



VICTORIA POLICE

# A Guide for Performing Arts and Historical Re-enactment Groups Using Firearms and Other Weapons

Licensing and Regulation Division – Version 0.1 June 2017

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## Introduction

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The use of firearms and prohibited weapons, including imitation firearms, by historical re-enactment, performing arts and theatrical groups in Victoria is regulated under the Firearms Act 1996 and the Control of Weapons Act 1990.

The aim of this document is to ensure public safety by providing participants involved in performing arts, theatrical and re-enactment activities with an understanding of the legislative requirements surrounding the possession, use and carriage of firearms and prohibited weapons when engaging in these activities in Victoria.

Participants involved in re-enactment, performing arts or theatrical events that use firearms and other weapons, including imitation firearms, should be aware that these activities might cause public alarm resulting in unnecessary calls for police assistance.

In addition to obtaining the relevant licences, permits or exemptions, event organisers should ensure that they have contacted their local police prior of the event to avoid a disproportionate police response to legitimate historical re-enactments or performing arts events.

For activities that involve filming with firearms or other weapons, a Police Notification of Filming Event should be submitted to the Victoria Police Film and Television Office. This form can be accessed via the Victoria Police webs

## General requirements

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### Imitation and replica firearms

Under the Control of Weapons Act 1990 an imitation firearms are considered prohibited weapons. To possess use or carry an imitation firearm you must hold a Chief Commissioner's Weapon Approval or be covered by an appropriate Governor in Council Exemption.

In Victoria, replica firearms are working copies of original firearms and considered firearms under Victorian legislation. Replica firearms have to be registered and the person in possession of one has to be appropriately licensed.

### Prohibited person status

A prohibited person may not possess, use or carry a firearm or prohibited weapon in any circumstance. Re-enactment and performance groups must ensure that any person possessing a firearm or prohibited weapon and participating in a historical re-enactment is not a prohibited person as defined under the Firearms Act 1996 or Control of Weapons Act 1990 (Vic).

## Recognition of enactment clubs and performing art groups

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### Membership lists

Under Victorian legislation, there is no requirement for re-enactment or performance groups to provide the Chief Commissioner with a list of club members.

If a re-enactment or performance group voluntarily provides a list to the Chief Commissioner it will be recorded on the Licensing and Regulation Division's database. Any list that is provided should, at minimum, include the name, address, date of birth and membership details of the individuals listed.

### **Change of membership status**

A member's genuine reason for possessing a firearm licence or Chief Commissioner's Weapon Approval for the purposes of performing arts and re-enactment activities ends if a member of the group:

- resigns;
- fails to pay membership fees (becomes un-financial); or
- is suspended, or expelled from the club/organisation.

The club/organisation should notify the Licensing and Regulation Division of the change to the person's membership status.

### **Safety rules**

Performing arts and re-enactment groups have a duty of care to their members and the public to ensure that their activities are carried out in a safe manner.

Safety rules should be:

- documented;
- clear and concise;
- regularly reviewed to ensure relevance; and
- accurately reflect the group's activities.

Groups using firearms or other weapons for historical re-enactment, performance art or theatrical events must be able to produce their safety rule document to a delegate of the Chief Commissioner upon request.

### **Firearms**

There is no provision under the Firearms Act 1996 (Vic) for the Chief Commissioner to formally approve re-enactment clubs or performing art groups. However, the Firearms Act does allow the Chief Commissioner to recognise the membership of re-enactment clubs and performance groups for the purpose of issuing a licence for the genuine reason of performing arts and re-enactment activities.

### **Other weapons**

There is no provision under the Control of Weapons Act 1990 (Vic) for the Chief Commissioner to formally approve re-enactment groups.

Groups seeking a Governor-in-Council exemption for the use of weapons (that are not firearms) for performance or re-enactment purposes should contact the Department of Justice and Regulation.

## **Firearms**

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### **Licensing requirements**

If a person wants to own a firearm for the purposes of participating in performing arts or re-enactment activities, the Chief Commissioner may issue a licence under the following provisions of the Firearms Act 1996:

- Section 10(1)(e) of the Act which allows a person to be licensed to possess, carry and use Category A and B longarms for performing arts and re-enactment activities.
- Section 13(1)(a) of the Act which allows a person to be licensed to possess, carry and use Category E longarms for performing arts and re-enactment activities.
- Section 15(1)(c) of the Act which allows a person to be licensed to possess, carry and use general category handguns for performing arts and re-enactment activities.

Firearm licences that are issued for other genuine reason such as hunting, sport/target shooting or primary production do not authorise the licence holder to undertake performing arts or re-enactment activities. A licensed person undertaking performing arts or re-enactment activities must have their firearms licence endorsed for the genuine reason of performing arts and re-enactment activities.

Re-enactors who hold a current licence issued for other purposes can have the genuine reason of performing arts and re-enactment activities added to their licence by applying in writing to the Licensing and Regulation Division. The letter or email must contain an imaged copy of your current membership card and your instructions to add performing arts and re-enactment as a genuine reason.

### **Category E Longarms licence restrictions**

Under the provisions of Regulation 24 of the Firearms Regulations 2008 the holder of a Category E licence issued for performing arts and re-enactment activities is restricted to using firearms which have been modified to be incapable of firing cartridge ammunition.

### **Unlicensed persons participating in performing arts and re-enactment activities**

Under item 10, Schedule 3 of the Act a non-prohibited person performing in a work for stage, television, film, or in an historical re-enactment is exempt from the requirement to hold a licence when carrying or using a firearm when the firearm is incapable of firing cartridge ammunition or has been rendered permanently inoperable.

A non-prohibited person performing in a work for stage, television, film or in an historical re-enactment can carry or use an operable firearm without a licence only under the supervision of a licensed firearms dealer or their employee.

### **Juniors participating in performing arts and re-enactment activities**

Section 18 of the Act restricts junior licence holders to either:

- receiving instruction in the use of firearms; or
- engaging in sport or target shooting competitions.

There is no provision under the Act for juniors (anyone under the age of 18) to be licensed to possess firearms for the genuine reason of performing arts and re-enactment activities. Juniors participating in performing arts and re-enactment activities can only do so under the provision of item 10, Schedule 3 of the Firearms Act 1996.

### **Participating in performing arts and re-enactment activities in Victoria**

Under the provisions of Section 185 of the Act, there is no mutual recognition of interstate firearms licences for the purpose of performing arts and re-enactment activities.

A Victorian firearm licence cannot be issued to interstate residents for any purpose, including performing arts and re-enactment activities.

Interstate residents wanting to participate in Victorian performing arts and re-enactment activities must do so under the provisions of item 10, Schedule 3 of the Act.

### **Participating in performing arts and re-enactment activities interstate**

Victorians participating in performing arts or re-enactment activities in another jurisdiction are advised to contact the relevant interstate firearms registry to seek advice on the legislative requirements in that jurisdiction regarding the possession, carriage and use of firearms and prohibited weapons whilst involved in these activities.

### **Definition of possess firearm**

The Act defines possession in relation to a firearm, as:

- actual physical possession of the firearm; or
- custody or control of the firearm; or
- having and exercising access to the firearm, either solely or in common with others.

Persons possessing a firearm must have a firearm licence for the appropriate category.

### **Exempt firearms**

Section 3(4) of the Firearm Act exempts certain firearms from all requirements of the Act including the licensing and registration requirements.

### **Exempt longarms**

Longarms are exempt if they were manufactured before 1900 and do not take cartridge ammunition. In circumstances where a longarm manufactured before 1900 does take cartridge ammunition, the cartridge ammunition must not be commercially available for the firearm to be exempt.

### **Exempt handguns**

Handguns are exempt if they were manufactured before 1900, and:

- are not of a type that uses percussion, or methods developed during or after the development of percussion, as a means of ignition; or
- is a single shot antique handgun.

### **Loading of firearms for re-enactment purposes**

It is an offence under the provisions of Section 127 of the Act for a person in possession of a firearm to permit a firearm to be carried or used by any person who is not licensed or exempt from the requirement to have a licence.

### **Re-enactment and performing arts activities on approved shooting ranges**

An approved shooting range is only approved for the activity of shooting at targets on the range.

Re-enactment and performing arts activities are not covered by a range's approval unless specifically stated in the certificate of approval.

Any shooting activity by re-enactors or performers must be in accordance with the Schedule of Conditions attached to the range approval.

For example, a Victorian Rifle Association range is approved for VRA competitions only and would not cover re-enactment shooting unless it is carried on under the rules and regulations of VRA competitions.

### **Firearm acquisition**

You can only purchase firearms, ammunition, parts and accessories if you have a current Victorian firearm licence that allows you to carry and use those items.

You must also have a Permit to Acquire issued by the Licensing and Regulation Division to acquire a firearm. Only licenced firearm dealers can sell or transfer firearms between owners.

A mandatory 28-day waiting period applies to individuals acquiring their first firearm.

Application forms for a Permit to Acquire firearms can be downloaded from the Victoria Police website.

## **Populous Place Permits for re-enactment events**

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Section 130 of the Act prohibits the carrying of a loaded firearm or use of a firearm in a town or populous place. It has been determined that carrying or discharging blank firing ammunition constitutes the use of a firearm.

For re-enactment displays in public where firearms are being fired, re-enactment groups must apply for a Populous Place Permit – Performing Arts and Re-Enactment. The application process can take up to four weeks and involves an inspection of the proposed site by local police.

### **Obtaining a populous place permit**

To obtain a populous place permit the club president or another person in a position of responsibility within the club should submit a populous place permit application to the Licensing and Regulation Division.

Permit applications can take up to four weeks to process and will be issued in the name of the applying person. Currently there is no fee attached to this application process.

The application form must be accompanied with a letter from the event organisers stating that they have arranged for the re-enactment group to perform at this event. Where there is more than one group taking part in an event, the groups are all required to get their own populous place permit.

Re-enactment events held on private property may still require populous place permits depending on the land zoning of the location or other contributing factor such as neighbour locations. Events held on private property are assessed on a case-by-case basis and clubs are advised to consult with the local Divisional Firearms Officer in the area where the event is to be held.

Where an event is to be held on private property and a populous place permit is required, a letter from the property owner stating that they have given club permission to hold the event on their land and that they understand the activities the club will be undertaking in their re-enactment should accompany the application form.

Populous place permits are issued with conditions that must be observed by event organisers and all participants. Conditions can include, but are not limited to, general requirements involving the posting of signage and notifying the local police through to more specific conditions relevant to the site where the re-enactment is taking place.

## **Firearm Storage Requirements**

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### **Longarms**

Under the provisions of Schedule 4 of the Act, Category A and B firearms must be stored in a receptacle, which:

- is constructed of hard wood or steel that is not easily penetrable;
- if it weighs less than 150kg when empty, is fixed to the frame of the floor or the wall of the premises; and
- is locked with a lock made of sturdy construction when any firearm is stored in it.

If more than 15 firearms are stored on the premises, the premises must be fitted with an intruder alarm system and the key to the firearm safe must be carried by the holder of the licence, or, be kept securely in a separate room from the safe when it is not in use.

Ammunition must be stored in a separate locked container. Clothing lockers are not recommended

### **Handguns**

Under the provisions of Schedule 4 of the Act, handguns must be stored in a steel safe which:

- is of a thickness that is not easily penetrable;
- if it weighs less than 150kg when empty is fixed to the frame of the floor or the wall of the premises; and
- is locked with a lock made of sturdy construction when any firearm is stored in it.

If more than 15 firearms are stored on the premises, the premises must be fitted with an intruder alarm system and the key to the firearm safe must be carried by the holder of the licence, or, be kept securely in a separate room from the safe when it is not in use.

Any ammunition must be stored in a separate locked container.

### **Safekeeping of firearms while being carried or used (including during transportation)**

Under the provision of Section 126 of the Act a person who is carrying or using a firearm must:

- ensure that the firearm is carried and used in a manner that is secure and not dangerous; and
- take reasonable precautions to ensure that the firearm is not lost or stolen.

# Weapons

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Victoria has three categories of weapons:

- prohibited weapons (includes imitation firearms);
- controlled weapons; and
- dangerous articles.

## **Prohibited weapons**

A prohibited weapon means an imitation firearm, body armour or any other article that is prescribed under Schedule 3 of the Control of Weapons Regulations 2011 to be a prohibited weapon.

## **Controlled weapons**

Controlled weapons are specifically listed in the Control of Weapons Act 1990 and Control of Weapons Regulations 2011. Currently spear guns, batons, bayonets, cattle prods or knives (other than knives which are prescribed as prohibited weapons) are considered controlled weapons.

## **Dangerous articles**

Dangerous articles are articles that have been adapted or modified to be capable of being used as a weapon, or as any article that is carried with the intention of being used as a weapon.

## **Approval requirements**

To possess, use or carry prohibited weapons in Victoria, a person must have been issued with a Chief Commissioner's Approval or be exempt from needing a Chief Commissioner's Approval because they are covered by a Governor In Council Exemption Order (GIC Exemption).

Unlike prohibited weapons, any person with 'lawful excuse' can possess a dangerous article or controlled weapon. This includes participation in any lawful sport, recreation or entertainment. Possession of controlled weapons and dangerous articles for the purpose of historical re-enactment would fall within the lawful excuse provisions as long as the possession relates to anything done during the course of the activity or for the purpose of the activity e.g. travelling to or from a re-enactment.

## **Chief Commissioner's Approval**

A Chief Commissioner's Approval authorises an individual or an organisation to engage in activities otherwise prohibited by the Control of Weapons Act 1990. These activities may include:

- the sale or purchase of prohibited weapons and body armour;
- the display or advertisement for sale of prohibited weapons and body armour; or
- the possession, use, carriage or transportation of prohibited weapons and body armour.

Chief Commissioner's Approvals are issued by the Licensing and Regulation Division. Application forms and current fees for Chief Commissioner's Approvals are available from the Victoria Police website.

## **Governor In Council Exemption Orders**

Under the Control of Weapons Act 1990, a GIC Exemption permits prescribed groups in specific circumstance to engage in activities otherwise prohibited by the Control of Weapons Act 1990, without the requirement to obtain a Chief Commissioner's Approval.

GIC Exemptions are issued and maintained by the Department of Justice and Regulation. Enquires relating to the process involved in being included by a GIC Exemption should be directed to the Department of Justice and Regulation.

If a person covered by a current GIC becomes a prohibited person they cease to be covered by the GIC.

### Possession of other weapons by juniors

The Control of Weapons Act 1990 imposes no age restriction on juniors in relation to the possession of weapons that are not firearms for the purpose of performing arts and re-enactment activities.

Juniors wanting to possess prohibited weapons for the purpose of performing arts and re-enactment activities must comply with the same requirements as adults (i.e. either possess a Chief Commissioner's Approval or be subject to the provisions of a GIC Exemption).

Juniors wanting to possess controlled weapons or dangerous articles for the purpose of performing arts and re-enactment activities must comply with the lawful excuse provision of the Act.

### Considerations for performing art and re-enactment groups to consider before using firearm and other weapons

Does your organisation have:

- The protection offered by being an incorporated association?
- Appropriate public liability insurance for performing arts and re-enactment activities?
- Documented safety procedures for the use of firearms and other weapons during performing arts and re-enactment activities?
- Documented procedures to ensure that persons in possession of firearms are appropriately licensed or exempt from the licensing requirements for undertaken performing arts and re-enactment activities?
- Documented procedures to identify prohibited persons and ensure they do not access firearms or prohibited weapons?

## Current Governor In Council Exemptions

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### Performing Art groups

Under current GIC Exemptions, prescribed performing art groups are covered to use imitation firearms, swords, and crossbows to rehearse and stage dramatic or musical performances open to the public, or, to make a film or television productions.

Details of the GIC Exemptions under Section 8B of the Control of Weapons Act 1990 for performing arts groups are as follows:

<i>Prohibited weapon</i>	<i>GIC Order publication details</i>	<i>Item number</i>	<i>Individuals provided exemption</i>
Imitation firearms	Victorian Government Gazette 30 June 2011 pages 1551-1558	2 (adults) and 3 (juniors)	Members, volunteer or employee of theatre or opera company (including a school production) or film or television production company
Swords	Victorian Government Gazette 5 June 2014 pages 1156-1159	2 (adults) and 14 (juniors)	Members, volunteer or employee of theatre or opera company (including a school production) or film or television production company
Crossbows	Victorian Government Gazette 5 June 2014 pages 1169-1173	2 (adults) and 3 (juniors)	Members, volunteer or employee of theatre or opera company (including a school production) or film or television production company

### Historical re-enactment groups

Under current GIC Exemptions, prescribed historical re-enactments groups are covered to use imitation firearms, swords, daggers, throwing blades, maces and flails to study and participate in the re-enactment of historical events.

Details of the GIC Exemptions under Section 8B of the Control of Weapons Act 1990 for historical re-enactment groups are as follows:

<i>Prohibited weapon</i>	<i>GIC Order publication details</i>	<i>Item number</i>	<i>Individuals provided exemption</i>
Imitation firearms	Victorian Government Gazette 30 June 2016 pages 1654-1659	5 (adults) and 6 (juniors)	Member of a member group of the Australasian Living History Federation or member of an historical re-enactment organisation listed in Schedule 1 of the same Gazette
Swords	Victorian Government Gazette 5 June 2014 pages 1160-1164	1 and 2 (adults) and 4 (juniors)	Member of a member group of the Australasian Living History Federation or member of an historical re-enactment organisation listed in Schedule 1 of the same Gazette
Daggers	Victorian Government Gazette 5 June 2014 pages 1177-1182	7 (adults) and 8 (juniors)	Member of a member group of the Australasian Living History Federation or member of an historical re-enactment organisation listed in Schedule 1 of the same Gazette
Throwing blades, maces and flails	Victorian Government Gazette 5 June 2014 pages 1183-1186	1 and 2 (adults) and 3 (juniors)	Member of a member group of the Australasian Living History Federation or member of an historical re-enactment organisation listed in Schedule 1 of the same Gazette

## Weapon Storage Requirements

### Prohibited weapons held under a Chief Commissioner's Approval

Storage requirements for a Chief Commissioner's Approval are recorded on the individual approval documents and vary according to the type of weapon possessed.

### Prohibited weapon held under GIC Exemptions

A person possessing a sword or crossbow under the relevant GIC Exemption must store these items safely and securely.

A person who is seeking to rely on a GIC Exemption to possess prohibited weapons must permit a member of the police force to inspect their storage arrangements at any reasonable time.

For the purposes of the GIC Exemption 'stored safely and securely' means that storage arrangements ensure that the weapon is:

- not readily accessible to a person other than the person seeking to rely on the exemption; and
- 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 another class of exempt persons covered by a GIC exemption.

### Controlled weapons and dangerous articles

There are no legislated storage requirements for controlled weapons or dangerous articles.

## Transportation of Weapons other than Firearms

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### Prohibited weapons

When transporting prohibited weapons covered by a GIC Exemption, people relying on such an exemption to possess the weapon must ensure that it is:

- not readily accessible to a person other than the person seeking to rely on the exemption; and
- concealed from plain sight during transportation.

Prohibited weapons possessed under a Chief Commissioner's Approval are to be transported in the same manner.

### Controlled weapons

Section 6(2) of the Control of Weapons Act 1990 requires a person carrying a controlled weapon to ensure it is carried in a safe and secure manner consistent with the lawful excuse for which it is being carried or used.

## General FAQs

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### *What do I need to do to get a firearms licence for performing arts and re-enactment reasons?*

To obtain a Victorian firearm licence for performing arts and re-enactment reasons you must:

- complete and return a firearm licence applications relevant to the type of firearm you wish to use or possess;
- complete a firearm safety course; and
- be a member of a re-enactment club or group;

When submitting your licence application you will need to include:

- A copy of your membership card or a letter of endorsement from your re-enactment club or group;
- firearm safety course certificate; and
- 100 points of certified identification documents.

A mandatory 28-day waiting period applies to individuals applying for their first firearm licence.

Successful applicants will receive a payment notice from the Licensing and Regulation Division. A payment notice is not evidence of being licenced. You are only considered licenced once you have been issued a plastic licence card authority.

Before you receive a plastic licence card you will need to:

- make payment for the licence via BPAY or at an approved bank; and
- have a photograph taken at an approved location.

### *What can I do with unregistered firearms?*

It is an offence against the Act to possess unregistered firearms. Any person who is in possession of an unregistered firearm must immediately:

- take the firearm to a licensed firearms dealer to have it registered via a Permit to Acquire process; or
- surrender it to a police station for destruction.

### *What can I do with unlawfully possessed weapons?*

It is an offence against the Control of Weapons Act 1990 to:

- possess a prohibited weapons without a Chief Commissioner's Approval or GIC Exemption; or
- possess a controlled weapon or dangerous article without a lawful excuse.

Any person who is in possession of an unlawfully held weapon must immediately:

- dispose of the weapon to a person who has the lawful authority to possess the item until such time as you are authorised to legally possess the weapon yourself; or
- surrender it to a police station for destruction.

## Further information and contacts

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### *Licensing and Regulation Division / Divisional Firearm Officers*

GPO Box 2807

Melbourne 3001

Phone: 1300 651 645 Facsimile: 9247 6485

Email: [licensingregulation@police.vic.gov.au](mailto:licensingregulation@police.vic.gov.au)

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

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

### *Victoria Police Film and Television Office*

GPO Box 2807

Melbourne 3001

Phone: (03) 9247 5599 Facsimile: 9247 3489

Email: [film.tv@police.vic.gov.au](mailto:film.tv@police.vic.gov.au)

### *Victorian Legislation*

Current versions of the relevant Act and Regulations are available from [www.legislation.vic.gov.au](http://www.legislation.vic.gov.au)