 - (b) when being transported between the usual place of storage of the sword and places at which the sword is legitimately used for the purposes specified in this exemption:
 - (i) stored in a manner calculated to ensure that the sword is not readily accessible to a person other than the person seeking to rely on the exemption; and
 - (ii) concealed from plain sight during any such transportation.
3. *Inspection on request:* A person seeking to rely on this exemption must, on request, permit a member of the police force to inspect his or her storage arrangements at any reasonable pre-arranged time.
 4. *Record of possession:* A person seeking to rely on this exemption must maintain a record of the number and types of swords in his or her possession. These records must be kept for the duration of operation of the exemption and must be made available to a member of the police force for inspection at any reasonable pre-arranged time.
 5. *Record of sale:* A person seeking to rely on this exemption who sells a sword must keep a record of the sale. The record must be in the form and manner prescribed under the **Control of Weapons Act 1990**, and must be kept for 3 years after the sale. A member of the police force at any reasonable time may require the person to produce the record for inspection.
 6. *Display:* A person seeking to rely on this exemption to display a sword with an historical or cultural significance must ensure that the display occurs in the person’s residential home or at an official event associated with the organisation of which the person is a member (being an organisation specified in Column 1 in the above Table), and that the display is only made for purposes genuinely associated with the study and collection of swords with historical or cultural significance.
 7. *Persons aged under 18 years:* A person under the age of 18 is not permitted to purchase any prohibited weapon, including a sword. However, a person aged under 18 years who belongs to a class of exempt person specified in this Order may lawfully possess, use or carry a sword subject to the terms and conditions of the exemption.
 8. *Prohibited persons:* This Order does not apply to a person who is a prohibited person as defined in section 3 of the **Control of Weapons Act 1990**, regardless of whether that person is a member of a class or classes of persons specified in Column 1 of the Table.

Additional conditions relating to Specified Organisations

9. The following conditions only have effect in relation to members of an organisation specified in Column 1 of the above Table (‘Specified Organisation’) who engage in activities involving swords for purposes specified in the Table. The conditions do not have effect in relation to members who do not engage in such activities.
10. Upon joining a Specified Organisation, a person who intends to engage in activities involving swords for purposes specified in the above Table must acknowledge and consent to follow the conditions outlined in this Order.

Purchase waiting period

11. An adult person who joins a Specified Organisation on or after the date this notice comes into effect, cannot purchase a sword for 28 days from the date upon which he or she joined the Specified Organisation, unless the person holds a firearms licence issued under Part 2 of the **Firearms Act 1996**, in which case the 28 day waiting period does not apply.

12. The 28 day waiting period does not apply to an adult person who was a member of a Specified Organisation prior to the date this Order came into effect.

Prohibited person check

13. A Specified Organisation must be satisfied that each of its members who possesses, uses or carries a sword in accordance with this Order is not a 'prohibited person' as defined in section 3 of the **Control of Weapons Act 1990**. This may require the specified organisation to arrange for each member to undergo a Criminal History Check or provide a Statutory Declaration affirming they are not a prohibited person. A member of a Specified Organisation who holds a firearms licence issued under Part 2 of the **Firearms Act 1996**, an approval issued by the Chief Commissioner of Police under section 8C of the **Control of Weapons Act 1990** or a licence issued under Division 2 of Part 3 of the **Private Security Act 2004**, is not required to undergo a Criminal History Check or provide a Statutory Declaration.

Membership records and member identification

14. A Specified Organisation must provide a membership number or other form of unique identifier to each of its members who possesses, uses or carries a sword in accordance with this Order. The Specified Organisation must maintain a current register of members containing the names of members and their membership numbers and/or unique identifiers. The Specified Organisation must, on request, permit a member of the police force to inspect the register at any reasonable pre-arranged time.
15. A Specified Organisation must require each of its members who possesses, uses or carries a sword in accordance with this Order, to provide it with the following details:
 - the member's contact details; and
 - the residential address at which the sword is stored.

Members must notify the Specified Organisation within 28 days of any changes to these details.

16. A Specified Organisation must issue to each of its members who possesses, uses or carries a sword in accordance with this Order, a membership card showing the member's name and membership number/identifier and any other details required by the Specified Organisation.
17. When carrying or transporting a sword in accordance with the conditions of this Order, a member of a Specified Organisation must at all times carry his or her membership card as well as evidence of identity that includes a photograph, such as a driver's licence or passport, subject to the following exceptions:
 - when the member is participating in a re-enactment of historical events, during the re-enactment the member is only required to carry his or her membership card;
 - when the member is aged under 18 years and is supervised by a person who is entitled to possess, use or carry swords, the member is only required to carry his or her membership card.

18. A member of a Specified Organisation who is participating in a re-enactment must ensure his or her membership card is readily accessible nearby while participating, for example by keeping the membership card in a bag, cupboard or locker located nearby.

Other organisational requirements

19. A Specified Organisation must have an active branch operating in Australia.
20. A Specified Organisation must undertake to arrange a meeting of its members at least on an annual basis.
21. A Specified Organisation must not publish material, including on a website, which promulgates irresponsible, unlawful or unsafe use of a prohibited weapon.
22. A Specified Organisation must make available to its members information on the Governor in Council exemptions.

23. A Specified Organisation must inform the Department of Justice, Victoria, within 28 days:
- of any change in the Office Bearers of the organisation or their contact details; and
 - when it has expelled a member from the organisation in accordance with the organisation's constitution or rules.

The department's email address for this purpose is weapons@justice.vic.gov.au.

Revocation

24. The Governor in Council, under section 8B of the **Control of Weapons Act 1990**, revokes the Orders in Council dated 16 June 2004 and published in Government Gazette G25 on 17 June 2004 ('Exemption under section 8B for collectors to possess swords' and 'Exemption under section 8B to possess swords for historical re-enactment'), which exempt specified classes of persons from certain provisions of the **Control of Weapons Act 1990** for activities in relation to swords.

Period of Application

25. This Order comes into operation on and from the date of its publication in the Government Gazette.

Dated 3 June 2014

Responsible Minister:

KIM WELLS MP

Minister for Police and Emergency Services

YVETTE CARISBROOKE
Clerk of the Executive Council

SCHEDULE 1

Historical Re-enactment Organisations

1066 The Medieval Society
15th King's Light Dragoons (Hussars) 'C' Troop, Gippsland Inc.
2nd Virginia Living History Group
21eme Regiment de Ligne
30eme Regiment de Ligne
42nd Royal Highland Regiment 1815 (Australia) Inc.
62nd New York State Volunteers (Anderson Zouaves)
73rd Regiment of Foot
95th (Rifle) Regiment of Foot
95th Rifles (Australia) Inc.
Australasian Living History Federation
Australian Great War Association
Australian Napoleonic Association
Australian Re-enactors Association
Ballarat Living History Society
Beechworth Historical Re-Enactment Group Inc.
Cahal Society of Cultural Law
Captain Sandham's Company R.A.
Colonial Re-Enactment Society Inc
Commemorative History Society Australia
Corangamite Light Horse Re-Enactment Troop
Creswick Youth Alliance (Inc.) – Corangamite Light Horse Troop; Horsham RSL Light Horse Troop and Bairnsdale Light Horse Troop
'D' Troop, 15th King's Light Dragoons (Hussars) – Victoria Inc. (or 'D' Troop, 15th King's Light Dragoons (Hussars) – Melbourne Inc.)
Canes Pugnaces

Days of Knights Pty Ltd
 Fire Heart Defence
 Frojel Gotlandica Viking Re-enactment Society Inc.
 Frontiers Living History Group Inc.
 Geelong Military Re-enactment Group Inc.
 Historical Re-enactment Society of Australia
 History Up Close
 Independent Order of Historical Mercenaries Inc.
 Leongatha Medieval Society Inc.
 Living History Australia
 Living History Resource Group
 Mansfield Colonial Re-Enactment Society Inc.
 Melbourne Sword and Spear Association
 Military History Group Incorporated
 Nelson's Navy
 Nordmannia
 North Eastern Muzzleloaders and Colonial Firearms Club
 Southern Cross Free Trappers Inc.
 The Australian Napoleonic Association
 The Blue and Grey Re-Enactors Inc.
 The Colonial Re-enactment Society
 The Free Companies Inc.
 The Grey Company Inc
 The Historical Re-enactment Society of Australia Inc.
 The Military Historical Society Geelong Branch Inc.
 The Military Historical Society of Australia, Victorian Branch
 The New Varangian Guard Inc.
 The Pike and Musket Society Inc.
 The Shenandoah's Crew – Australia Inc
 The Society for Creative Anachronism Ltd
 Victorian Colonial Infantry Association Inc (Mt Alexander Rifles)
 Victorian Light Horse Ceremonial Regiment
 Victorian Military Vehicle Corps
 Victoria Police Historical Society
 Victorian Re-enactment Society

SCHEDULE 2

Collectors' Organisations

Antique & Historical Arms Collectors Guild of Victoria Inc.
 Ararat Historical Arms Collectors Club Inc
 Arms Collectors Guild of Tasmania
 Ballarat Arms and Militaria Collectors Society Inc.
 Golden City Collectors Association Inc. of Bendigo
 Goshu Nihon Bijutsu Token Hozon Kai Inc.
 Northern Victorian Arms Collectors Guild
 Sporting Shooters Association of Australia Mildura Arms and Militaria Collectors Guild
 Sporting Shooters Association of Australia (Victoria) Arms and Militaria Collectors (Melbourne)
 Sporting Shooters Association of Australia (Victoria) Military Collector Club
 Victorian Amateur Pistol Association Collectors Group
 Victorian Historical and Edged Weapons Collectors Guild
