

Control of Weapons Act 1990
EXEMPTION TO POSSESS SWORDS – MARTIAL ARTS

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, instructor or student of a martial arts 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.	(a) Study and participate in the practice of the martial art in which the martial arts organisation specialises; or (b) study, collect and display a sword with an historical or cultural significance that relates to the martial art in which the martial arts organisation specialises.
2	A person aged under 18 years who is a member, instructor or student of a martial arts organisation listed in Schedule 1.	Possess, use or carry a sword.	(a) Study and participate in the practice of the martial art in which the martial arts organisation specialises; or (b) study, collect and display a sword with an historical or cultural significance that relates to the martial art in which the martial arts organisation specialises.

Conditions

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

General conditions

1. *Use:* The sword must only be used for the purposes for which the exemption was granted and must be used in the practice of the martial arts discipline in which the organisation specialises.
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 any person who does not belong to a class of exempt persons specified in the above Table or who does not hold an approval issued by the Chief Commissioner of Police; and

- (b) when being transported between the sword's usual place of storage and places at which the sword is legitimately used in accordance with this Order:
- (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 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 quantity and types of swords in their 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:* 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, instructors and students of an organisation described in Item 1 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, instructors and students who do not engage in such activities.
10. Upon joining a Specified Organisation, a person must acknowledge and consent to follow the conditions outlined in this Order.
Prohibited person check
11. A Specified Organisation must be satisfied that each of its members, instructors and students 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 organisation to arrange for each member, instructor and student to undergo a Criminal History Check or to provide a Statutory Declaration affirming that they are not a prohibited person.
12. 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

13. A Specified Organisation must provide a membership number or other form of unique identifier, to each of its members, instructors and students who possesses, uses or carries a sword in accordance with this Order.
14. A Specified Organisation must maintain a current register of members, instructors and students who possess swords in accordance with this Order. The register must contain their names and membership numbers or other unique identifiers.
15. A Specified Organisation must, on request, permit a member of the police force to inspect the register at any reasonable pre-arranged time.
16. A Specified Organisation must require each of its members, instructors and students who possesses, uses or carries a sword in accordance with this Order to provide it with the following details:
 - his or her contact details; and
 - the residential address at which the sword is stored.
17. A Specified Organisation must issue to each of its members, instructors or students who possesses, uses or carries a sword in accordance with this Order a membership card showing the person's name and membership number or other unique identifier, and any other details required by the Specified Organisation.
18. When carrying or transporting a sword in public to and from a class or competition, a member, instructor or student 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, unless the person is aged under 18 years, in which case he or she is only required to carry his or her membership card.
19. A member of a Specified Organisation who is participating in a class or competition must ensure his or her membership card is readily accessible nearby while participating or competing, for example by keeping the membership card in a bag, cupboard or locker located nearby.

Other organisational obligations

20. A Specified Organisation must not publish material, including on a website, which promulgates irresponsible, unlawful or unsafe use of a prohibited weapon.
21. A Specified Organisation must make available to its members, instructors and students information about the Governor in Council exemptions.
22. 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 or instructor 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.

Period of Application

23. 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