

# Legal Brief

## Airsoft and Laser attachments in the Republic

By Stéphane Amrbosini

Legal airsoft devices do not fulfil the legal definition of a firearm stated in Section 26 (b) CJA 2006 (which amends Section 1 of the Firearms Act 1925): so long as they conform to the '1 Joule threshold' Rule, they are not "firearms".

The issue at hand is the legality of ownership and use of laser modules in the Republic, when those are attached to airsoft devices such as AEGs or GBBs, under the same section 26 of the CJA 2006, specifically Section 26 (g).

A lot of Irish airsofters may already be reasonably familiar with Section 26, many have already hotly debated the specific issue of laser modules, yet as the hobby continues to welcome so many newcomers so rapidly, the issue inevitably resurfaces time and again.

At the time of this article, the IAA position, that they should not be used at all, is often countered in debate, with a straightforward interpretation holding that, since airsoft devices are not legally firearms, section 26 (g) (i) to (iii), which refers to "components of firearms", is not relevant.

This straightforward interpretation may well be over-simplistic, and heavier with liability than appears at first sight, particularly

in view of the interest explicitly shown by the DoJ about the combination of airsoft (in general) and laser modules (specifically). Here's why.

### The Law

The relevant Statute is Section 26 sub – section (g).

Most people may give a cursory glance at Section 26 (g) (i) and note the listing of –

*"a telescope sight with a light beam, or*

*a telescope sight with an electronic light amplification device or an infra red device,*

*designed to be fitted to a firearm specified in (...) (b) (...)"*

Some people may go all the way to Section 26 (g) (iii) and note the listing of –

*"any object*

*(I) manufactured for use as a component in connection with the operation of a firearm and*

*(II) without which it could not function as originally designed"*

BUT lay people may not know what to make of the statutory disclaimers which open sub – section (g), specifically *"except where the context otherwise requires"* and *"without prejudice to the generality of the foregoing (...)"*, and gloss over those as legal waffle: they would be unwise, for these are the two most important parts of the provi-

provision, since these are the parts which will provide the Court with latitude in the interpretation of the full sub – section 26 (g).

### The Component

Revert to the statement preceding the definitions of a 'firearm', before the list of sub – sections (a) to (h): *"firearm" means'*

Next, consider the order of appearance of the provision at hand, S26 (g), in the same sequence as (a), (b), etc.

Odd as it sounds, it is the *component* which (g) defines as a firearm, and by virtue of the statutory disclaimers noted above, the legality of a laser module should therefore be assessed *independently* of the section 26 (b) 1J 'airsoft' exception.

### Telescoping you where it hurts

Now turning to the wording of (g) (i), firstly there is no question that a laser module answers definition of a *"light amplification device"*: a laser module outputs a beam of amplified light.

But interpretation is open, as to what a *"telescopic sight"* is, when contemplating a laser module:

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A first possible interpretation could be that a *"telescopic sight"* must include some form of viewfinder to be a *"sight"*, and some magnification of the view in the viewfinder to be a *"telescopic"* sight, whereby a laser module, which does not include any viewfinder nor any magnification of the view therein, does not qualify.

However, further to the 'at first glance' interpretation above, when looking at the semantics of the expression *"telescopic sight"*

'tele' – remote

'scope' – view

'sight' is self-explanatory.



A second possible interpretation could be that a laser designator actually is a telescopic sight: it provides the user with a sight (laser dot) with which he or she may view a point of impact at a remote location.

Exactly in the same way as a magnified 'sniping' scope, but without the magnification and

crosshairs: functionally identical, whereby the semantic definition of a *"telescopic sight with a light amplification device"* is answered.

There is no question that a laser module such as conventionally seen in airsoft circles and merchant websites, even a lowly \$10 replica model, is *"designed to be fitted to a firearm"*: an airsoft replica laser module could easily be mounted to a firearm as defined in section (a) or (b) or another and, in the particular case of handguns for instance, would prove just as effective for the purpose, no matter the cost or the quality.

And this, very much more so than a laser pointer as marketed by stationery outfits for use during presentations, taped on the airsoft device or mounted on a RIS (note however that, expectedly, the same legal logic would apply in such a case).

### The last Conundrum

By the same logic, a laser module such as conventionally seen in airsoft circles and merchant websites, also answers sub – section (iii) (I): a laser module, be it an airsoft replica or the real deal, is *"manufactured for use as a component in connection with the operation of a firearm"*. With reference to sub – sub – section (II), of course an airsoft device or a firearm will be able to function without a laser module, and reciprocally, but

the question remains as to whether the (I) and (II) provisions are mutually inclusive or not: do both conditions (I), (II) have to be fulfilled for (g) (iii) to apply, or is the first one sufficient, for an adverse finding?

### Conclusion

The absence of any Court Decision to date dictates that we err on the side of caution, principally because the opening paragraph of sub – section (g) will allow latitude in the interpretation and application of the whole of Section 26 (g), and the possible adoption of the above second interpretation or another similar, under which an airsoft laser module would be considered a component part of a firearm, irrespective of its harmless intended use with airsoft.

In view of the above, it is the considered opinion of the author that, if circumstances ever arose such that the issue was tried at Court, *'airsoft laser modules'* would likely be considered a component part of a firearm, whereby such laser modules should not be used at airsoft venues, nor more generally fitted to airsoft devices.

This position has been adopted and shall be consistently maintained by the IAA, until such time as a Court Decision clarifies the issue and the above needs revisiting.

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