

## ORDERS IN COUNCIL

### Control of Weapons Act 1990

#### GENERAL EXEMPTION TO POSSESS SWORDS

##### 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 specified in an item in Column 1 of the following Table, in relation to activities involving swords as set out 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 an employee, member or volunteer of a museum or gallery registered through the Museum Accreditation Program of Museums Australia (Victoria) to which an exemption is issued under section 184 of the <b>Firearms Act 1996</b> .	Bring into Victoria, cause to be brought or sent into Victoria, display or advertise for sale, sell, purchase, possess, use or carry a sword.	Keep and display a sword with an historical or cultural significance.
2.	A person aged 18 years or over who is an employee, member or volunteer of a theatre or opera company (including a school production) or film or television production company.	Bring into Victoria, cause to be brought or sent into Victoria, display or advertise for sale, sell, purchase, possess, use or carry a sword.	(a) Rehearse for and stage a dramatic or musical performance open to the public; or (b) make a film or television production.
3.	A person aged 18 years or over serving as a member of the naval, military or air forces of the Commonwealth of Australia.	Bring into Victoria, cause to be brought or sent into Victoria, display or advertise for sale, sell, purchase, possess, use or carry a sword.	Undertake official duties.
4.	A person aged 18 years or over who is a serving member of the naval, military or air forces of the Government of a foreign nation in Australia at the request of the armed forces of the Commonwealth of Australia.	Bring into Victoria, cause to be brought or sent into Victoria, possess, use or carry a sword.	Undertake official duties.

5.	A person aged 18 years or over who is a former member of the of the naval, military or air forces of the Commonwealth of Australia, or of the defence forces of another country recognised by the United Nations.	Bring into Victoria, cause to be brought or sent into Victoria, display or advertise for sale, sell, purchase, possess, use or carry a sword.	(a) If the sword has been obtained in the course of the member's official duties, retain the sword; or (b) participate in ceremonial activities and commemorate the actions of serving and former members of the naval, military or air forces of the Commonwealth of Australia and the Governments of other nations.
6.	A person aged 18 years or over who is a member of a cadet unit in the community-based youth development organisation known as the Australian Defence Force Cadets, or who is instructing members of such a cadet unit.	Bring into Victoria, cause to be brought or sent into Victoria, display or advertise for sale, sell, purchase, possess, use or carry a sword.	Participate in ceremonial activities that involve the use of a sword or instruction in the use of a sword.
7.	A person aged 18 years or over who is a member of a Lodge or Order 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.	(a) Keep and display a sword; or (b) participate in ceremonial activities.
8.	A person aged 18 years or over who has inherited a maximum of two swords.	Bring into Victoria, cause to be brought or sent into Victoria, display or advertise for sale, sell, possess or carry a sword.	Keep and display a sword, so inherited, as an heirloom.
9.	A person aged 18 years or over who is an active member of the Scout Association of Australia.	Bring into Victoria, cause to be brought or sent into Victoria, display or advertise for sale, sell, purchase, possess, use or carry a sword.	(a) Keep and display a sword; or (b) participate in ceremonial activities.
10.	In relation to persons aged 18 years or over— (a) a participant in activities associated with Scottish Highland Dancing; (b) a member of a Highland Pipe Band; or (c) a member of a member band of Pipe Bands Victoria.	Bring into Victoria, cause to be brought or sent into Victoria, display or advertise for sale, sell, purchase, possess, use or carry a sword.	Participate in activities associated with Scottish Highland Dancing or a Pipe Band.

11.	A person aged 18 years or over who is a participant in a dance group 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.	Participate in dancing involving the carriage of a sword as part of traditional practice.
12.	A person aged 18 years or over who is a participant in the sport of fencing, including students, coaches, instructors and competitors.	Bring into Victoria, cause to be brought or sent into Victoria, display or advertise for sale, sell, purchase, possess, use or carry a sword.	Participate in the sport of fencing.
13.	A Sikh aged 18 years or over whose religious practices require the carriage and possession of a Kirpan (a specific type of sword).	Bring into Victoria, cause to be brought or sent into Victoria, display or advertise for sale, sell, purchase, possess, use or carry a Kirpan.	Perform duties associated with religious observance.
14.	A person aged under 18 years who is a member of an organisation, group or religion specified in items 1 to 13 above.	Possess, use or carry a sword.	Engage in the purposes specified in items 1 to 13 in this Table that relate to the organisation, group or religion to which the person aged under 18 years belongs.

#### Conditions

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

1. *Use:* The 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. *Participation:* **'participating'** in relation to a sport includes receiving instruction in, practising, training, teaching or competing in the sport.
4. *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.

5. *Record of possession:* A person seeking to rely on this exemption must maintain a record of the quantity and types of swords in their possession. A person who has inherited a maximum of two swords must keep supporting documentation such as a will or testament. These records must be kept for the duration of the exemption and must be made available to a member of the police force for inspection at any reasonable pre-arranged time.
6. *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.
7. *Persons aged under 18:* 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.

#### **Revocation**

9. The Governor in Council, under section 8B of the **Control of Weapons Act 1990**, revokes the Order in Council dated 16 June 2004 and published in Government Gazette G25 on 17 June 2004 ('General Exemption under section 8B to possess swords') as amended by the Orders in Council dated 23 June 2009 ('Amendment of the General Exemption') and 7 July 2009 ('Amendment of Order amending the General Exemption'), published in Government Gazette G28 on 9 July 2009. The Order exempted specified classes of persons from certain provisions of the **Control of Weapons Act 1990** for activities relating to swords.

#### **Period of Application**

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

Dated 3 June 2013

Responsible Minister:

KIM WELLS MP

Minister for Police and Emergency Services

YVETTE CARISBROOKE  
Clerk of the Executive Council

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#### **SCHEDULE 1**

##### **Lodges and Orders**

Combermere Lodge 752 E.C.  
Grand Lodge of Victoria Inc – Royal Antediluvian Order of Buffaloes  
International Co-Freemasonry Le Droit Humain (The Victorian Association of Installed Masters)  
A Lodge; a member of a Lodge under the auspices of the United Grand Lodge of Victoria  
The Chivalric Military Order of the Temple of Jerusalem: The Scottish Knights Templar  
The Loyal Orange Institute of Victoria  
The Ordo Equester Aurei Cervei (Inc)  
The Ordo Templi Orientis Inc. operating as the Australian Grand Lodge of Ordo Templi Orientis and inclusive of Ecclesia Gnostica Catholica.

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#### **SCHEDULE 2**

##### **Dance organisations**

Bellydance Kizmet  
Mystical Maidens of MADEC (MADEC Belly Dance Club)  
Organisation for Middle Eastern Dance in Australia Inc.

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