

## THE MIGHTY SWORD

The purpose of this article is purely to inform those dancers/performers who use swords etc as props in their performances and of current legislation regarding swords. It is up to the individual dancer/performer to make their own decision regarding this information. It is also written in direct response to the Australian Knife Collectors club (AKC) relinquishing their sword exemption with the Victorian Department of Justice.

<sup>1</sup> In Victoria, the Control of Weapons Act 1990 (the Act) lists knives and other bladedware under Prohibited Weapons or Controlled Weapons. To legally own Prohibited Weapons you must have an exemption or be covered under the Control of Weapons Act. You may own Controlled Weapons (including knives not listed as prohibited) but need a lawful reason to carry or use them outside of your home. The responsibility is always on the carrier to provide that lawful reason (and self defence is never accepted as a lawful reason).

In June 2004 the Victorian Control of Weapons Regulations were amended to change swords from controlled weapons to prohibited weapons. However, the Act did NOT provide a complete ban on prohibited weapons as the Government recognized a range of circumstances for a person to possess a sword. Certain classes of people were granted an exemption from prohibition under the Act.

### **UNDER THIS CURRENT LAW, BELLYDANCERS ARE NOT EXEMPT!**

#### **GENERAL EXEMPTION UNDER SECTION 8B TO POSSESS SWORDS** by Order in Council

1. Museum
2. Theatre or Opera Company
3. Accredited Fencing Organisations,
4. World Singlestick Federation
5. Member of a Religion whose practice involves swords
6. Defence Force Serving Member
7. Former Defence Force Member if obtained in official duties
8. RSL officer/member
9. Masonic Lodge
10. Participant in Scottish Highland Dancing
11. Inheritance - maximum of two swords.
12. Australian National Wushu & Tai Chi Association
13. Australian Kendo Renmai Associated Club
14. A sword owned prior to July 2004 that has never had a sharpened edge
15. Active Scout Association member.

Members of certain other groups and clubs were bestowed an exemption under **Schedule 1**. The *Australasian Knife Collectors (AKC) Club* was one such group, although incorrectly listed as the *National Knife Collectors* (our by-line at the time.)

**Note - the AKC Club did not apply for this exemption.** The AKC Club then duly registered the *National Knife Collectors -Australia* whilst waiting for *Australasian Knife Collectors* to be properly gazetted by the Department of Justice, Victoria.

#### **The AKC Club and the Victorian Sword Exemption**

Since July 2004, a number of Victorian AKC Club members have taken the opportunity to own swords under the Club exemption. However, in recent times there has been a sharp increase in applicants who simply want 'a sword licence'. While we recognize the legal right of Victorians to seek an exemption to own a sword, and that a number of knife collectors in our club also have an interest in a range of bladedware, including swords, the AKC Club was NOT founded to cater for members with no interest in knives (the core interest of the Club).... i.e. a desire to 'own a sword' – and nothing else! In order to ensure the integrity of the Club and allow us to concentrate on its core interest (KNIVES) and to maintain its high standing and continued favourable recognition as a bona fide nationwide KNIFE collectors club, the AKC Club has informed the Department of Justice Victoria that we are relinquishing the exemptions bestowed upon the AKC Club for swords. Our request for a suitable time frame to allow AKC Club sword owners to make alternative arrangements has been negotiated with the Department.

Victorian AKC members who currently own swords will have until the **30 September 2010** to either legally dispose of their swords (including selling - see below) or to make an application for a Chief Commissioner of Police (CCP) Approval. Of course, some of our members are already covered by membership with other clubs that have a specific interest in swords, or may be covered by one of the 15 general exemptions listed above, If that is the case, there is no action needed.

You should check with Victorian Weapons Licensing Branch (Tel: 1300 651 645) if you are not sure of your own situation.

To apply for a Chief Commissioner of Police (CCP) approval for sword ownership, contact Victorian Weapons Licensing Branch 1300 651 645 or visit the weblink at the bottom of this article. The current fees are \$157.80 for 3 years, \$134.40 if you currently hold a firearms license and \$58.50 to vary or add items. Please ask at time of calling if fees are correct as they change on an annual basis. AKC members may use their membership card/ membership towards their proof of a bona fide interest in bladeware when making application to own prohibited edgeware in Victoria.

### **Selling Prohibited Weapons:**

A person who sells a prohibited weapon must maintain a bound record book or operate and maintain a computerised record-keeping system in place of a bound record book, containing an accurate description of the prohibited weapon sold, including any identifying mark or serial number on the weapon; the full name, address, telephone number and date of birth of the purchaser of the prohibited weapon; evidence of the purchaser's approval from the Chief Commissioner of Police or exemption from the Governor in Council to purchase the prohibited weapon; details of the identification provided by the purchaser; the date and time of the transaction; and the name and address of the seller.

### **Prohibited Persons:**

A prohibited person is not permitted to obtain an Approval or Exemption to possess prohibited weapons under the Control of Weapons Act 1990. For the purpose of the Control of Weapons Act 1990 a prohibited person has the same meaning as in the Firearms Act 1996 and includes a person who has been: Imprisoned for a serious offence, assault or drug offence anywhere in Australia (ban of 5 years if the sentence is under 5 years, ban of 15 years if the sentence is 5 years or more); Subject to an Intervention Order under the Crimes (Family Violence) Act 1987 or its equivalent in other States (where they are sometimes referred to as AVOs). The ban is 5 years from the end of the order. Placed on a Community Based Order by a court (5 year ban) or found guilty by a court for an indictable offence or an offence against the Firearm Act 1996 where it was open to the court to impose a prison sentence (12 month ban). Contact the Ministry of Justice for further information.

### **Storage and Transport of Prohibited Weapons:**

When not being used in accordance with the purpose outlined above, prohibited weapons must be stored safely and securely; and a member of the Police force must be permitted to inspect storage arrangements at any reasonable time.

To be stored safely and securely means stored in a manner to ensure the sword:

- (a) is not readily accessible to a person other than the person relying on the exemption and is not available for possession, carriage or use by a person who is not an exempt person; and
- (b) When being transported between the usual place of storage of the sword and places where it is legitimately being used (see extent of exemption) is stored in a manner to ensure that the sword is not readily accessible to another person, and that the sword is concealed from plain sight during transportation.

This means that you must store or display your prohibited weapons in such a method that only you - or others with an exemption - have access to them.

Examples of methods that would meet the Victorian Police requirement of safe storage are:

"stored in a locked cupboard, cabinet or safe of sturdy construction, and if glass fronted, the glass will be a minimum of 5mm. If the mass weight is less than 150kg it shall be fixed to either the frame of the floor or wall (where applicable) so as to prevent easy removal. Wood screws are not acceptable but ramset/dynabolts are sufficient. The locks fitted to these receptacles shall be of sturdy construction. Padlocks shall have shanks of hardened steel."

Obviously there are other methods that would also be deemed adequate- and if unsure, you should contact the Weapons Licensing Branch of Victoria Police (and preferably receive written confirmation) on **1300 651 645**.

As you can read, owning and using a sword in Victoria is not taken lightly.

## **<sup>2</sup> Control of Weapons Act 1990 - SECT 5**

5. Prohibited weapons:

- (1) A person must not-
  - (a) Bring into Victoria; or
  - (b) Cause to be brought into or sent into Victoria; or
  - (c) Manufacture, sell or purchase; or
  - (d) Display or advertise for sale; or

(e) Possess, use or carry-

a prohibited weapon without an exemption under section 8B or an approval under Section 8C. Penalty: 240 penalty units or imprisonment for 2 years.

(1A) a person who is in licensed premises or in a public place that is in the immediate vicinity of licensed premises must not possess, carry or use a prohibited weapon without-

- (a) an exemption under section 8B; or
- (b) an approval under section 8C.

Penalty: 480 penalty units or 4 years imprisonment.

I have been in contact with a senior member of the Victorian Edged Weapons Guild to see if dancers could join their guild, I was then referred to a Senior Sergeant from Licensing Services Division of Victoria Police and here is the reproduced email reply: Though it is directed at OMEDA members – I would apply this to all dancers. I removed their contact details as I felt it better to have questions come to me to forward to them and I will publish the results to save duplicate questions being asked.

**Thursday 06/05/2010: 11.24am**

***The purpose of this email is to explain the current legislation in relation to swords and their possession by members of OMEDA.***

***In June 2004 the Victorian Control of Weapons Regulations were amended to change swords from controlled weapons to prohibited weapons.***

***Under the provisions of the Control of Weapons Act a person can only possess a sword if they are covered by a Governor in Council exemption or they hold a Chief Commissioners Approval.***

***In June 2004 a number of Governor in Council exemptions were issued under categories of general exemption, collector exemption, and historical re-enactment exemption.***

***I have been advised that members of your organisation were advised to join a collector's organisation such as the Victorian Edged Weapons Guild so they could retain their swords for belly dancing. This advice is incorrect. The collector's exemption only covers members of collectors clubs for the following purpose:***

***"Bringing swords into Victoria, causing swords to be brought or sent into Victoria, selling or purchasing swords, displaying or advertising swords for sale, possessing using or carrying swords for the purposes of studying and collecting swords with an historical or cultural significance"***

***I have also been advised that some of your members are relying on the "blunt sword" general exemption. This exemption is limited to persons who already owned the blunt sword prior to the commencement of the order (which may possibly apply to some of your members) however the blunt sword exemption only applies for "the purpose of displaying the sword as an ornament", not belly dancing.***

***Under current legislation the only way for a member of OMEDA to lawfully possess and use a sword for belly dancing purposes is to possess a Chief Commissioners Approval issued under Section 8C of the Control of Weapons Act.***

***Regards  
Senior Sergeant 18058  
Regulation Support Unit  
Licensing Services Division***

I have also been in contact with a Senior Policy Officer/Justice Policy/Department of Justice to investigate whether OMEDA could apply in its own right for an exemption, yet I was informed that they have not been processing any new exemptions pending the outcome of current reviews of provisions of the Control of Weapons Act 1990, the Control of Weapons Regulations 2000 and the gazetted exemptions.. However, my details have been placed on a register so the request can be added to the other queries they've received when they review the exemptions.

I hope that this article has helped explain a few things and I would encourage all readers to review the **FULL ARTICLE** before contacting Victoria Licensing Services Division (LSD). Should you have any further questions, please email [info@omeda.org.au](mailto:info@omeda.org.au). All the research has been mine and should there be any omissions/errors I apologise in advance and will rectify them as soon as possible. I have arranged with a Senior Sergeant from LSD to send him a list of questions to which we can both look at answering and then publish on the website/Facebook so that the department is not inundated with phone calls and avoid any duplicate questions.

## REFERENCES

<sup>1</sup><http://www.knivesaustralia.com.au/exemptions>

<sup>2</sup>email from Senior Sergeant, Regulation Support Unit, Licensing Services Division-Victoria Police (06/05/10)

## RESOURCES

[www.police.vic.gov.au](http://www.police.vic.gov.au)

PATH: Our Services/Weapons

Control of Weapons Act 1990

[http://www.austlii.edu.au/au/legis/vic/consol\\_act/cowa1990216/s5](http://www.austlii.edu.au/au/legis/vic/consol_act/cowa1990216/s5)

## APPLICATION FORMS

Chief Commissioners Approval [www.police.vic.gov.au](http://www.police.vic.gov.au)

PATH: Our Services/Weapons/Chief Commissioner Approval